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Presidential Documents

Title 3—

The President

Proclamation 7981 of February 22, 2006

To Modify Duty Free Treatment Under the Generalized System of Preferences

By the President of the United States of America

A Proclamation

1. Section 502 of the Trade Act of 1974, as amended (the ''1974 Act'') (19 U.S.C. 2462), authorizes the President to designate countries as beneficiary developing countries, and to designate any beneficiary developing country as a least-developed beneficiary developing country, for purposes of the Generalized System of Preferences (GSP) program.

2. Pursuant to section 502 of the 1974 Act, and taking into account the factors set forth in section 502(c) (19 U.S.C. 2462(c)), I have determined that the suspension pursuant to Proclamation 6123 of April 26, 1990, of preferential treatment for Liberia as a beneficiary developing country under the GSP should be ended.

3. Pursuant to section 502 of the 1974 Act, and having considered the factors set forth in sections 501 (19 U.S.C. 2461) and 502(c), I have also determined that Liberia should be designated as a least-developed beneficiary developing country for purposes of the GSP.

4. Section 604 of the 1974 Act (19 U.S.C. 2483), as amended, authorizes the President to embody in the Harmonized Tariff Schedule (HTS) of the United States the substance of relevant provisions of that Act, or other acts affecting import treatment, and of actions taken thereunder.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, acting under the authority vested in me by the Constitution and the laws of the United States of America, including title V and section 604 of the 1974 Act (19 U.S.C. 2461–67, 2483), do proclaim that:

(1) In order to reflect in the HTS the restoration of preferential treatment for Liberia as a beneficiary developing country under the GSP, general note 4(a) is modified by adding in alphabetical order ''Liberia'' to the list entitled ''Independent Countries.''

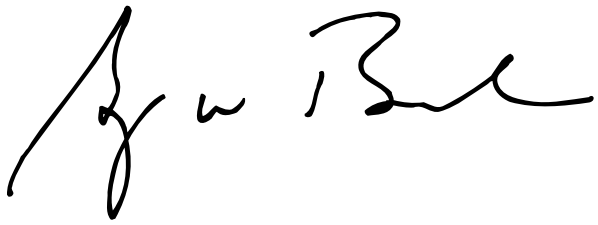
(2) In order to reflect in the HTS the designation of Liberia as a least-developed beneficiary developing country under the GSP, general note 4(b)(i) is modified by adding in alphabetical order ''Liberia.''

(3) The modifications to the HTS made by paragraph 1 of this proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after 15 days after the date of this proclamation.

(4) The modifications to the HTS made by paragraph 2 of this proclamation shall be effective with respect to articles entered, or withdrawn from warehouse for consumption, on or after 60 days after the date of this proclamation.

(5) Any provisions of previous proclamations and Executive Orders that are inconsistent with the actions taken in this proclamation are superseded to the extent of such inconsistency.

IN WITNESS WHEREOF, I have hereunto set my hand this twenty-second day of February, in the year of our Lord two thousand six, and of the Independence of the United States of America the two hundred and thirtieth.



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Rules and Regulations

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Part 948

[Docket No. FV05–948–1 FRA]

Irish Potatoes Grown in Colorado; Relaxation of Handling Regulation for Area No. 2

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This rule relaxes the minimum grade requirement for certain potatoes handled under the Colorado potato marketing order, Area No. 2. The Colorado Potato Administrative Committee, Area No. 2 (Committee), the agency responsible for local administration of the marketing order, recommended this rule. This rule changes the minimum grade from U.S. No. 1 to U.S. Commercial for varieties of long, red-skinned, yellow fleshed potatoes produced in Area No. 2 measuring from 1½-inch minimum diameter to 2¼-inch maximum diameter (size B), and from 1-inch minimum diameter to 1¾-inch maximum diameter. The change is intended to provide potato handlers with more marketing flexibility, growers with increased returns, and consumers with a greater supply of small specialty potatoes.

EFFECTIVE DATE: This final rule becomes effective February 27, 2006.

FOR FURTHER INFORMATION CONTACT: Teresa Hutchinson, Northwest Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA; Telephone: (503) 326–2724, Fax: (503) 326–7440; or George Kelhart, Technical Advisor, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938.

Small businesses may request information on complying with this regulation by contacting Jay Guerber, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW., STOP 0237, Washington, DC 20250–0237; Telephone: (202) 720–2491, Fax: (202) 720–8938, or E-mail: *Jay.Guerber@usda.gov.*

SUPPLEMENTARY INFORMATION: This final rule is issued under Marketing Agreement No. 97 and Marketing Order No. 948, both as amended (7 CFR part 948), regulating the handling of Irish potatoes grown in Colorado, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

The Department of Agriculture (USDA) is issuing this rule in conformance with Executive Order 12866.

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. This rule is not intended to have retroactive effect. This rule will not preempt any State or local laws, regulations, or policies, unless they present an irreconcilable conflict with this rule.

The Act provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may file with USDA a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with law and request a modification of the order or to be exempted therefrom. A handler is afforded the opportunity for a hearing on the petition. After the hearing USDA would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has his or her principal place of business, has jurisdiction to review USDA's ruling on the petition, provided an action is filed not later than 20 days after the date of the entry of the ruling.

This final rule relaxes the minimum grade requirement from U.S. No. 1 to U.S. Commercial for all varieties of long, red-skinned, yellow fleshed potatoes produced in Colorado Area No. 2 measuring from 1½-inch minimum diameter to 2¼-inch maximum diameter (size B), and from 1-inch minimum diameter to 1¾-inch maximum diameter. This change was recommended by the Committee on October 20, 2005, with 12 members in favor and one opposed. The member voting against the change felt that the minimum grade for all small potatoes should continue to be U.S. No. 1. This member is opposed to having grading exceptions for any variety of potato. The Committee believes that this change will facilitate the marketing of Area No. 2 Colorado potatoes and improve grower returns.

Section 948.22 authorizes the issuance of grade, size, quality, maturity, pack, and container regulations for potatoes grown in the production area. Section 948.21 further authorizes the modification, suspension, or termination of regulations issued pursuant to § 948.22.

Section 948.40 provides that whenever the handling of potatoes is regulated pursuant to §§ 948.20 through 948.24, such potatoes must be inspected by the Federal-State Inspection Service, and certified as meeting the applicable requirements of such regulations.

Grade regulations specific to the handling of potatoes grown in Area No. 2 are contained in § 948.386 of the order's handling regulations. Section 948.4 of the order defines the counties included in Area No. 2, which is commonly known as the San Luis Valley. The State of Colorado is divided into three areas for marketing order purposes. Currently, only Area No. 2 and Area No. 3 are active.

The Committee's initial recommendation, made on August 19, 2004, was to relax the minimum grade requirement from U.S. No. 1 to U.S. Commercial for all Colorado Area No. 2 potato varieties measuring from 1½-inch minimum diameter to 2¼-inch maximum diameter (size B), and from 1-inch minimum diameter to 1¾-inch maximum diameter. This change was recommended by the Committee with nine members in favor and four opposed. The members voting against the change believed that the minimum grade for all small potatoes should continue to be U.S. No. 1.

This initial recommendation led to a proposed rule being published in the

Federal Register on May 6, 2005 (70 FR 23942), with comments being invited until July 5, 2005. The comment period was reopened until September 12, 2005, in a document published on August 22, 2005 (70 FR 48903), for the purpose of receiving additional input. Five comments were received during the reopened comment period. All of these comments opposed the relaxation of the grade requirement because of the potentially negative impact on the quality of imported round, red-skinned varieties of potatoes. Under section 980.1 of the import regulations, the initially proposed grade change would have applied to all imported round, red-skinned potatoes of the same size categories during the months of October through June. All of the commenters expressed concern that lower quality imported round, red-skinned potatoes would adversely affect the domestic market.

The Committee met on October 20, 2005, to consider the comments received regarding the previously issued proposed rule, as well as other information received from the Colorado potato industry. After much discussion, the Committee recommended that the rule be modified to reflect that the relaxed grade requirement would only apply to long, red-skinned, yellow fleshed potato varieties.

Because this final rule is limited to all varieties of long, red-skinned, yellow fleshed potatoes, imported round, red-skinned potato varieties will not be affected. Under § 980.1, imported long type potatoes must meet the grade, size, quality, and maturity requirements of Marketing Order No. 945 (Idaho-Eastern Oregon potatoes) throughout the entire year.

For many years, consumer demand for small fresh market potatoes was relatively soft in comparison to larger sizes. Size B and smaller potatoes were often discarded or fed to livestock. Grade and size regulations were developed to keep lower quality small potatoes out of the fresh market. At that time, the Committee believed that small potatoes, sold at a great discount, eroded the price for large potatoes. By requiring all small potatoes to grade U.S. No. 1 or better, the Committee believed that high quality small potatoes would not have an adverse affect on the market for larger potatoes.

Recently, however, demand has increased for varieties of long, red-skinned, yellow fleshed small potatoes, which often command premium prices compared to larger size A potatoes (1⅞-inch and larger). With the growing demand for this type of small specialty potato, some growers and handlers are concerned that they will not be able to supply this market, because only U.S. No. 1 or better grade can be shipped under the order. Growers and handlers have had requests from their customers for long, red-skinned, yellow fleshed varieties of small potatoes that grade U.S. Commercial or better. The Committee believes that this action will help handlers in Area No. 2 meet their buyers' needs.

Committee statistics show that approximately 65 percent of the entire potato crop in Area No. 2 grades U.S. No. 1 or better. However, the percentage of Size B and smaller potatoes meeting U.S. No. 1 grade is only about 50 percent. The reason for the lower percentage of smaller potatoes is because several potato defects are scored based on the percentage of surface area affected on the individual potato. For example, a cut on a large potato may not affect a large enough surface area to be a scorable defect, but the same size cut would be scorable on a smaller potato. Under such circumstances, it would be much harder for a small potato to meet the U.S. No. 1 grade than it would for a large potato. The U.S. Commercial grade allows a slightly higher percentage of total defects than the U.S. No. 1 grade.

By changing the grade requirement to allow long, red-skinned, yellow fleshed potato varieties that are size B and those measuring from 1-inch minimum diameter to 1¾-inch maximum diameter to meet U.S. Commercial grade or better, the Committee believes more of this type of small specialty potato would be available to meet increasing demand, and thus help increase returns to growers. Not only would more small long, red-skinned, yellow fleshed potatoes enter the market, these small specialty potatoes typically sell for a premium price in today's marketplace.

The Committee believes that by allowing small long, red-skinned, yellow fleshed potatoes to meet the more relaxed U.S. Commercial grade instead of U.S. No. 1 grade, available volume for sale into the fresh market could increase by about 10 percent.

Although facing an increasing demand, the market for small long, red-skinned, yellow fleshed potatoes is a minor segment of the market served by the Area No. 2 production area. As a consequence, the Committee believes that this type of small specialty potato does not compete directly with the predominant large potatoes produced in this area, and that the relaxation of the grade requirement would not adversely effect the overall Area No. 2 potato market.

Final Regulatory Flexibility Analysis

Pursuant to requirements set forth in the Regulatory Flexibility Act (RFA), the Agricultural Marketing Service (AMS) has considered the economic impact of this action on small entities. Accordingly, AMS has prepared this final regulatory flexibility analysis.

The purpose of the RFA is to fit regulatory actions to the scale of business subject to such actions in order that small businesses will not be unduly or disproportionately burdened. Marketing orders issued pursuant to the Act, and the rules issued thereunder, are unique in that they are brought about through group action of essentially small entities acting on their own behalf. Thus, both statutes have small entity orientation and compatibility.

There are approximately 88 handlers of Colorado Area No. 2 potatoes subject to regulation under the order and approximately 230 producers in the regulated production area. Small agricultural service firms are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $6,000,000, and small agricultural producers are defined as those having annual receipts of less than $750,000.

During the 2004–2005 marketing year, 17,626,974 hundredweight of Colorado Area No. 2 potatoes were inspected under the order and sold into the fresh market. Based on an estimated average f.o.b. price of $6.75 per hundredweight, the Committee estimates that 83 Area No. 2 handlers or about 94 percent had annual receipts of less than $6,000,000.

In addition, based on information provided by the National Agricultural Statistics Service, the average grower price for Colorado fall potatoes for 2004 was $4.55 per hundredweight. The average annual grower revenue for the 230 Colorado Area No. 2 potato growers is therefore calculated to be approximately $348,708. In view of the foregoing, the majority of the Colorado Area No. 2 potato growers and handlers may be classified as small entities.

This final rule relaxes the grade requirement implemented under the order from U.S. No. 1 grade to U.S. Commercial grade for all long, red-skinned, yellow fleshed Area No. 2 potato varieties measuring from 1½-inch minimum diameter to 2¼-inch maximum diameter (size B) and from 1-inch minimum diameter to 1¾-inch maximum diameter.

Authority for this action is contained in §§ 948.21, 948.22, 948.40, and 948.386.

Regarding the impact of this rule on affected entities, this relaxation of the

grade requirement for small long, red-skinned, yellow fleshed varieties of potatoes is expected to benefit handlers and growers. Through this relaxation of the minimum grade requirement for this type of small specialty potato, a potentially greater quantity of potatoes will meet the order's handling regulations. This could translate into an increased market for small long, red-skinned, yellow fleshed potatoes and greater returns for handlers and growers.

As small long, red-skinned, yellow fleshed varieties of potatoes have grown in popularity with consumers, the market demand has outpaced the quantity of these small, high quality potatoes available from Area No. 2. The Committee believes that this relaxation in the grade requirement will increase the available supply of small, long, red-skinned, yellow fleshed varieties of potatoes. These small specialty potatoes are a minor segment of the potato market served by the Area No. 2 production area. As such, the Committee believes that these small long, red-skinned, yellow fleshed potato varieties do not compete directly with most of the potatoes produced in this area and that the relaxation of the grade requirement will not adversely effect the overall Area No. 2 potato market.

Based on Committee records, about half the handlers ship all of the size B and smaller potatoes grown in Area No. 2. Committee records also indicate that during the 2004–2005 fiscal period, approximately 165,000 hundredweight (less than 1 percent) of size B and smaller were inspected and shipped. The Committee estimates that the marketable supply of size B and smaller long, red-skinned, yellow fleshed potato varieties will increase approximately 10 percent and add about 16,500 hundredweight to the marketable supply. The Committee anticipates that the greater quantity of small long, red-skinned, yellow fleshed varieties of potatoes will expand Area No. 2's market share, increase the supply of potatoes available for consumers, and increase grower returns.

After discussing possible alternatives to this rule and reviewing the comments received in regards to the first proposed rule (70 FR 23942, May 6, 2005; and 70 FR 48903, August 22, 2005), the Committee determined that a relaxation in the grade requirement to U.S. Commercial grade for small long, red-skinned, yellow fleshed potatoes will sufficiently meet the industry's current needs. The relaxation in the grade requirement for this type of small specialty potato will provide the greatest benefit to the industry by augmenting the developing market for these potatoes and thereby increase grower returns.

The first proposal would have allowed all varieties of small potatoes produced in Area No. 2 to meet U.S. Commercial grade, including round, red-skinned potato varieties. Under the import regulations, round, red-skinned potatoes are required to meet the grade, size, quality, and maturity requirements of the Area No. 2 Colorado potato marketing order from October through June. Thus, under the first proposal, all imported round, red-skinned potatoes would have been allowed into the U.S. as U.S. Commercial grade during this period. Commenters expressed concern that such a relaxation of the grade requirement for small round, red-skinned potatoes could potentially have a negative impact on the quality of imported round, red-skinned potatoes. They were concerned that lower quality imported round, red-skinned potatoes would adversely affect the domestic market. However, this final rule will only relax the grade requirement for long, red-skinned, yellow fleshed potato varieties and, therefore, will not change the grade requirement for round, red-skinned potatoes or for any imported round, red-skinned potatoes during the months of October through June.

This action will not impose any additional reporting or recordkeeping requirements on either small or large potato handlers. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by industry and public sector agencies.

As noted in the initial regulatory flexibility analysis, USDA has not identified any relevant Federal rules that duplicate, overlap, or conflict with this rule.

In addition, the Committee's meetings were widely publicized throughout the Colorado potato industry and all interested persons were invited to attend the meetings and participate in Committee deliberations. Like all Committee meetings, the August 19, 2004, and the October 20, 2005, meetings were public meetings and all entities, both large and small, were able to express their views on this issue.

A proposed rule concerning the Committee's amended action was published in the **Federal Register** on December 22, 2005 (70 FR 75981). Copies of the rule were mailed or sent via facsimile to all Committee members. Finally, the rule was made available through the Internet by USDA and the Office of the Federal Register. A 15-day comment period ending January 6, 2005, was provided to allow interested persons to respond to the proposal. No comments were received.

A small business guide on complying with fruit, vegetable, and specialty crop marketing agreements and orders may be viewed at: *http://www.ams.usda.gov/fv/moab.html.* Any questions about the compliance guide should be sent to Jay Guerber at the previously mentioned address in the **FOR FURTHER INFORMATION CONTACT** section.

After consideration of all relevant matter presented, including the information and recommendation submitted by the Committee and other available information, it is hereby found that this rule, as hereinafter set forth, will tend to effectuate the declared policy of the Act.

It is further found that good cause exists for not postponing the effective date of this rule until 30 days after publication in the **Federal Register** (5 U.S.C. 553) because handlers are already shipping potatoes from the 2005–2006 crop and handlers want to take advantage of the relaxation as soon as possible. Further, handlers are aware of this rule, which was recommended at a public meeting. In addition, this rule replaces a previously proposed rule. Affected entities were allowed to provide input during the previous comment periods and all comments were considered in the preparation of this rule. Finally, an additional 15-day comment period was provided for in the second proposed rule and no comments were received.

List of Subjects in 7 CFR Part 948

Marketing agreements, Potatoes, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, 7 CFR part 948 is amended as follows:

PART 948—IRISH POTATOES GROWN IN COLORADO

■ 1. The authority citation for 7 CFR part 948 continues to read as follows:

Authority: 7 U.S.C. 601–674.

■ 2. In § 948.386, paragraphs (a)(3) and (a)(4) are revised to read as follows:

§ 948.386 Handling regulation.

* * * * *

(a) * * *

(3) *All varieties.* Size B, if U.S. No. 1 or better grade: *Provided,* That varieties of long, red-skinned, yellow fleshed potatoes shall grade U.S. Commercial or better.

(4) *All varieties.* 1-inch minimum diameter to 1¾-inch maximum diameter, if U.S. No. 1 or better grade: *Provided,* That varieties of long, red-

skinned, yellow fleshed potatoes shall grade U.S. Commercial or better.

* * * * *

Dated: February 17, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 06–1717 Filed 2–23–06; 8:45 am]

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DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

7 CFR Parts 1124 and 1131

[Docket No. AO–368–A32, AO–271–A37; DA–03–04B]

Milk in the Pacific Northwest and Arizona-Las Vegas Marketing Areas; Order Amending the Orders

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Final rule.

SUMMARY: This final rule amends provisions of the producer-handler definitions of the Pacific Northwest and Arizona-Las Vegas orders as contained in the Final Decision published in the **Federal Register** on December 14, 2005. More than the required number of producers for the Arizona-Las Vegas and Pacific Northwest marketing areas approved the issuance of the orders as amended.

DATES: *Effective Date:* April 1, 2006.

FOR FURTHER INFORMATION CONTACT: Jack Rower, Marketing Specialist or Gino Tosi, Associate Deputy Administrator for Order Formulation and Enforcement, USDA/AMS/Dairy Programs, Order Formulation and Enforcement Branch, STOP 0231–Room 2971, 1400 Independence Avenue SW., Washington, DC 20250–0231, (202) 720–2357 or (202) 690–1366, e-mail addresses: *jack.rower@usda.gov* or *gino.tosi@usda.gov.*

SUPPLEMENTARY INFORMATION: This document amends the producer-handler and related provisions of the Pacific Northwest and Arizona-Las Vegas Federal milk orders. Specifically, this final rule permanently adopts a provision that will eliminate the exemption from pooling and pricing provisions of the orders for producer-handlers with in-area route disposition in excess of 3-million pounds per month.

This administrative action is governed by the provisions of sections 556 and 557 of Title 5 of the United States Code and, therefore, is excluded from the requirements of Executive Order 12866.

This final rule has been reviewed under Executive Order 12988, Civil Justice Reform. The rule is not intended to have a retroactive effect. This rule will not preempt any state or local laws, regulations, or policies, unless they present an irreconcilable conflict with the rule.

The Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), provides that administrative proceedings must be exhausted before parties may file suit in court. Under section 608c(15)(A) of the Act, any handler subject to an order may request modification or exemption from such order by filing with the Secretary a petition stating that the order, any provision of the order, or any obligation imposed in connection with the order is not in accordance with the law. A handler is afforded the opportunity for a hearing on the petition. After a hearing, the Secretary would rule on the petition. The Act provides that the district court of the United States in any district in which the handler is an inhabitant, or has its principal place of business, has jurisdiction in equity to review the Secretary's ruling on the petition, provided a bill in equity is filed not later than 20 days after the date of the entry of the ruling.

Regulatory Flexibility Act and Paperwork Reduction Act

In accordance with the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*), the Agricultural Marketing Service has considered the economic impact of this action on small entities and has certified that this final decision will not have a significant economic impact on a substantial number of small entities. For the purpose of the Regulatory Flexibility Act, a dairy farm is considered a ''small business'' if it has an annual gross revenue of less than $750,000, and a dairy products manufacturer is a ''small business'' if it has fewer than 500 employees. For the purposes of determining which dairy farms are ''small businesses,'' the $750,000 per year criterion was used to establish a milk marketing guideline of 500,000 pounds per month. Although this guideline does not factor in additional monies that may be received by dairy producers, it should be an inclusive standard for most ''small'' dairy farmers. For purposes of determining a handler's size, if the plant is part of a larger company operating multiple plants that collectively exceed the 500 employee limit, the plant will be considered a large business even if the local plant has fewer than 500 employees.

Producer-handlers are defined as dairy farmers that process only their own milk production. These entities must be dairy farmers as a pre-condition to operating processing plants as producer-handlers. The size of the dairy farm determines the production level of the operation and is the controlling factor in the capacity of the processing plant and possible sales volume associated with the producer-handler entity. Determining whether a producer-handler is considered a small or large business must depend on its capacity as a dairy farm where a producer-handler with annual gross revenue in excess of $750,000 is considered a large business.

The amendments will place entities currently considered to be producer-handlers under the Pacific Northwest or the Arizona-Las Vegas orders on the same terms as all other fully regulated handlers provided they meet the criteria for being subject to the pooling and pricing provisions of the two orders. Entities currently defined as producer-handlers under the terms of these orders will be subject to the pooling and pricing provisions of the orders if their route disposition of fluid milk products is more than 3 million pounds per month.

Producer-handlers with route disposition of less than 3 million pounds during the month will not be subject to the pooling and pricing provisions of the orders. To the extent that current producer-handlers for each order have route disposition of fluid milk products outside of the marketing areas, such route disposition will be subject to an order's pooling and pricing provisions if total in-area route disposition causes them to become fully regulated.

Assuming that some current producer-handlers will have route disposition of fluid milk products of more than 3 million pounds during the month, such producer-handlers will be regulated subject to the pooling and pricing provisions of the orders like other handlers. Such producer-handlers will account to the pool for their uses of milk at the applicable minimum class prices and pay the difference between their use-value and the blend price of the order to the order's producer-settlement fund.

While this may cause an economic impact on those entities with more than 3 million pounds of route sales who currently are considered producer-handlers by the two orders, the impact is offset by the benefit to other small businesses. With respect to dairy farmers whose milk is pooled on the two marketing orders, such dairy farmers who have not heretofore shared in the additional revenue that accrues from the marketwide pooling of Class I

sales by producer-handlers will share in such revenue. This will have a positive impact on 486 small dairy farmers in the Pacific Northwest and Arizona-Las Vegas marketing areas. Additionally, all handlers who dispose of more than 3 million pounds of fluid milk products per month will pay at least the announced Federal order Class I price for such use. This will have a positive impact on 18 small regulated handlers.

The extent that current producer-handlers in the Pacific Northwest and the Arizona-Las Vegas orders become subject to the pooling and pricing provisions will be determined in their capacity as handlers. Such entities will no longer have restrictions applicable to their business operations that were conditions for producer-handler status and exemption from the pooling and pricing provisions of the two orders. In general, this includes being able to buy or acquire any quantity of milk from dairy farmers or other handlers instead of being limited by the current constraints of the two orders. Additionally, the handlers' burden of balancing their milk production is relieved. Milk production in excess of what is needed to satisfy their Class I route disposition needs will receive the minimum price protection established under the terms of the two orders. The burden of balancing milk supplies will be borne by all producers and handlers who are pooled and regulated under the terms of the two orders.

During September 2003, the Pacific Northwest had 16 pool distributing plants, 1 pool supply plant, 3 cooperative pool manufacturing plants, 7 partially regulated distributing plants, 8 producer-handler plants and 2 exempt plants. Of the 27 regulated handlers, 16 or 59 percent were considered large businesses. Of the 691 dairy farmers whose milk was pooled on the order, 223 or 32 percent were considered large businesses. If these amendatory actions were not undertaken, 68 percent of the dairy farmers (468) in the Pacific Northwest order who are small businesses would continue to be adversely affected by the operations of large producer-handlers.

For the Arizona-Las Vegas order, during September 2003 there were 3 pool distributing plants, 1 cooperative pool manufacturing plant, 18 partially regulated distributing plants, 2 producer-handler plants and 3 exempt plants (including an exempt plant located in Clark County, Nevada) operated by 22 handlers. Of these plants, 15 or 68 percent were considered large businesses. Of the 106 dairy farmers whose milk was pooled on the order, 88 or 83 percent were considered large businesses. If these amendatory actions were not undertaken, 17 percent of the dairy farmers in the Arizona-Las Vegas order who are small businesses would continue to be adversely affected by large producer-handler operations.

In their capacity as producers, 7 producer-handlers would be considered to be large producers because their annual marketing exceeds 6 million pounds of milk. Record evidence indicates that for the Pacific Northwest marketing order at the time of the hearing, four producer-handlers would potentially become subject to the pooling and pricing provisions of the order because of route disposition of more than 3 million pounds per month within the marketing area. For the Arizona-Las Vegas order, one producer-handler would be considered to be a large producer because its annual marketing exceeds 6 million pounds of milk and potentially would be subject to the pooling and pricing provisions of the order because of route disposition exceeding 3 million pounds per month.

A review of reporting requirements was completed under the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). It was determined that these proposed amendments will have minimal impact on reporting, recordkeeping, or other compliance requirements for entities currently considered producer-handlers under the Pacific Northwest and the Arizona-Las Vegas marketing orders because they will remain identical to the current requirements applicable to all other regulated handlers who are currently subject to the pooling and pricing provisions of the two orders. No new forms are proposed and no additional reporting requirements are necessary.

This notice does not require additional information collection that requires clearance by the Office of Management and Budget (OMB) beyond currently approved information collection. The primary sources of data used to complete the forms are routinely used in most business transactions. Forms require only a minimal amount of information which can be supplied without data processing equipment or a trained statistical staff. Thus, the information collection and reporting burden is relatively small. Requiring the same reports for all handlers does not significantly disadvantage any handler that is smaller than the industry average.

Prior Documents in This Proceeding

Notice of Hearing: Issued July 31, 2003; published August 6, 2003 (68 FR 46505).

Correction to Notice of Hearing: Issued August 20, 2003; published August 26, 2003 (68 FR 51202).

Notice of Reconvened Hearing: Issued October 27, 2003; published October 31, 2003 (68 FR 62027).

Notice of Reconvened Hearing: Issued December 18, 2003; published December 29, 2003 (68 FR 74874).

Recommended Decision: Issued April 7, 2005; published April 13, 2005 (70 FR 19636).

Final Decision: Issued December 9, 2005; published December 14, 2005 (70 FR 74166).

Findings and Determinations

The findings and determinations hereinafter set forth supplement those that were made when the orders were first issued and when they were amended. The previous findings and determinations are hereby ratified and confirmed, except where they may conflict with those set forth herein.

The following findings are hereby made with respect to the Pacific Northwest and Arizona-Las Vegas orders:

(a) *Finding.* A public hearing was held upon certain proposed amendments to the tentative marketing agreement and to the order regulating the handling of milk in the Pacific Northwest and Arizona-Las Vegas marketing areas. The hearing was held pursuant to the provisions of the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), and the applicable rules of practice and procedure (7 CFR part 900).

Upon the basis of the evidence introduced at such hearing and the record thereof, it is found that:

(1) The said orders as hereby amended, and all of the terms and conditions thereof, will tend to effectuate the declared policy of the act;

(2) The parity prices of milk, as determined pursuant to section 2 of the Act, are not reasonable in view of the price of feeds, available supplies of feeds, and other economic conditions which affect market supply and demand for milk in the aforesaid marketing area. The minimum prices specified in the order as hereby amended are such prices as will reflect the aforesaid factors, insure a sufficient quantity of pure and wholesome milk, and be in the public interest; and

(3) The said orders as hereby amended regulate the handling of milk in the same manner as, and are applicable only to persons in the respective classes of industrial or commercial activity specified in, a marketing agreement upon which a hearing has been held.

(4) All milk and milk products handled by handlers, as defined in the tentative marketing agreements and the orders as hereby amended, are in the current of interstate commerce or directly burden, obstruct, or affect interstate commerce in milk or its products.

(b) *Determinations.* It is hereby determined that:

(1) The refusal or failure of handlers (excluding cooperative associations specified in Sec 8c(9) of the Act) of more than 50 percent of the milk that is marketed within the specified marketing areas to sign a proposed marketing agreement tends to prevent the effectuation of the declared policy of the Act:

(2) The issuance of this order amending the Pacific Northwest and Arizona-Las Vegas orders is the only practical means pursuant to the declared policy of the Act of advancing the interests of producers as defined by the orders as hereby amended;

(3) The issuance of the order amending the Pacific Northwest and Arizona-Las Vegas orders is favored by at least two-thirds of the producers who were engaged in the production of milk for sale in the marketing areas.

List of Subjects in 7 CFR Parts 1124 and 1131

Milk marketing orders.

Order Relative to Handling

■ *It is therefore ordered*, that on and after the effective date hereof, the handling of milk in the Pacific Northwest and Arizona-Las Vegas marketing areas shall be in conformity to and in compliance with the terms and conditions of the orders, as amended, and as hereby amended, as follows:

PARTS 1124 AND 1131—[AMENDED]

■ 1. The authority citation for 7 CFR parts 1124 and 1131 continues to read as follows:

Authority: 7 U.S.C. 601–674, and 7253.

PART 1124—MILK IN THE PACIFIC NORTHWEST MARKETING AREA

■ 2. Revise § 1124.10 to read as follows:

§ 1124.10 Producer-handler.

Producer-handler means a person who operates a dairy farm and a distributing plant from which there is route distribution within the marketing area during the month not to exceed 3 million pounds and who the market administrator has designated a producer-handler after determining that all of the requirements of this section have been met.

(a) *Requirements for designation.* Designation of any person as a producer-handler by the market administrator shall be contingent upon meeting the conditions set forth in paragraphs (a)(1) through (5) of this section. Following the cancellation of a previous producer-handler designation, a person seeking to have their producer-handler designation reinstated must demonstrate that these conditions have been met for the preceding month.

(1) The care and management of the dairy animals and the other resources and facilities designated in paragraph (b)(1) of this section necessary to produce all Class I milk handled (excluding receipts from handlers fully regulated under any Federal order) are under the complete and exclusive control, ownership and management of the producer-handler and are operated as the producer-handler's own enterprise and its own risk.

(2) The plant operation designated in paragraph (b)(2) of this section at which the producer-handler processes and packages, and from which it distributes, its own milk production is under the complete and exclusive control, ownership and management of the producer-handler and is operated as the producer-handler's own enterprise and at its sole risk.

(3) The producer-handler neither receives at its designated milk production resources and facilities nor receives, handles, processes, or distributes at or through any of its designated milk handling, processing, or distributing resources and facilities other source milk products for reconstitution into fluid milk products or fluid milk products derived from any source other than:

(i) Its designated milk production resources and facilities (own farm production);

(ii) Pool handlers and plants regulated under any Federal order within the limitation specified in paragraph (c)(2) of this section; or

(iii) Nonfat milk solids which are used to fortify fluid milk products.

(4) The producer-handler is neither directly nor indirectly associated with the business control or management of, nor has a financial interest in, another handler's operation; nor is any other handler so associated with the producer-handler's operation.

(5) No milk produced by the herd(s) or on the farm(s) that supply milk to the producer-handler's plant operation is:

(i) Subject to inclusion and participation in a marketwide equalization pool under a milk classification and pricing program under the authority of a State government maintaining marketwide pooling of returns, or

(ii) Marketed in any part as Class I milk to the non-pool distributing plant of any other handler.

(b) *Designation of resources and facilities.* Designation of a person as a producer-handler shall include the determination of what shall constitute milk production, handling, processing, and distribution resources and facilities, all of which shall be considered an integrated operation, under the sole and exclusive ownership of the producer-handler.

(1) Milk production resources and facilities shall include all resources and facilities (milking herd(s), buildings housing such herd(s), and the land on which such buildings are located) used for the production of milk which are solely owned, operated, and which the producer-handler has designated as a source of milk supply for the producer-handler's plant operation. However, for purposes of this paragraph, any such milk production resources and facilities which do not constitute an actual or potential source of milk supply for the producer-handler's operation shall not be considered a part of the producer-handler's milk production resources and facilities.

(2) Milk handling, processing, and distribution resources and facilities shall include all resources and facilities (including store outlets) used for handling, processing, and distributing fluid milk products which are solely owned by, and directly operated or controlled by the producer-handler or in which the producer-handler in any way has an interest, including any contractual arrangement, or over which the producer-handler directly or indirectly exercises any degree of management control.

(3) All designations shall remain in effect until canceled, pursuant to paragraph (c) of this section.

(c) *Cancellation.* The designation as a producer-handler shall be canceled upon determination by the market administrator that any of the requirements of paragraph (a)(1) through (5) of this section are not continuing to be met, or under any of the conditions described in paragraphs (c)(1), (2) or (3) of this section. Cancellation of a producer-handler's status pursuant to this paragraph shall be effective on the first day of the month following the month in which the requirements were not met or the conditions for cancellation occurred.

(1) Milk from the milk production resources and facilities of the producer-handler, designated in paragraph (b)(1) of this section, is delivered in the name

of another person as producer milk to another handler.

(2) The producer-handler handles fluid milk products derived from sources other than the milk production facilities and resources designated in paragraph (b)(1) of this section, except that it may receive at its plant, or acquire for route disposition, fluid milk products from fully regulated plants and handlers under any Federal order if such receipts do not exceed 150,000 pounds monthly. This limitation shall not apply if the producer-handler's own-farm production is less than 150,000 pounds during the month.

(3) Milk from the milk production resources and facilities of the producer-handler is subject to inclusion and participation in a marketwide equalization pool under a milk classification and pricing plan operating under the authority of a State government.

(d) *Public announcement.* The market administrator shall publicly announce:

(1) The name, plant location(s), and farm location(s) of persons designated as producer-handlers;

(2) The names of those persons whose designations have been cancelled; and

(3) The effective dates of producer-handler status or loss of producer-handler status for each. Such announcements shall be controlling with respect to the accounting at plants of other handlers for fluid milk products received from any producer-handler.

(e) *Burden of establishing and maintaining producer-handler status.* The burden rests upon the handler who is designated as a producer-handler to establish through records required pursuant to § 1000.27 that the requirements set forth in paragraph (a) of this section have been and are continuing to be met, and that the conditions set forth in paragraph (c) of this section for cancellation of the designation do not exist.

PART 1131—MILK IN THE ARIZONA-LAS VEGAS MARKETING AREA

■ 3. Revise § 1131.10 to read as follows:

§ 1131.10 Producer-handler.

Producer-handler means a person who operates a dairy farm and a distributing plant from which there is route distribution within the marketing area during the month not to exceed 3 million pounds and who the market administrator has designated a producer-handler after determining that all of the requirements of this section have been met.

(a) *Requirements for designation.* Designation of any person as a producer-handler by the market administrator shall be contingent upon meeting the conditions set forth in paragraphs (a)(1) through (5) of this section. Following the cancellation of a previous producer-handler designation, a person seeking to have their producer-handler designation reinstated must demonstrate that these conditions have been met for the preceding month.

(1) The care and management of the dairy animals and the other resources and facilities designated in paragraph (b)(1) of this section necessary to produce all Class I milk handled (excluding receipts from handlers fully regulated under any Federal order) are under the complete and exclusive control, ownership and management of the producer-handler and are operated as the producer-handler's own enterprise and its own risk.

(2) The plant operation designated in paragraph (b)(2) of this section at which the producer-handler processes and packages, and from which it distributes, its own milk production is under the complete and exclusive control, ownership and management of the producer-handler and is operated as the producer-handler's own enterprise and at its sole risk.

(3) The producer-handler neither receives at its designated milk production resources and facilities nor receives, handles, processes, or distributes at or through any of its designated milk handling, processing, or distributing resources and facilities other source milk products for reconstitution into fluid milk products or fluid milk products derived from any source other than:

(i) Its designated milk production resources and facilities (own farm production);

(ii) Pool handlers and plants regulated under any Federal order within the limitation specified in paragraph (c)(2) of this section; or

(iii) Nonfat milk solids which are used to fortify fluid milk products.

(4) The producer-handler is neither directly nor indirectly associated with the business control or management of, nor has a financial interest in, another handler's operation; nor is any other handler so associated with the producer-handler's operation.

(5) No milk produced by the herd(s) or on the farm(s) that supply milk to the producer-handler's plant operation is:

(i) Subject to inclusion and participation in a marketwide equalization pool under a milk classification and pricing program under the authority of a State government maintaining marketwide pooling of returns, or

(ii) Marketed in any part as Class I milk to the non-pool distributing plant of any other handler.

(6) The producer-handler does not distribute fluid milk products to a wholesale customer who is served by a plant described in § 1131.7(a), (b), or (e), or a handler described in § 1000.8(c) that supplied the same product in the same-sized package with a similar label to a wholesale customer during the month.

(b) *Designation of resources and facilities.* Designation of a person as a producer-handler shall include the determination of what shall constitute milk production, handling, processing, and distribution resources and facilities, all of which shall be considered an integrated operation, under the sole and exclusive ownership of the producer-handler.

(1) Milk production resources and facilities shall include all resources and facilities (milking herd(s), buildings housing such herd(s), and the land on which such buildings are located) used for the production of milk which are solely owned, operated, and which the producer-handler has designated as a source of milk supply for the producer-handler's plant operation. However, for purposes of this paragraph, any such milk production resources and facilities which do not constitute an actual or potential source of milk supply for the producer-handler's operation shall not be considered a part of the producer-handler's milk production resources and facilities.

(2) Milk handling, processing, and distribution resources and facilities shall include all resources and facilities (including store outlets) used for handling, processing, and distributing fluid milk products which are solely owned by, and directly operated or controlled by the producer-handler or in which the producer-handler in any way has an interest, including any contractual arrangement, or over which the producer-handler directly or indirectly exercises any degree of management control.

(3) All designations shall remain in effect until canceled pursuant to paragraph (c) of this section.

(c) *Cancellation.* The designation as a producer-handler shall be canceled upon determination by the market administrator that any of the requirements of paragraph (a)(1) through (5) of this section are not continuing to be met, or under any of the conditions described in paragraphs (c)(1), (2) or (3) of this section. Cancellation of a producer-handler's status pursuant to this paragraph shall be effective on the first day of the month following the

month in which the requirements were not met or the conditions for cancellation occurred.

(1) Milk from the milk production resources and facilities of the producer-handler, designated in paragraph (b)(1) of this section, is delivered in the name of another person as producer milk to another handler.

(2) The producer-handler handles fluid milk products derived from sources other than the milk production facilities and resources designated in paragraph (b)(1) of this section, except that it may receive at its plant, or acquire for route disposition, fluid milk products from fully regulated plants and handlers under any Federal order if such receipts do not exceed 150,000 pounds monthly. This limitation shall not apply if the producer-handler's own-farm production is less than 150,000 pounds during the month.

(3) Milk from the milk production resources and facilities of the producer-handler is subject to inclusion and participation in a marketwide equalization pool under a milk classification and pricing plan operating under the authority of a State government.

(d) *Public announcement.* The market administrator shall publicly announce:

(1) The name, plant location(s), and farm location(s) of persons designated as producer-handlers;

(2) The names of those persons whose designations have been cancelled; and

(3) The effective dates of producer-handler status or loss of producer-handler status for each. Such announcements shall be controlling with respect to the accounting at plants of other handlers for fluid milk products received from any producer-handler.

(e) *Burden of establishing and maintaining producer-handler status.* The burden rests upon the handler who is designated as a producer-handler to establish through records required pursuant to § 1000.27 that the requirements set forth in paragraph (a) of this section have been and are continuing to be met, and that the conditions set forth in paragraph (c) of this section for cancellation of the designation do not exist.

Dated: February 15, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 06–1587 Filed 2–23–06; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–23283; Directorate Identifier 2005–NM–185–AD; Amendment 39–14483; AD 2006–04–02]

RIN 2120–AA64

Airworthiness Directives; Empresa Brasileira de Aeronautica S.A. (EMBRAER) Model EMB–135 Airplanes; and Model EMB–145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP Airplanes

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

ACTION: Final rule.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for all EMBRAER Model EMB–135 airplanes; and Model EMB–145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP airplanes. This AD requires repetitive inspections of the pitot static heating relay K0057 for damage to the pin-type contacts, relay enclosure, and finishing material and corrective actions if necessary. This AD also requires doing a terminating modification, which ends the repetitive inspections. This AD results from a report of a burning drain hose and smoke caused by an overheated pitot static heating relay. We are issuing this AD to prevent overheating of a certain pitot static heating relay, which could result in the burning of the windowsill drain hoses and consequent smoke or fire in the airplane cockpit.

DATES: This AD becomes effective March 31, 2006.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of March 31, 2006.

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

Contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Dan Rodina, Aerospace Engineer, International Branch, ANM–116, Transport Airplane Directorate, FAA, 1601 Lind Avenue, SW., Renton, Washington 98055–4056; telephone (425) 227–2125; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Examining the Docket

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

Discussion

The FAA issued a notice of proposed rulemaking (NPRM) to amend 14 CFR part 39 to include an AD that would apply to all EMBRAER Model EMB–135 airplanes; and Model EMB–145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP airplanes. That NPRM was published in the **Federal Register** on December 13, 2005 (70 FR 73668). That NPRM proposed to require repetitive inspections of the pitot static heating relay K0057 for damage to the pin-type contacts, relay enclosure, and finishing material and corrective actions if necessary. That NPRM also proposed to require doing a terminating modification, which ends the repetitive inspections.

Comments

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

Conclusion

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

Costs of Compliance

The following table provides the estimated costs for U.S. operators to comply with this AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per airplane	Number of U.S.-registered airplanes	Fleet cost
Inspection, per inspection cycle	1	$65	None	$65	651	$42,315, per inspection cycle.
Terminating modification	2	65	270	400	651	$260,400.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

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

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2006–04–02 Empresa Brasileira de Aeronautica S.A. (EMBRAER): Amendment 39–14483. Docket No. FAA–2005–23283; Directorate Identifier 2005–NM–185–AD.

Effective Date

(a) This AD becomes effective March 31, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to all EMBRAER Model EMB–135BJ, –135ER, –135KE, –135KL, and –135LR airplanes; and Model EMB–145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP airplanes; certificated in any category.

Unsafe Condition

(d) This AD results from a report of a burning drain hose and smoke caused by an overheated pitot static heating relay. We are issuing this AD to prevent overheating of a certain pitot static heating relay, which could result in the burning of the windowsill drain hoses and consequent smoke or fire in the airplane cockpit.

Compliance

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

Service Bulletin References

(f) The term ''service bulletin,'' as used in this AD, means the Accomplishment Instructions of the service bulletins identified in Table 1 of this AD, as applicable:

TABLE 1.—SERVICE BULLETIN REFERENCES

For Model—	For the actions specified in—	EMBRAER Service Bulletin—
EMB–135ER, –135KE, –135KL, and –135LR airplanes and Model EMB–145, –145ER, –145MR, –145LR, –145XR, –145MP, and –145EP airplanes.	paragraph (g) of this AD	145–30–0042, dated April 18, 2005.
	paragraph (i) of this AD	145–30–0041, dated April 20, 2005.
EMB–135BJ airplanes	paragraph (g) of this AD	145LEG–30–0012, dated April 18, 2005.
	paragraph (i) of this AD	145LEG–30–0011, dated April 20, 2005.

Repetitive Inspections

(g) Within 600 flight hours or 180 days after the effective date of this AD, whichever is first: Do a general visual inspection of pitot static heating relay K0057 for damage to the pin-type contacts, relay enclosure, and finishing material, and do the corrective action as applicable, by accomplishing all of the applicable actions specified in the applicable service bulletin; except as provided by paragraph (h) of this AD. The corrective actions must be done before further flight. Repeat the inspection thereafter at intervals not to exceed 500 flight hours, until the terminating modification required by paragraph (i) of this AD is accomplished.

Note 1: For the purposes of this AD, a general visual inspection is: ''A visual examination of an interior or exterior area, installation, or assembly to detect obvious damage, failure, or irregularity. This level of inspection is made from within touching distance unless otherwise specified. A mirror may be necessary to ensure visual access to all surfaces in the inspection area. This level of inspection is made under normally available lighting conditions such as daylight, hangar lighting, flashlight, or droplight and may require removal or opening of access panels or doors. Stands, ladders, or platforms may be required to gain proximity to the area being checked.''

Service Bulletin Exceptions

(h) Although EMBRAER Service Bulletin 145–30–0042, dated April 18, 2005, and EMBRAER Service Bulletin 145LEG–30–0012, dated April 18, 2005, specify contacting the manufacturer if damage to components for the relay support is found and also specify returning any relay that fails an inspection to the airplane manufacturer, this AD does not include those requirements.

Terminating Modification

(i) Within 6,000 flight hours or 30 months after the effective date of this AD, whichever is first: Do the applicable actions specified in paragraphs (i)(1), (i)(2), and (i)(3) of this AD. Accomplishing all the applicable actions specified in this paragraph terminates the inspections required by paragraph (g) of this AD.

(1) For all airplanes, replace the direct-vision windowsill drain hoses having part number (P/N) 123–15435–401 and –403 with new, improved hoses having P/N 145–13044–001 and P/N 145–13047–001, as applicable, and replace the tiedown straps with new tiedown straps, in accordance with Figure 1 of the service bulletin.

(2) For all airplanes, rework the drain hose having P/N 123–15435–405, in accordance with Figure 1 of the service bulletin.

(3) For Model EMB–135BJ airplanes, reroute the drain hoses of the left and right cockpit horizontal linings, in accordance with Figure 2 of the service bulletin.

Alternative Methods of Compliance (AMOCs)

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

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

Related Information

(k) Brazilian airworthiness directive 2005–08–04, effective September 5, 2005, also addresses the subject of this AD.

Material Incorporated by Reference

(l) You must use the service documents identified in Table 2 of this AD to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the Federal Register approved the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Empresa Brasileira de Aeronautica S.A. (EMBRAER), P.O. Box 343—CEP 12.225, Sao Jose dos Campos—SP, Brazil, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov;* or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

TABLE 2.—MATERIAL INCORPORATED BY REFERENCE

Embraer Service Bulletin	Date
145–30–0041	April 20, 2005.
145–30–0042	April 18, 2005.
145LEG–30–0011	April 20, 2005.
145LEG–30–0012	April 18, 2005.

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

Kalene C. Yanamura,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–1409 Filed 2–23–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2006–23966; Directorate Identifier 2006–NM–024–AD; Amendment 39–14495; AD 2006–04–13]

RIN 2120–AA64

Airworthiness Directives; Gulfstream Model GIV–X and GV–SP Series Airplanes

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

ACTION: Final rule; request for comments.

SUMMARY: The FAA is adopting a new airworthiness directive (AD) for certain Gulfstream Model GIV–X and GV–SP series airplanes. This AD requires revising the Limitations section of the airplane flight manual by incorporating new procedures to follow in the event that the cockpit displays go blank or malfunction. This AD results from a report that all four of the cockpit flight panel display units simultaneously went blank during flight. We are issuing this AD to ensure that the flightcrew is advised of the appropriate procedures to follow in the event that the cockpit displays go blank or malfunction, which could result in a reduction of the flightcrew's situational awareness and possible loss of control of the airplane.

DATES: This AD becomes effective March 13, 2006.

The Director of the Federal Register approved the incorporation by reference of certain publications listed in the AD as of March 13, 2006.

We must receive comments on this AD by April 25, 2006.

ADDRESSES: Use one of the following addresses to submit comments on this AD.

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590.
- Fax: (202) 493–2251.
- 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.

Contact Gulfstream Aerospace Corporation, Technical Publications Dept., P.O. Box 2206, Savannah, Georgia 31402–2206, for service information identified in this AD.

FOR FURTHER INFORMATION CONTACT: Robert Chupka, Aerospace Engineer, Systems and Equipment Branch, ACE–119A, Atlanta Aircraft Certification Office, FAA, One Crown Center, 1895 Phoenix Boulevard, Suite 450, Atlanta, Georgia 30349; telephone (770) 703–6070; fax (770) 703–6097.

SUPPLEMENTARY INFORMATION:

Discussion

We have received a report indicating that all four of the cockpit flight panel display units simultaneously went blank during flight on a Gulfstream Model GV–SP airplane. The displays did not recover until the flightcrew pulled circuit breakers associated with the displays; subsequently, three of the four displays returned to normal. Initial investigation revealed discrepancies with the reversion logic of the advanced graphic modules. Similar display failures occurred during ground test operations. Such conditions, if not corrected, could result in a reduction of the flightcrew's situational awareness

and possible loss of control of the airplane.

Relevant Service Information

Gulfstream has issued revisions to the Limitations section of Gulfstream G350, G450, G500, and G550 airplane flight manuals (AFMs), as listed in the table below:

GULFSTREAM AFM REVISIONS

Affected airplane models	AFM	Revision level	Revision date
Model GIV–X	Gulfstream G350, GAC–AC–G350–OPS–0001	6	January 24, 2006.
Model GIV–X	Gulfstream G450, GAC–AC–G450–OPS–0001	7	January 24, 2006.
Model GV–SP	Gulfstream G500, GAC–AC–G500–OPS–0001	13	January 24, 2006.
Model GV–SP	Gulfstream G550, GAC–AC–G550–OPS–0001	15	January 24, 2006.

The revisions describe new procedures to follow in the event that all four cockpit flight panel display units simultaneously go blank or malfunction. The procedures include identifying the malfunctioning components and taking appropriate corrective action to return certain displays to a functional condition. The procedures also include weather minimums designed to mitigate the effects of display blanking events during takeoff or landing.

FAA's Determination and Requirements of This AD

The unsafe condition described previously is likely to exist or develop on other airplanes of the same type design. For this reason, we are issuing this AD to ensure that the flightcrew is advised of appropriate procedures to follow in the event that the cockpit displays go blank or malfunction, which could result in a reduction of the flightcrew's situational awareness and possible loss of control of the airplane. This AD requires revising the AFM to include the revisions described previously.

Interim Action

We consider this AD interim action. The manufacturer is currently developing a software modification that will address the unsafe condition identified in this AD. Once this modification is developed, approved, and available, we may consider additional rulemaking.

FAA's Determination of the Effective Date

Since an unsafe condition exists that requires the immediate adoption of this AD, we have found that notice and opportunity for public comment before issuing this AD are impracticable, and that good cause exists to make this AD effective in less than 30 days.

Comments Invited

This AD is a final rule that involves requirements that affect flight safety and was not preceded by notice and an opportunity for public comment; however, we invite you to submit any relevant written data, views, or arguments regarding this AD. Send your comments to an address listed in the **ADDRESSES** section. Include ''Docket No. FAA–2006–23966; Directorate Identifier 2006–NM–024–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the AD that might suggest a need to modify it.

We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this AD. Using the search function of that Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78), or you may visit *http://dms.dot.gov.*

Examining the Dockets

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

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify that the regulation:

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

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

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

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

List of Subjects in 14 CFR Part 39

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

Adoption of the Amendment

■ Accordingly, under the authority delegated to me by the Administrator,

the FAA amends 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

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

2006–04–13 Gulfstream Aerospace Corporation: Amendment 39–14495. Docket No. FAA–2006–23966; Directorate Identifier 2006–NM–024–AD.

Effective Date

(a) This AD becomes effective March 13, 2006.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Gulfstream Model GIV–X series airplanes, certificated in any category; serial numbers 4001 and subsequent; and Gulfstream Model GV–SP series airplanes, certificated in any category; serial numbers 5001 and subsequent; on which Gulfstream Modification ASC–904 or production equivalent has been incorporated.

Unsafe Condition

(d) This AD results from a report that all four of the cockpit flight panel display units simultaneously went blank during flight. We are issuing this AD to ensure that the flightcrew is advised of the appropriate procedures to follow in the event that the cockpit displays go blank or malfunction, which could result in a reduction of the flightcrew's situational awareness and possible loss of control of the airplane.

Compliance

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

Airplane Flight Manual (AFM) Revision

(f) Within 10 days after the effective date of this AD, revise the Limitations section of the Gulfstream G350, G450, G500, and G550 AFMs to include the information in the applicable revision listed in Table 1 of this AD. Thereafter, operate the airplane according to the limitations and procedures in the applicable revision. Any further revisions to the AFM must contain the identical procedures in the Limitations section of the AFM revisions as required by this AD.

TABLE 1.—GULFSTREAM AFM REVISIONS

Affected airplane models	Applicable Gulfstream AFM
Model GIV–X	GAC–AC–G350–OPS–0001 as specified in Revision 6, dated January 24, 2006.
Model GIV–X	GAC–AC–G450–OPS–0001, as specified in Revision 7, dated January 24, 2006.
Model GV–SP	GAC–AC–G500–OPS–0001, as specified in Revision 13, dated January 24, 2006.
Model GV–SP	GAC–AC–G550–OPS–0001, as specified in Revision 15, dated January 24, 2006.

Note 1: This may be accomplished by inserting a copy of the applicable Gulfstream Revisions listed in Table 1 of this AD into the applicable AFM.

Alternative Methods of Compliance (AMOCs)

(g)(1) The Manager, Atlanta Aircraft Certification Office, FAA, has the authority to approve AMOCs for this AD, if requested in accordance with the procedures found in 14 CFR 39.19.

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

Material Incorporated by Reference

(h) You must use the documents listed in Table 2 of this AD, as applicable, to perform the actions that are required by this AD, unless the AD specifies otherwise. The Director of the **Federal Register** approved the incorporation by reference of these documents in accordance with 5 U.S.C. 552(a) and 1 CFR part 51. Contact Gulfstream Aerospace Corporation, Technical Publications Dept., P.O. Box 2206, Savannah, Georgia 31402–2206, for a copy of this service information. You may review copies at the Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street SW., Room PL–401, Nassif Building, Washington, DC; on the Internet at *http://dms.dot.gov;* or at the National Archives and Records Administration (NARA). For information on the availability of this material at the NARA, call (202) 741–6030, or go to *http://www.archives.gov/federal_register/code_of_federal_regulations/ibr_locations.html.*

TABLE 2.—MATERIAL INCORPORATED BY REFERENCE

Gulfstream service information	List of effective pages	Revision level	Date
Gulfstream G350 Airplane Flight Manual, GAC–AC–G350–OPS–0001	Pages A–C	Revision 6	January 24, 2006.
	Pages E, G–J	Revision 3	September 23, 2005.
	Pages D, F	Revision 5	January 6, 2006.
Gulfstream G450 Airplane Flight Manual, GAC–AC–G450–OPS–0001	Pages A–C	Revision 7	January 24, 2006.
	Pages D, F	Revision 6	January 6, 2006.
	Pages E, G–J	Revision 4	September 21, 2005.
Gulfstream G500 Airplane Flight Manual, GAC–AC–G500–OPS–0001	Pages A–C	Revision 13	January 24, 2006.
	Pages D, F	Revision 11	January 6, 2006.
	Pages E, G, H	Revision 9	September 23, 2005.
Gulfstream G550 Airplane Flight Manual, GAC–AC–G550–OPS–0001	Pages A–C	Revision 15	January 24, 2006.
	Pages E, G–J	Revision 11	September 9, 2005.
	Pages D, F	Revision 13	January 6, 2006.

Issued in Renton, Washington, on February 14, 2006.

Michael Zielinski,

Acting Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. 06–1595 Filed 2–23–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 93

[Docket No. FAA–2001–8690]

RIN 2120–AI71

Delayed Implementation of the Airspace Modification Final Rule for the Grand Canyon National Park Special Flight Rule Area and Flight Free Zones

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action stays the effective date for the implementation of the Airspace Modification final rule for the east end of the Grand Canyon National Park (GCNP) until February 20, 2011. In a case decided in August 2002, the U.S. Court of Appeals for the District of Columbia Circuit returned the GCNP rules to the FAA for further consideration of ways to ensure the substantial restoration of natural quiet. After several attempts in resolving the routes issue in the east end, in February 2003, the FAA stayed the east end routes and airspace changes until February 20, 2006. Because of an ongoing mediation action, which involves consideration of the routes in the east end of the GCNP, the FAA finds it necessary to extend the date for the effectiveness of the Airspace Modification rule for the east end until February 20, 2011.

DATES: The effective date of sections (a) and (b) of 14 CFR 93.305, stayed until February 20, 2006 (68 FR 9496, February 27, 2003), is further stayed until February 20, 2011. This rule was originally published at 61 FR 69330 on December 31, 1996, and amended April 4, 2000.

ADDRESSES: 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 amendment number or docket number of this rulemaking.

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.*

FOR FURTHER INFORMATION CONTACT: Gene Kirkendall, Flight Standards Service (AFS–200), Federal Aviation Administration, 800 Independence Ave., SW., Washington, DC 20591; Telephone: (202) 267–7701.

SUPPLEMENTARY INFORMATION:

Small Business Regulatory Enforcement Fairness Act

The Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 requires the FAA to comply with small entity requests for information or advice about compliance with statutes and regulations within its jurisdiction. If you are a small entity and you have a question regarding this document, you may contact your local FAA official, or the person listed under **FOR FURTHER INFORMATION CONTACT**. You can find out more about SBREFA on the Internet at *http://www.faa.gov/avr/arm/sbrefa.cfm.*

Background

On April 4, 2000, the FAA published two final rules, the Modification of the Dimensions of the Grand Canyon National Park Special Flight Rules Area and Flight Free Zones (Airspace Modification), and the Commercial Air Tour Limitation in the Grand Canyon National Park Special Flight Rules Area (Commercial Air Tour Limitation). See 65 FR 17736 and 65 FR 17708; April 4, 2000. The FAA also published concurrently a notice of availability of Commercial Routes for the Grand Canyon National Park (Routes Notice). See 65 FR 17698, April 4, 2000. The Commercial Air Tour Limitations final rule was implemented, effective May 4, 2000. The Airspace Modification final rule and the routes set forth in the Notice of Availability were scheduled to become effective December 1, 2000. The Final Supplemental Environmental Assessment for Special Flight Rules in the Vicinity of Grand Canyon National Park (SEA) was completed on February 22, 2000, and the Finding of No Significant Impact was issued on February 25, 2000.

Following the publication of the final rules, the United States Air Tour Association (USATA) and seven air tour operators petitioned the United States Court of Appeals for the District of Columbia Circuit to review the rules. See USATA v. FAA (Docket No. 00–1201, May 8, 2000). During the course of this litigation, the USATA raised new safety concerns regarding the new routes in the east end of the GCNP SFRA. To propose a route that would meet the goal of noise reduction while providing a safe air tour route, the FAA first delayed implementation of the routes until December 28, 2000 (November 20, 2000; 65 FR 69848). Subsequently, the FAA delayed the implementation of the routes until April 1, 2001. (66 FR 2001, January 4, 2001).

Finally, the FAA decided to implement the modifications to the route structure of the GCNP SFRA in two phases. First, on April 19, 2001, the FAA implemented the routes and airspace in the west-end (defined as all areas of the SFRA west of the Dragon corridor) of the GCNP SFRA. Also, on April 19, 2001, the SFRA boundary in the eastern part of the GCNP SFRA over the Navajo Nation lands was extended 5 miles to the east. Second, the route structure on the east-end (Dragon Corridor and all airspace east of that Corridor) in the GCNP SFRA was stayed until December 1, 2001, to enable the FAA and NPS to determine what changes should be made in the east end of GCNP. In December 2001, the east end route structure was again stayed until February 20, 2003 (66 FR 63293, December 5, 2001), and in February 2003 the route structure was again stayed until February 20, 2006. Thus, the routes now flown remain almost exactly as that shown under Special Federal Aviation Regulation (SFAR) 50–2, with only slight modification to certain entry and exit points.

On August 20, 2002, the U.S. Court of Appeals for the District of Columbia Circuit concluded that the FAA's use of an ''average annual day'' in lieu of ''any given day,'' in measuring substantial restoration of natural quiet at GCNP ''appears inconsistent with both the [National] Park Service's definition of the term and the premise on which that definition was based.'' See *USATA* v. *FAA*, 298 F.3d 997, August 16, 2002 (DC Circuit, 2002). The court also

determined that the FAA's explanation for excluding non-tour aircraft in its noise modeling was inadequate and that the FAA had not provided sufficient evidence to conclude that noise from non-tour aircraft did not impact the calculations of substantial restoration of natural quiet achieved in GCNP. The court remanded the matter to the FAA for further proceedings consistent with its opinion.

The FAA and NPS now have established a dispute resolution process with the U.S. Institute for Environmental Conflict Resolution and are involving stakeholders of the GCNP to develop measures to fulfill the National Park Overflights Act. This process is not complete, and we believe it could take some time to resolve all of the issues and complete the necessary environmental review and an additional rulemaking process. Thus it is necessary to again extend the effective date of the April 2000 final rule airspace modifications as they apply to the east end of the GCNP. That date now is extended until February 20, 2011.

The FAA notes that the changes to the routes and airspace in the west-end of GCNP finalized in the April 2000 rule have been in effect since April 19, 2001. Those changes were implemented to further the goal of substantial restoration of natural quiet in GCNP.

Immediate Effective Date

The FAA finds that good cause exists under 5 U.S.C. 553(d) for this rule to become final upon issuance. The FAA notes that the delay only affects the east end of the GCNP SFRA. Changes to the west end have been in effect since April 19, 2001.

Environmental Review

In March 2001, the FAA completed a written reevaluation (WR) of the February 22, 2000 Final Supplemental Environmental Assessment (FSEA) for Special Flight Rules in the Vicinity of Grand Canyon National Park (GCNP). The WR examined the potential environmental impacts associated with a phased implementation of the Airspace rule and the Commercial Air Tour Route Modifications described in the February 2000 FSEA. This phased approach involved implementation of the agency's ''preferred'' alternative for airspace and air tour route structures as described in the February 2000 FSEA for the GCNP SFRA west of Dragon Corridor. Since no changes to the western portion of the GCNP SFRA as described in the FSEA occurred, the impact evaluation for the ''preferred'' alternative contained in the FSEA remained valid for the stage-one airspace and routes implementation at the west-end of the GCNP SFRA. The WR also analyzed the planned implementation of the stage-one airspace, routes, and route modifications on the east-end and determined that they were not significant changes from the plans analyzed under the ''no action'' alternative in the February 2000 FSEA. Therefore, the FAA determined that the proposed route revisions to the SFAR 50–2 route structure conformed to the ''no action'' alternative analyzed in the FSEA. The FAA determined that the data and analyses contained in the February 2000 FSEA were still substantially valid and all pertinent conditions and requirements of the prior approval have or would be met in the April 2001 action.

While the delayed implementation of the east-end route and airspace structure lessens the percentage of the GCNP substantially restored to natural quiet, it is only a temporary delay. In addition, given that the majority of the revised routes and airspace for GCNP were implemented during phase one, the phased implementation process resulted in a gain of substantial restoration of natural quiet for GCNP as described in the February 2000 FSEA.

Therefore, for the above reasons and under to FAA Order 1050.1E, Paragraph 515, the FAA determined that the contents of the Final Supplemental Environmental Assessment and its conclusions issued on February 22, 2000 were still valid. Additionally, the FAA found that the previous Section 106 Determination of No Adverse Effect to Traditional Cultural Properties identified by Native Americans issued for the FSEA was also still valid. Copies of the written reevaluation were placed in the public docket for the April 2001 rulemaking, were circulated to interested parties, and were available for inspection at the same time and location as the April 2001 final rule. The findings of the March 2001 WR remain valid for this final rule extending the April 2001 Airspace Rule.

Economic Analysis

The economic analysis completed for the final rule published April 4, 2000 evaluates the east-end and the west-end operations separately since these are distinct markets. This action does not affect the April 19, 2001 implementation of the west-end airspace structure, and the economic analysis from the April 4, 2000 final rule remains valid. At this time the FAA is delaying further the implementation of the east-end routes. The FAA does not consider that this rulemaking effort imposes any costs on the public since it merely extends the stay of effective date for the east end of GCNP. Commercial air tour operators will continue to use established air tour routes. Benefits from reduced aircraft noise in the east-end of GCNP, however, will be delayed. This rulemaking is not a final action. If the agency takes a final action that is different than that published on April 4, 2000, then it may be necessary to complete a revised economic evaluation.

Initial Regulatory Flexibility Determination and Assessment

The Regulatory Flexibility Act (RFA) of 1980 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, organization, and government 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 determination is 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 will have only a de minimus cost impact on the certificate holders. Thus, under to the Regulatory Flexibility Act, 5 U.S.C. 605(b), the Federal Aviation Administration certifies that this final rule will not have a significant impact on a substantial number of small entities.

International Trade Impact Assessment

The Trade Agreement Act (TAA) of 1979 prohibits Federal agencies from engaging in any standards or 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 TAA also requires consideration of international standards and where appropriate, that they be the basis for U.S. standards. In addition, consistent with the Administration's belief in the general superiority and desirability of free trade, it is the policy of the Administration to remove or diminish to the extent feasible, barriers to international trade, including both barriers affecting the export of American goods and services to foreign countries and barriers affecting the import of foreign goods and services into the United States. The FAA has assessed the potential effect of this final rule under the above Act and policy, and has determined that it will have only a domestic impact and therefore no effect on any trade-sensitive activity.

Federalism Implications

This amendment 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. Therefore, in accordance with Executive Order 12612, it is determined that this amendment would not have sufficient Federalism implications to warrant the preparation of a Federalism Assessment.

Unfunded Mandates Reform Act

The Unfunded Mandate 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.

List of Subjects in 14 CFR Part 93

Air traffic control, Airports, Navigation (air).

Adoption of Amendments

■ Accordingly, the Federal Aviation Administration (FAA) amends 14 CFR part 93 as follows:

PART 93—SPECIAL AIR TRAFFIC RULES AND AIRPORT TRAFFIC PATTERNS

■ 1. The authority citation for part 93 continues to read as follows:

Authority: 49 U.S.C. 106(g), 40103, 40113, 40120, 44101,44111, 44701, 44709, 44711, 44712, 44715, 44716, 44717, 44722, 46306, 46315, 46316, 46502, 46504, 46506–46507, 47122, 47508, 47528–47531.

■ 2. Paragraphs (a) and (b) of section 93.305, published on December 31, 1996 (61 FR 69330), then delayed on April 4, 2000 (65 FR 17736), and most recently stayed until February 20, 2006 (68 FR 9496, February 27, 2003), are further stayed until February 20, 2011.

Issued in Washington, DC on February 17, 2006.

Marion C. Blakey,

Administrator.

[FR Doc. 06–1759 Filed 2–21–06; 4:13 pm]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Parts 742 and 746

[Docket No. 051230351–5351–01]

RIN 0694–AD68

Clarification to the Export Administration Regulations; General Order to Implement the Syria Accountability and Lebanese Sovereignty Act

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Industry and Security publishes this final rule to amend the Export Administration Regulations (EAR) by adding two cross-references to the General Order Implementing the Syria Accountability and Lebanese Sovereignty Act (Syria General Order). This amendment clarifies that provisions of the Syria General Order set forth special controls on exports and reexports to Syria and supersede other provisions in the EAR specific to Syria.

DATES: This rule is effective February 24, 2006.

ADDRESSES: Send comments regarding the Paperwork Reduction Act burden estimates or any other aspect of the collection of information affected by this rule to David Rostker, OMB Desk Officer, by e-mail at *david_rostker@omb.eop.gov* or by fax to 202–395–7285; with a copy to the Regulatory Policy Division, Bureau of Industry and Security at one of the addresses below. Send comments concerning any other aspect of this rule via e-mail to *rpd2@bis.doc.gov,* via fax to 202–482–3355 or to the Bureau of Industry and Security, Office of Exporter Services, Regulatory Policy Division, Room H2017, U.S. Department of Commerce, Washington, DC 20230. Please refer to RIN 0694–AD68 in all comments.

FOR FURTHER INFORMATION CONTACT: Sheila Quarterman, Bureau of Industry and Security, Office of Exporter Services, Regulatory Policy Division, by phone at 202–482–2440 or by fax 202–482–3355.

SUPPLEMENTARY INFORMATION:

Background

On May 14, 2004 the Bureau of Industry and Security issued General Order Implementing Syria Accountability and Lebanese Sovereignty Act of 2003 (Syria General Order) consistent with Executive Order 13338 of May 11, 2004. Pursuant to the Syria General Order, exports and reexports of all items subject to the Export Administration Regulations (EAR) (15 CFR 730 *et seq.*), except food and medicine classified as EAR99 and ''deemed export'' and ''deemed reexport'' of EAR99 technology or source code, require a license to Syria (medicine is defined in Part 772 of the EAR). All license applications for exports or reexports to Syria are subject to a general policy of denial, other than particular transactions described in the General Order.

The Syria General Order is set forth in Supplement No. 1 to Part 736 of the EAR as General Order No. 2. In response to a suggestion by exporters, this final rule clarifies that the Syria General Order sets forth special controls on exports and reexports to Syria and supersedes other provisions in the EAR specific to Syria by adding two cross references to the Syria General Order in parts 742 and 746 of the EAR. Specifically, this final rule adds a new paragraph (e) to section 742.9 ''Anti-terrorism: Syria'', and adds new section 746.9, ''Syria,'' to part 746—Embargoes and Other Special Controls.

Although the Export Administration Act expired on August 20, 2001, the President, through Executive Order 13222 of August 17, 2001, 3 CFR, 2001 Comp., p. 783 (2002), as extended by the Notice of August 2, 2005, 70 FR 45273 (August 5, 2005), has continued the Export Administration Regulations in effect under the International Emergency Economic Powers Act.

Rulemaking Requirements

1. This rule has been determined to be not significant for purposes of E.O. 12866.

2. Notwithstanding any other provision of law, no person is required to respond to, nor shall any person be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act, unless that collection of information displays a currently valid Office of Management and Budget Control Number. This rule involves collections of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). These collections have been approved by Office of Management and Budget under control number 0694–0088, ''Multi-Purpose Application,'' which carries a burden hour estimate of 58 minutes for a manual or electronic submission. BIS believes that this rule will not materially affect the burden imposed by this collections.

3. This rule does not contain policies with Federalism implications as that term is defined under E.O. 13132.

4. The Department finds that there is good cause under 5 U.S.C. 553(b)(B) to waive the provisions of the Administrative Procedure Act requiring prior notice and the opportunity for public comment because it is unnecessary. The changes made by this rule merely provide greater clarity by including cross-references to interrelated provisions of existing regulations. In particular, the Syria General Order, published in May of 2004, modified the regulatory treatment of exports and reexports to Syria. This rule inserts references to the General Order into existing Syria specific provisions of the EAR to ensure that the public is aware of the existence of the Syria General Order. Therefore because the changes made by this rule are not substantive, it is unnecessary to provide notice and opportunity for public comment. In addition, the 30-day delay in effectiveness required by 5 U.S.C. 553(d) is not applicable because this rule is not a substantive rule.

Because notice of proposed rulemaking and opportunity for public comment are not required to be given for this rule under the Administrative Procedure Act or by any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) are not applicable.

List of Subjects

15 CFR Part 742

Exports, Terrorism.

15 CFR Part 746

Exports, Foreign trade.

■ Accordingly, parts 742 and 746 of the Export Administration Regulations (15 CFR parts 730—799) are amended as follows:

PART 742—[AMENDED]

■ 1. The authority citation for part 742 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 18 U.S.C. 2510 *et seq.*; 22 U.S.C. 3201 *et seq.*; 42 U.S.C. 2139a; Sec. 901–911, Pub. L. 106–387; Sec. 221, Pub. L. 107–56; Sec 1503, Pub. L. 108–11,117 Stat. 559; E.O. 12058, 43 FR 20947, 3 CFR, 1978 Comp., p. 179; E.O. 12851, 58 FR 33181, 3 CFR, 1993 Comp., p. 608; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23 of May 7, 2003, 68 FR 26459, May 16, 2003; Notice of August 2, 2005, 70 FR 45273 (August 5, 2005); Notice of October 25, 2005, 70 FR 62027 (October 27, 2005).

■ 2. Section 742.9 is amended to add a new paragraph (e) as follows:

§ 742.9 Anti-terrorism: Syria.

* * * * *

(e) General Order No. 2, Supplement No. 1 to part 736 of the EAR, sets forth special controls for exports and reexports to Syria. General Order No. 2 supersedes the provisions of paragraphs (a) through (d) of this section.

PART 746—[AMENDED]

■ 3. The authority citation for part 746 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 287c; Sec 1503, Pub. L. 108–11,117 Stat. 559; 22 U.S.C. 6004; Sec. 901–911, Pub. L. 106–387; Sec. 221, Pub. L. 107–56; E.O. 12854, 58 FR 36587, 3 CFR 1993 Comp., p. 614; E.O. 12918, 59 FR 28205, 3 CFR, 1994 Comp., p. 899; E.O. 13222, 3 CFR, 2001 Comp., p. 783; Presidential Determination 2003–23 of May 7, 2003, 68 FR 26459, May 16, 2003; Notice of August 2, 2005, 70 FR 45273 (August 5, 2005).

■ 4. New section 746.9 is added to read as follows:

§ 746.9 Syria.

General Order No. 2, Supplement No. 1 to part 736 of the EAR, sets forth special controls for exports and reexports to Syria.

Dated: February 14, 2006.

Matthew S. Borman,

Deputy Assistant Secretary for Export Administration.

[FR Doc.06–1709 Filed 2–23–06; 8:45 am]

BILLING CODE 3510–33–P

COMMODITY FUTURES TRADING COMMISSION

17 CFR Part 1

RIN 3038–AC20

Definition of ''Client'' of a Commodity Trading Advisor

AGENCY: Commodity Futures Trading Commission.

ACTION: Final regulations.

SUMMARY: The Commodity Futures Trading Commission (Commission) is amending Regulation 1.3(bb) by adding to that regulation a definition of the term ''client,'' as it relates to commodity trading advisors (CTAs). This amendment clarifies inconsistencies in the Commission's regulations concerning the advisees of CTAs, and it reflects the Commission's longstanding view that its antifraud authority extends to all CTAs, irrespective of whether they provide advice on a personalized or nonpersonalized basis. The Commission is also amending Regulation 1.3(bb) by adding the term ''derivatives transaction execution facility'' to the CTA definition set forth in that regulation.

DATES: Effective Date: March 27, 2006.

FOR FURTHER INFORMATION CONTACT: Barbara S. Gold, Associate Director, or R. Stephen Painter Jr., Staff Attorney, Division of Clearing and Intermediary Oversight, Commodity Futures Trading Commission, Three Lafayette Centre, 1155 21st Street, NW., Washington, DC 20581, telephone number: (202) 418–5450 or (202) 418–5416, respectively; facsimile number: (202) 418–5528; and electronic mail: *bgold@cftc.gov* or *spainter@cftc.gov,* respectively.

SUPPLEMENTARY INFORMATION:

I. The Proposal

A. Background

On September 28, 2005, the Commission published for public comment a proposed amendment to Regulation 1.3(bb) (Proposal).[1] That amendment, which the Commission is

[1] 70 FR 56608. This **Federal Register** release announcing the Proposal (Proposing Release) may be accessed through the Commission's Web site: *http://www.cftc.gov/files/foia/fedreg05/foi050928a.pdf.* In the Proposing Release, the Commission provided a detailed explanation of the proposed amendment to Regulation 1.3(bb). Accordingly, the Commission encourages interested persons to read the Proposing Release for a fuller discussion of the purpose of the amendment to Regulation 1.3(bb).

The Commission's regulations are found at 17 CFR Ch. I (2005) and may be accessed at *http://www.gpoaccess.gov/ecfr.*

adopting as proposed, defines the term ''client'' of a CTA.

Section 1a(6)(A) of the Commodity Exchange Act (Act or CEA) [2] defines the term ''commodity trading advisor'' to mean any person who:

(i) For compensation or profit, engages in the business of advising others, either directly or through publications, writings, or electronic media, as to the value of or the advisability of trading in—

(I) any contract of sale of a commodity for future delivery made or to be made on or subject to the rules of a contract market or derivatives transaction execution facility;

(II) any commodity option authorized under section 4c; or

(III) any leverage transaction authorized under section 19; or

(ii) for compensation or profit, and as part of a regular business, issues or promulgates analyses or reports concerning any of the activities referred to in clause (i).

Under the language of Section 1a(6)(A) of the Act, the term ''commodity trading advisor'' includes advisors who provide nonpersonalized advice, such as publishers of advisory newsletters or Web sites, as well as advisors who provide advice tailored to the needs of particular persons and advisors who direct other persons' trading pursuant to a power of attorney or other written authorization.[3]

Regulation 1.3(bb) contains essentially the same definition of the term ''commodity trading advisor'' as that contained in Section 1a(6) of the Act. However, neither the Act nor the Commission's regulations issued thereunder define who the ''others'' are that CTAs advise. Moreover, neither the Act nor the regulations are consistent when referring to these advisees. As explained in more detail in the Proposing Release,[4] although most of the relevant provisions refer solely to ''clients,'' a few provisions of the Act and regulations refer to ''clients and subscribers.''

The definition of the term ''client'' of a CTA being adopted today clarifies these inconsistencies. Specifically, the amendment to Regulation 1.3(bb) clarifies that, as used in the provisions of the Act and the regulations relating to CTAs, the term ''client'' refers to all advisees of a CTA, including persons who receive advice by subscribing to a newsletter or other information service. A ''subscriber,'' as used in these statutory provisions and regulations, is one type of ''client.'' [5] In this regard, the Commission notes that, as it stated in the Proposing Release,[6] the amendment to Regulation 1.3(bb) clarifies that the antifraud provisions of Section 4*o* of the Act apply to all CTAs, and not just to those who provide advice on a personalized basis.

B. New Regulation 1.3(bb)(2)

As proposed and as adopted, new Regulation 1.3(bb)(2) defines the term ''client,'' as it relates to a CTA, as including:

any person (i) to whom a commodity trading advisor provides advice, for compensation or profit, either directly or through publications, writings, or electronic media, as to the value of, or the advisability of trading in, any contract of sale of a commodity for future delivery made or to be made on or subject to the rules of a contract market or derivatives transaction execution facility, any commodity option authorized under section 4c of the Act, or any leverage transaction authorized under section 19 of the Act; or (ii) to whom, for compensation or profit, and as part of a regular business, the commodity trading advisor issues or promulgates analyses or reports concerning any of the activities referred to [above]. The term 'client' includes, without limitation, any subscriber of a commodity trading advisor.

This new definition of ''client'' includes clients to whom a CTA provides personalized trading advice as well as clients to whom a CTA provides nonpersonalized trading advice. Such nonpersonalized advice includes, among other things, standardized advice provided by newsletters, seminars, tutorials, periodicals, computer software, Internet websites, voicemail recordings, emails, and facsimiles. The definition also covers advice provided over a period of time pursuant to a subscription arrangement or on a one-time basis.

As the Commission noted in the Proposing Release,[7] because the definition of the term ''client'' of a CTA includes within its scope persons to whom the CTA provides advice on either a personalized or nonpersonalized basis, new Regulation 1.3(bb)(2) makes clear that the antifraud provisions of Section 4*o* of the Act apply to *all* persons who come within the statutory definition of the term ''commodity trading advisor,'' and not, for example, just to those who provide personalized trading advice or who direct their clients' trading—*i.e.*, CTAs who must register as such with the Commission pursuant to Section 4m(1) of the Act.[8]

C. Comments on the Proposal

The Commission received five comment letters on the Proposal: [9] One from the Association of the Bar of the City of New York (Bar Association), one from an attorney who represents certain CTAs that provide commodity trading advice on a nonpersonalized basis, and three from CTAs. The Bar Association wrote in support of the Proposal, agreeing that the Commission should eliminate inconsistencies in the regulations concerning the advisees of CTAs. It further agreed that the term ''client'' as used in the Act was not intended to abridge the Commission's jurisdiction to proceed against fraud by CTAs that provide advice on a nonpersonalized basis.

The other commenters wrote in opposition to the Proposal, with each suggesting that the proposed definition of ''client'' of a CTA might raise issues under the First Amendment of the United States Constitution.[10] The Commission disagrees, because the definition of ''client'' does no more than clarify that the manner in which advice is provided, whether on a personalized or nonpersonalized basis, does not affect whether a person comes within the CTA definition of Section 1a(6)(A) of the Act. As proposed and as adopted, new Regulation 1.3(bb)(2) does not impose any registration obligation on those CTAs that are currently eligible to claim the registration exemption of Regulation 4.14(a)(9).[11] Consequently, because this

[2] 7 U.S.C. 1a(6) (2000). The Act may be accessed at *http://www.access.gpo.gov/uscode/title7/chapter1_.html.*

[3] As noted in more detail in the Proposing Release, Section 1a(6)(B) of the Act excludes certain persons from the CTA definition where, as provided for in Section 1a(6)(C) of the Act, their furnishing of advice with respect to trading in commodity futures and options is *solely incidental* to the conduct of their business or profession. 70 FR 56608, 56609.

[4] 70 FR 56608, 56609 nn.5–6.

[5] As noted in the Proposing Release, 70 FR 56608, 56609 n.8, and as discussed in more detail below, the usual presumption that different terms in a statute have separate meanings is rebutted as to the terms ''client'' and ''subscriber'' in Section 4*l*(1) of the Act. Consequently, the phrase ''clients and subscribers,'' as used in the Act and in the regulations, does not imply that ''clients'' and ''subscribers'' are two separate classes of advisees.

[6] *Id.* at 56609.

[7] *Id.* at 56609.

[8] 7 U.S.C. 6m(1).

[9] The comment letters may be accessed through the Commission's Web site: *http://www.cftc.gov/foia/comment05/foi05-005_1.htm.*

[10] The First Amendment prohibits Congress from, among other things, making any law abridging the freedom of speech. U.S. Const. amend. I.

[11] Regulation 4.14(a)(9) provides a registration exemption for CTAs that do not engage in either of the following activities: (1) Directing client accounts; or (2) providing commodity trading advice based on, or tailored to, the commodity interest or cash market positions or other circumstances or characteristics of particular clients. The Commission adopted Regulation 4.14(a)(9) in response to several Federal district court cases holding that the CTA registration requirement, as applied to certain ''publisher'' CTAs, constitutes an unconstitutional prior restraint on speech. Specifically, the Commission adopted Regulation 4.14(a)(9) because of its belief that ''minimizing impact on speech, other than false, deceptive or misleading speech, is a relevant

Continued

new regulation does not require CTAs that provide advice on a nonpersonalized basis to register if they are otherwise eligible to claim the registration exemption of Regulation 4.14(a)(9), the Commission believes that the regulation does not implicate the First Amendment. By defining the term ''client'' of a CTA, the Commission is merely clarifying its longstanding view that *all* CTAs, regardless of whether they provide personalized or nonpersonalized advice, are subject to the Commission's antifraud authority. The Commission does not believe that the regulation of false, deceptive, or misleading speech of CTAs—even of those CTAs that provide advice on a nonpersonalized basis—runs afoul of the protections of the First Amendment.[12]

In addition to raising First Amendment concerns, one commenter also suggested that the Commission lacks authority to adopt the Proposal because the amendment to Regulation 1.3(bb) would eliminate a substantive distinction between the terms ''client'' and ''subscriber'' that the United States Supreme Court recognized in *Lowe* v. *SEC.*[13] This commenter further suggested that, because the Act and the Commission's regulations refer to ''clients'' and ''subscribers,'' Congress must have intended those words to have different meanings. Consequently, according to the commenter, the Commission does not have the authority to amend Regulation 1.3(bb) to clarify that a ''subscriber'' is one type of ''client.''

Both of these arguments were considered and rejected by the United States Court of Appeals for the Seventh Circuit in *Commodity Trend Service, Inc. (CTS).*[14] As explained in the Proposing Release,[15] *CTS* deferred to the Commission's interpretation of Section 4*o* of the Act, finding that the Commission's position was a reasonable interpretation of the statutory language and that it appeared to effectuate Congressional intent. In *CTS,* the court held that the use of the term ''client'' in Section 4*o* does not connote only a personalized relationship. Instead, the term ''client'' ''can refer to * * * those who receive tailored advice from professionals or those who receive any kind of service regardless of whether it is personalized.'' [16]

According to *CTS*, the distinction drawn by *Lowe* between the term ''client'' and the term ''subscriber'' is not necessarily applicable to the CEA. Looking at the broad exclusion from the IAA for publishers, the Court in *Lowe* held that, under the IAA, Congress intended the term ''client'' to refer only to a personalized relationship; investment advisers providing advice on a nonpersonalized basis are excluded entirely from the scope of the IAA because they generally fall within the IAA's broad exclusion for publishers.[17] The CEA, on the other hand, does not exclude all publishers from its scope. Rather, the CEA expressly brings within its scope certain advisors that provide advice on a nonpersonalized basis—for example, publishers of nonpersonalized advice may come within the CTA definition, provided that their advice is not ''solely incidental'' to their publishing business.[18] According to the court in *CTS,* if the use of the term ''client'' in Section 4*o* were construed as removing from the scope of that section's antifraud provisions CTAs who provide advice on a nonpersonalized basis, certain of those CTAs would come within the CTA definition, but virtually none of the Act's provisions would apply to them.[19] According to the *CTS* court, Congress likely did not intend such an anomalous result.[20]

Nor does the Commission believe that by using the terms ''client'' and ''subscriber,'' Congress intended ''client'' to refer only to CTAs that provide advice on a personalized basis. As noted by *CTS,*[21] and as explained in the Proposing Release,[22] the usual presumption that different terms in a statute have separate meanings is rebutted as to the terms ''client'' and ''subscriber'' by the language of Section 4*l*(1) of the Act, which lists ''subscriptions'' as one of the ''arrangements with clients'' entered into by CTAs. This language implies that, in connection with CTAs, a person who arranges for a subscription, in other words a ''subscriber,'' is a type of ''client.''

In light of the foregoing, the Commission is adopting as proposed Regulation 1.3(bb)(2).

D. Amended Regulation 1.3(bb)(1)

The Commodity Futures Modernization Act of 2000 (CFMA) amended the statutory definition of ''commodity trading advisor'' to take account of the new type of trading facility known as a ''derivatives transaction execution facility.'' [23] As noted in the Proposing Release,[24] the Commission is adopting a conforming change to the CTA definition contained in Regulation 1.3(bb)(1).

II. Related Matters

A. Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) [25] requires that agencies, in proposing rules, consider the impact of those rules on small businesses. The Commission has previously established certain definitions of ''small entities'' to be used by the Commission in evaluating the impact of its regulations on such entities in accordance with the RFA.[26]

With respect to CTAs, the Commission has previously stated that it would evaluate within the context of a particular proposal whether all or some affected CTAs would be considered to be small entities and, if so, the economic impact on them of the proposal.[27] As explained in the Proposing Release, the Commission does not believe that Regulation

policy consideration in determining the Commission's regulatory approach toward CTAs whose relationship with their clients is limited to standardized advice through media such as newsletters, prerecorded telephone newslines, Internet Web sites, and non-customized computer software.'' 65 FR 12938, 12939 (March 10, 2000).

[12] Indeed, the Commission may constitutionally prohibit the dissemination of commercial speech that is ''false, deceptive, or misleading.'' *Zauderer* v. *Office of Disciplinary Counsel,* 471 U.S. 626, 638 (1985).

One commenter suggested that the proposed definition of ''client'' would violate the First Amendment because it would clarify that Section 4*o* of the Act covers fraud in connection with nonpersonalized advice. According to this commenter, Section 4*o* of the Act imposes fiduciary standards and such standards cannot constitutionally be imposed on providers of impersonal advice. The premise of this argument was rejected by the Court of Appeals in *Commodity Trend Serv., Inc.* v. *CFTC (CTS),* 233 F.3d 981 (7th Cir. 2000). The court held that Section 4*o* of the Act ''effectuates the extant fiduciary duties of personalized advisors * * * but does not impose fiduciary obligations on impersonal advisors.'' *Id.* at 990, *see also* 233 F.3d at 993–95 (discussing the scope of Section 4*o* of the Act as applied to impersonal CTAs and holding the provision constitutional if properly applied). The Commission agrees with the analysis of this issue in *CTS* and finds it to be an adequate response to the commenter's concern.

[13] 472 U.S. 181 (1985). That case involved a securities investment adviser and the application of the Investment Advisers Act (IAA), 15 U.S.C. § 80b–1 *et seq.*, to his conduct.

[14] *CTS,* 233 F.3d 981.

[15] 70 FR 56608, 56609.

[16] *CTS,* 233 F.3d at 991.

[17] *Id.* at 988.

[18] *See supra* note 3.

[19] *CTS,* 233 F.3d at 988–89.

[20] *Id.* at 989.

[21] *Id.* at 989–90.

[22] 70 FR 56608, 56609 n.8.

[23] *See* Commodity Futures Modernization Act of 2000, Pub. L. 106–554, Appendix E, 114 Stat. 2763, Section 123(a)(1)(A). The CFMA may be accessed through the Commission's Web site: *http://www.cftc.gov/files/ogc/ogchr5660.pdf.*

[24] 70 FR 56608, 56609 n.4.

[25] 5 U.S.C. 601 *et seq.*

[26] 47 FR 18618 (April 30, 1982).

[27] *Id.* at 18620.

1.3(bb)(2) will have a significant impact on affected CTAs. This is because the only burden imposed by the amendment is the obligation to comply with the antifraud provisions of Section 4*o* of the Act. Assuming *arguendo,* however, that compliance with Section 4*o* does constitute a significant burden, the burden is neither new nor additional, because new Regulation 1.3(bb)(2) is consistent with the Commission's longstanding interpretation of Section 4*o* as applicable to all CTAs.

The Commission did not receive any public comments on its analysis of the application of the RFA to proposed Regulation 1.3(bb)(2).

B. Paperwork Reduction Act

The Paperwork Reduction Act of 1995 (PRA)[28] imposes certain requirements on Federal agencies (including the Commission) in connection with their conducting or sponsoring any collection of information as defined by the PRA. This rulemaking does not require a new collection of information on the part of any entities subject to it. Accordingly, for purposes of the PRA, the Commission certified that the proposed amendment did not impose any new reporting or recordkeeping requirements.

C. Cost-Benefit Analysis

Section 15(a) of the Act [29] requires the Commission to consider the costs and benefits of its action before issuing a new regulation under the Act. By its terms, Section 15(a) does not require the Commission to quantify the costs and benefits of a new regulation or to determine whether the benefits of the proposed regulation outweigh its costs. Rather, Section 15(a) simply requires the Commission to ''consider the costs and benefits'' of its action.

Section 15(a) further specifies that costs and benefits shall be evaluated in light of five broad areas of market and public concern: protection of market participants and the public; efficiency, competitiveness, and financial integrity of futures markets; price discovery; sound risk management practices; and other public interest considerations. Accordingly, the Commission could in its discretion give greater weight to any one of the five enumerated areas and could in its discretion determine that, notwithstanding its costs, a particular regulation was necessary or appropriate to protect the public interest or to effectuate any of the provisions or to accomplish any of the purposes of the Act. The Commission has evaluated the costs and benefits of new Regulation 1.3(bb)(2) in light of the specific considerations identified in Section 15(a) of the Act as follows:

1. Protection of Market Participants and the Public

Because Regulation 1.3(bb)(2) expressly brings all CTAs within the purview of the antifraud provisions of Section 4*o* of the Act, the regulation will enhance the Commission's ability to protect market participants and the public.

2. Efficiency and Competition

Regulation 1.3(bb)(2) will have no effect, from the standpoint of imposing costs or creating benefits, on efficiency or competition.

3. Financial Integrity of Futures Markets and Price Discovery

Regulation 1.3(bb)(2) will have no effect, from the standpoint of imposing costs or creating benefits, on the financial integrity or price discovery function of the commodity futures and option markets.

4. Sound Risk Management Practices

Regulation 1.3(bb)(2) will have no effect, from the standpoint of imposing costs or creating benefits, on the available range of sound risk management alternatives.

5. Other Public Interest Considerations

Regulation 1.3(bb)(2) will have no effect, from the standpoint of imposing costs or creating benefits, on any other public interest considerations.

Accordingly, after considering these factors, the Commission has determined to adopt the amendments to Regulation 1.3(bb) set forth below.

List of Subjects in 17 CFR Part 1

17 CFR Part Brokers, Commodity futures, Consumer protection, Reporting and recordkeeping requirements.

■ For the reasons presented above, the Commission is amending 17 CFR part 1 as follows:

PART 1—GENERAL REGULATIONS UNDER THE COMMODITY EXCHANGE ACT

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

Authority: 7 U.S.C. 1a, 2, 5, 6, 6a, 6b, 6c, 6d, 6e, 6f, 6g, 6h, 6i, 6j, 6k, 6*l*, 6m, 6n, 6*o*, 6p, 7, 7a, 7b, 8, 9, 12, 12a, 12c, 13a, 13a–1, 16, 16a, 19, 21, 23, and 24, as amended by the Commodity Futures Modernization Act of 2000, Appendix E of Pub. L. 106–554, 114 Stat. 2763 (2000).

■ 2. Section 1.3 is amended by revising paragraph (bb)(1) and adding new paragraph (bb)(2) as follows:

§ 1.3 Definitions.

* * * * *

(bb)(1) *Commodity trading advisor.* This term means any person who, for compensation or profit, engages in the business of advising others, either directly or through publications, writings or electronic media, as to the value of or the advisability of trading in any contract of sale of a commodity for future delivery made or to be made on or subject to the rules of a contract market or derivatives transaction execution facility, any commodity option authorized under section 4c of the Act, or any leverage transaction authorized under section 19 of the Act, or who, for compensation or profit, and as part of a regular business, issues or promulgates analyses or reports concerning any of the foregoing; but such term does not include (i) Any bank or trust company or any person acting as an employee thereof, (ii) any news reporter, news columnist, or news editor of the print or electronic media, or any lawyer, accountant, or teacher, (iii) any floor broker or futures commission merchant, (iv) the publisher or producer of any print or electronic data of general and regular dissemination, including its employees, (v) the named fiduciary, or trustee, of any defined benefit plan which is subject to the provisions of the Employee Retirement Income Security Act of 1974, or any fiduciary whose sole business is to advise that plan, (vi) any contract market or derivatives transaction execution facility, and (vii) such other persons not within the intent of this definition as the Commission may specify by rule, regulation or order: Provided, That the furnishing of such services by the foregoing persons is solely incidental to the conduct of their business or profession: *Provided further,* That the Commission, by rule or regulation, may include within this definition, any person advising as to the value of commodities or issuing reports or analyses concerning commodities, if the Commission determines that such rule or regulation will effectuate the purposes of this provision.

(2) *Client.* This term, as it relates to a commodity trading advisor, means any person (i) to whom a commodity trading advisor provides advice, for compensation or profit, either directly or through publications, writings, or electronic media, as to the value of, or the advisability of trading in, any contract of sale of a commodity for future delivery made or to be made on or subject to the rules of a contract

[28] 44 U.S.C. 3501 *et seq.*

[29] 7 U.S.C. 19(a).

market or derivatives transaction execution facility, any commodity option authorized under section 4c of the Act, or any leverage transaction authorized under section 19 of the Act; or (ii) to whom, for compensation or profit, and as part of a regular business, the commodity trading advisor issues or promulgates analyses or reports concerning any of the activities referred to in paragraph (bb)(2)(i) of this section. The term ''client'' includes, without limitation, any subscriber of a commodity trading advisor.

* * * * *

Issued in Washington, DC, on February 21, 2006 by the Commission.

Jean A. Webb,

Secretary of the Commission.

[FR Doc. 06–1745 Filed 2–23–06; 8:45 am]

BILLING CODE 6351–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

18 CFR Part 358

[Docket No. RM01–10–005]

Interpretive Order Relating to the Standards of Conduct

Issued February 16, 2006.

AGENCY: Federal Energy Regulatory Commission, DOE.

ACTION: Interpretive order.

SUMMARY: The Federal Energy Regulatory Commission (Commission) is issuing this Order to clarify that Transmission Providers may communicate with affiliated nuclear power plants regarding certain matters related to the safety and reliability of the transmission system on the nuclear power plants, in order to comply with requirements of the Nuclear Regulatory Commission.

DATES: The interpretive order will become effective February 24, 2006. Comments are due March 20, 2006. Reply comments are due April 19, 2006.

FOR FURTHER INFORMATION CONTACT: Demetra Anas, Office of the Market Oversight and Investigations, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, (202) 502–8178, *Demetra.Anas@ferc.gov.*

SUPPLEMENTARY INFORMATION: Before Commissioners: Joseph T. Kelliher, Chairman; Nora Mead Brownell, and Suedeen G. Kelly.

Standards of Conduct for Transmission Providers.

1. The Federal Energy Regulatory Commission (Commission) clarifies that sections 358.5(a) and (b) of the Commission's regulations, 18 CFR 358.5(a) and (b) (2005), do not prohibit a Transmission Provider and its affiliated nuclear power plant from engaging in necessary communications related to the safety and reliability of the transmission system or the nuclear power plant, including information relating to the loss of or potential loss of transmission lines that provide off-site power to the nuclear power plant regardless of ownership of those lines. The Commission is issuing this Interpretive Order to clarify that Transmission Providers may communicate with affiliated and non-affiliated nuclear power plants to enable the nuclear power plants to comply with the requirements of the Nuclear Regulatory Commission (NRC) as described in the NRC's February 1, 2006 Generic Letter 2006–002, Grid Reliability and the Impact on Plant Risk and the Operability of Offsite Power (Generic Letter).[1]

I. Background

2. On November 25, 2003, the Commission issued a Final Rule adopting Standards of Conduct for Transmission Providers (Order No. 2004).[2] Under Order No. 2004, the Standards of Conduct govern the relationships between Transmission Providers [3] and all of their Marketing Affiliates [4] and Energy Affiliates.[5] The Standards of Conduct also contain various information sharing prohibitions to help ensure that Transmission Providers do not use their access to information about transmission to unfairly benefit their own or their affiliates' sales to the detriment of competitive markets. Absent one of the exceptions articulated in section 358.5, if a Transmission Provider discloses transmission information to its Marketing or Energy Affiliate, the Transmission Provider is required to immediately post that information on its OASIS or Internet Web site.[6]

3. On January 9, 2006, at the request of the NRC, FERC Staff participated in a public meeting/workshop of the NRC regarding its then-proposed Generic Letter concerning Grid Reliability and the Operability of Offsite Power. During that discussion, participants expressed concern that the Commission's Standards of Conduct appear to restrict communications between Transmission Providers and their affiliated nuclear power plants, which are Energy Affiliates, thereby limiting the ability of the nuclear power plants to comply with all the requirements of the NRC. The participants also expressed concern that the information sharing prohibitions of the Standards of Conduct would prevent the nuclear power plants from answering all the questions posed in the NRC's draft Generic Letter.

4. The NRC's Generic Letter information request focuses on four areas: (1) Use of protocols, communications and coordination procedures between the nuclear power plant and the transmission system operators (TSO), independent system operator (ISO) or reliability coordinator/authority (RC), including the use of real-time contingency analysis or other programs to monitor the operability of

[1] Nuclear Regulatory Commission's Generic Letter 2006–002, Grid Reliability and the Impact on Plant Risk and the Operability of Offsite Power. February 1, 2006. OMB Control No.: 3150–0011.

[2] *Standards of Conduct for Transmission Providers,* Order No. 2004, FERC Stats. & Regs., Regulations Preambles ¶ 31,155 (2003), *order on reh'g,* Order No. 2004–A, III FERC Stats. & Regs. ¶ 31,161 (2004), 107 FERC ¶ 61,032 (2004), *order on reh'g,* Order No. 2004–B, III FERC Stats. & Regs. ¶ 31,166 (2004), 108 FERC ¶ 61,118 (2004), *order on reh'g,* Order No. 2004–C, 109 FERC ¶ 61,325 (2004), *order on reh'g,* Order No. 2004–D, 110 FERC ¶ 61,320 (2005), *appeal docketed sub nom., National Gas Fuel Supply Corporation* v. *FERC,* No. 04–1183 (D.C. Cir. June 9, 2004).

[3] A Transmission Provider means: (1) Any public utility that owns, operates or controls facilities used for the transmission of electric energy in interstate commerce; or (2) Any interstate natural gas pipeline that transports gas for others pursuant to subpart A of part 157 or subparts B or G of part 284 of this chapter. A Transmission Provider does not include a natural gas storage provider authorized to charge market-based rates that is not interconnected with the jurisdictional facilities of any affiliated interstate natural gas pipeline, has no exclusive franchise area, no captive ratepayers and no market power. 18 CFR 358.3(a) (2005).

[4] A Marketing Affiliate means an affiliate as that term is defined in section 358.3(b) or a unit that engages in marketing, sales or brokering activities as those terms are defined at section 358.3(e). 18 CFR 358.3(k) (2005).

[5] An Energy Affiliate means an affiliate of a Transmission Provider that:

(1) Engages in or is involved in transmission transactions in U.S. energy or transmission markets; or

(2) Manages or controls transmission capacity of a Transmission Provider in U.S. energy or transmission markets; or

(3) Buys, sells, trades or administers natural gas or electric energy in U.S. energy or transmission markets; or

(4) Engages in financial transactions relating to the sale or transmission of natural gas or electric energy in U.S. energy or transmission markets.

(5) An LDC division of an electric public utility Transmission Provider shall be considered the functional equivalent of an Energy Affiliate, unless it qualifies for the exemption in § 358.3(d)(6)(v). 18 CFR 358.3(d) (2005). Affiliates that are not Energy Affiliates are described at 18 CFR 358.3(d)(6)(i)–(vi) (2005).

[6] The information sharing prohibitions of the Standards of Conduct are found at 18 CFR 358.5(a) and (b).

offsite power systems; (2) describing procedures and the sharing of information between the NPP and the TSO/ISO/RC regarding real time contingency analysis to assist the NPP in monitoring grid considerations in maintenance risk assessments; (3) communications and procedures between the NPP and the TSO/ISO/RC regarding offsite power restoration procedures; and (4) losses of offsite power caused by grid failures at a frequency equal to or greater than once in 20 site-years. The February 1, 2006, Generic Letter asks nuclear power plant owners/operators to submit to the NRC a variety of information, within 60 days of its issuance, so that the NRC can determine if the nuclear power plants are complying with its regulations. Based on its inspection information and risk insights following the August 14, 2003 blackout, the NRC staff expressed concern that several issues associated with assurance of grid reliability may impact public health and safety and/or compliance with applicable regulations.[7] Accordingly, through the questions posed in the Generic Letter, the NRC is trying to identify the types of communications, protocols and procedures, both formal and informal, that are in place between the TSO, ISO or RC and nuclear power plants to ensure that off-site power is available in the event of a significant power outage, such as the one that occurred on August 14, 2003.

II. Discussion

5. At the January 9, 2006 workshop, representatives of the nuclear power plants raised the concern that the Standards of Conduct prevent Transmission Providers from communicating with the nuclear power plants limiting their ability to comply with the NRC's requirements articulated in the Generic Letter. The Standards of Conduct are not intended to impede necessary communications related to safety or reliability between operators of transmission systems and nuclear power plant generators. The Commission recognizes the NRC's stringent requirements on nuclear power plants as part of the nuclear power plants' operating licenses to satisfy NRC standards for offsite and onsite electric power systems. *See* 10 CFR Part 50, Appendix A, Design Criterion 17 (2005).

6. During the Standards of Conduct rulemaking proceeding, the Commission adopted an exception to the information sharing prohibitions to permit the types of communications necessary for the nuclear power plants to comply with the requirements of NRC's Generic Letter. Specifically, the Commission permits a Transmission Provider to share with its Energy Affiliates information necessary to maintain the operations of the transmission system. 18 CFR 358.5(b)(8) (2005). This information is defined as information necessary to operate and maintain the transmission system on a day-to-day basis as well as information relating to maintenance of interconnected facilities and operational data relating to interconnection points, but does not include transmission or marketing information that would give a Transmission Provider's Marketing or Energy Affiliates undue preference over a Transmission Provider's non-affiliated customers in the energy marketplace. *See* Order No. 2004–A at P 203. Thus, communications between nuclear power plants and Transmission Providers as required by NRC's Generic Letter are permitted without violating the information disclosure prohibitions or triggering a posting requirement under the Standards of Conduct.[8] Of course, nuclear power plant operators are prohibited from being a conduit for sharing transmission or customer information with other employees of the Marketing or Energy Affiliates. 18 CFR 358.5(b)(7) (2005).

7. In this Interpretive Order, the Commission also recognizes that, in addition to permitting communications necessary to operate and maintain the transmission system, the Transmission Provider and its interconnected nuclear power plant must engage in certain limited communications to operate and maintain the operations of the interconnection and the safety and reliability of the nuclear power plant. The Commission clarifies that such communications may include: (1) communications between the transmission control center and the nuclear power plant control room regarding switching, output, transformer availability; opening or closing breakers and other operational parameters necessary to maintain the safety and reliability of the transmission system and the nuclear power plant; (2) information necessary to coordinate switching and maintenance at the interconnected nuclear power plants; and (3) information on grid disturbances and the duration of power unavailability in order for the nuclear power plant to plan for off-site power in the event of a grid-related loss of power or station blackout, as required by the NRC. Although such communications are permitted, as noted earlier, the nuclear power plant operators are prohibited from being a conduit for sharing this information with employees of other Marketing or Energy Affiliates. 18 CFR 358.5(b)(7) (2005). For example, a nuclear power plant operator may communicate to an employee of the Marketing Affiliate that output from the nuclear power plant is not available, but cannot disclose that the plant output is not available because there is an outage at a certain location on the transmission system. (unless that information is already publicly available.)

8. In addition to this exception for nuclear power plants' operations and reliability, Transmission Providers can communicate any information to nuclear power plants if that information is also simultaneously posted on an OASIS. Many Transmission Providers already post much of the information that might be needed by nuclear power plants on their respective OASIS sites. Part 37 of the Commission's regulations require Transmission Providers to post on their OASIS information regarding: transmission service schedules (18 CFR 37.6(f)); constrained posted paths (18 CFR 37.6(b)(3)(1)); and curtailments or interruptions (18 CFR 37.6(e)(3)) so that all transmission customers have the information at the same time.

9. Finally, under emergency conditions, the Commission created an exception that permits a Transmission Provider to take whatever steps are necessary to keep a system in operation. 18 CFR 358.4(2) (2005). For example during such emergency situations, such as the 2003 Blackout or Hurricanes Katrina and Rita, a Transmission Provider is permitted to engage in any type of communications and to share any employees needed to keep the system in operation. Subsequently, the Transmission Provider is required to report to the Commission each emergency that resulted in any deviation from the Standards of Conduct. 18 CFR 358.4(2) (2005).

III. Comment Procedures

10. No public notice or comment on this Interpretive Order is necessary

[7] Nuclear Regulatory Commission's Generic Letter 2006–003, Grid Reliability and the Impact on Plant Risk and the Operatibility of Offsite Power. February 1, 2006.

[8] During the rulemaking proceeding, one commenter expressed concern that nuclear power plant operators belonging to an Energy Affiliate of the Transmission Provider would be prohibited from receiving information they need to satisfy certain requirements of the NRC's regulations. The commenter also pointed out that station blackout rules require that nuclear stations have real-time information on grid disturbances and duration of power unavailability under 10 CFR 50.63. In Order No. 2004, the Commission ruled that in such situations the Transmission Provider would be permitted to share this type of information with its Energy Affiliates. *See* Order No. 2004 at P 144 and Order No. 2004–A at 206.

pursuant to section 4(b)(A) of the Administrative Procedure Act, 5 U.S.C. 533(b)(A) (2000), which exempts from such notice or comment ''interpretive rules, general statements of policy or rules of agency organization, procedure or practice.'' However, the Commission herein invites all interested persons to submit written comments on this Interpretive Order. The Commission invites interested persons to submit comments on the matters and issues proposed in this Interpretive Order, including any related matters or alternative proposals that commenters may wish to discuss. Comments are due March 20, 2006. Reply comments are due April 19, 2006. Comments and reply comments must refer to Docket No. RM01–10–005, and must include the commenters' names, the organizations they represent, if applicable, and their address in their comments. Comments and reply comments may be filed either in electronic or paper format.

11. Comments and reply comments may be filed electronically via the eFiling link on the Commission's Web site at *http://www.ferc.gov.* The Commission accepts most standard word processing formats and commenters may attach additional files with supporting information in certain other file formats. Commenters filing electronically do not need to make paper filings. Commenters that are not able to file comments and reply comments electronically must send an original and 14 copies of their comments to: Federal Energy Regulatory Commission, Secretary of the Commission, 888 First Street, NE., Washington, DC 20426.

12. All comments and reply comments will be placed in the Commission's public files and may be viewed, printed, or downloaded remotely as described in the Document Availability section below. Commenters on this proposal are not required to serve copies of their comments and reply comments on other commenters.

IV. Document Availability

13. In addition to publishing the full text of this document in the **Federal Register**, the Commission provides all interested persons an opportunity to view and/or print the contents of this document via the Internet through the Commission's Home Page (*http://www.ferc.gov*) and in the Commission's Public Reference Room during normal business hours (8:30 a.m. to 5 p.m. eastern time) at 888 First Street, NE., Room 2A, Washington, DC 20426.

14. From the Commission's Home Page on the Internet, this information is available in the Commission's document management system, eLibrary. The full text of this document is available on eLibrary in PDF and Microsoft Word format for viewing, printing, and/or downloading. To access this document in eLibrary, type the docket number excluding the last three digits of this document in the docket number field.

15. User assistance is available for eLibrary and the Commission's Web site during normal business hours. For assistance, please contact FERC Online Support at 1–866–208–3676 (toll free) or (202) 502–8222 (e-mail at *FERCOnlineSupport@FERC.gov*), or the Public Reference Room at (202) 502–8371, TTY (202) 502–8659 (e-mail at *public.referenceroom@ferc.gov).*

By the Commission.

Magalie R. Salas,

Secretary.

[FR Doc. 06–1654 Filed 2–23–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 73

[Docket No. 2001C–0486] (formerly Docket No. 01C–0486)

Listing of Color Additives Exempt From Certification; Tomato Lycopene Extract and Tomato Lycopene Concentrate

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule; response to objections; removal of stay.

SUMMARY: The Food and Drug Administration (FDA) is responding to two objections that it received on the final rule that amended the color additive regulations authorizing the use of tomato lycopene extract and tomato lycopene concentrate as color additives in foods. After reviewing the objections to the final rule, the agency has concluded that the objections do not raise issues of material fact that justify a hearing or otherwise provide a basis for modifying the amendment to the regulation. FDA is also establishing a new effective date for this color additive regulation, which was stayed by the filing of proper objections.

DATES: The final rule that published in the **Federal Register** of July 26, 2005 (70 FR 43043), with an effective date of August 26, 2005, was stayed by the filing of objections as provided for under section 701(e)(2) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 371(e)(2)) as of August 25, 2005. This final rule is newly effective as of February 24, 2006.

FOR FURTHER INFORMATION CONTACT: James C. Wallwork, Center for Food Safety and Applied Nutrition (HFS–265), Food and Drug Administration, 5100 Paint Branch Pkwy., College Park, MD 20740, 301–436–1303.

SUPPLEMENTARY INFORMATION:

I. Introduction

FDA published a notice in the **Federal Register** on October 30, 2001 (66 FR 54773), announcing the filing of a color additive petition (CAP 1C0273) by LycoRed Natural Products Industries to amend the color additive regulations in part 73 (21 CFR part 73) to provide for the safe use of tomato lycopene extract to color foods generally. The petition included information on two forms of tomato lycopene (extract and concentrate) that differ primarily in concentration. In the **Federal Register** of July 26, 2005 (70 FR 43043), the agency issued a final rule providing for the safe use of tomato lycopene extract and tomato lycopene concentrate as color additives in foods. The preamble to the final rule advised that objections to the final rule and requests for a hearing were due within 30 days of the publication date (i.e., by August 25, 2005) and that the rule would be effective on August 26, 2005, except that any provisions may be stayed by the filing of proper objections.

II. Objections and Requests for a Hearing

Sections 701(e)(2) and 721(d) of the Federal Food, Drug, and Cosmetic Act (the act) (21 U.S.C. 371(e)(2) and 379e(d)) collectively provide that, within 30 days after publication of an order relating to a color additive regulation, any person adversely affected by such an order may file objections, specifying with particularity the provisions of the order ''deemed objectionable, stating reasonable grounds therefore, and requesting a public hearing based upon such objections.''

Objections and requests for a hearing are governed by part 12 (21 CFR part 12) of FDA's regulations. Under § 12.22(a), each objection must meet the following conditions: (1) Must be submitted on or before the 30th day after the date of publication of the final rule; (2) must be separately numbered; (3) must specify with particularity the provision of the regulation or proposed order objected to; (4) must specifically state the provision of the regulation or proposed

order on which a hearing is requested (failure to request a hearing on an objection constitutes a waiver of the right to a hearing on that objection); and (5) must include a detailed description and analysis of the factual information to be presented in support of the objection if a hearing is requested (failure to include a description and analysis for an objection constitutes a waiver of the right to a hearing on that objection).

Following publication of the final rule, FDA received two objections within the 30-day objection period. Neither objection requested a hearing; therefore a hearing has been waived (21 CFR 12.22(a)(4)). One objection asserted that lycopene extracted from tomatoes ''could trigger more individuals to become allergic to tomatoes and could even become life threatening through anaphylactic shock to those of us who have severe allergies.'' As an alternative to revoking the regulation, the submission proposed that lycopene extracted from tomatoes ''must be labeled as such.'' The second objection requested that the scope of the regulation be broadened to include the use of lycopene isolated from other plant sources, such as watermelon, as a color additive in foods.

III. Analysis of Objections

FDA addresses each of the two objections in the following paragraphs, as well as the evidence and information filed in support of each.

One submission objected to the final rule, asserting that people who have a severe tomato allergy may experience an allergic reaction to lycopene extracted from tomatoes and that exposure to lycopene extracted from tomatoes may cause sensitive individuals to develop an allergy to tomatoes. The objector did not provide reliable data and information to support the assertion that sensitive individuals will exhibit an allergic reaction to lycopene extracted from tomatoes. The objector also did not provide evidence that sensitive individuals may develop an allergy to tomatoes from exposure to lycopene extracted from tomatoes. Therefore, the submission provided no information that would support a reevaluation of the agency's safety analysis of lycopene extracted from tomatoes. FDA concludes that this submission provides no basis for the agency to reconsider its decision to issue the final rule on the use of lycopene extract and concentrate as a color additive in food. Therefore, FDA is denying this objection (§ 12.24(b)(3)).

The second objection requested that FDA broaden the scope of the regulation to include the use of lycopene isolated from other plant sources, such as watermelon, as an additive in foods. FDA is denying this objection because the request is inconsistent with the act and FDA's regulations (§ 12.24(b)(5)). If the submitter desires to expand the uses covered by the lycopene regulation, the proper course is to file a separate petition to amend the lycopene color additive regulation, meeting all requirements for such a petition (e.g., 21 CFR part 71).

IV. Summary and Conclusions

The agency is denying the objections on the following grounds: (1) The submission based on an allergy to tomato-derived lycopene does not include evidence that calls into question FDA's conclusion that the use of lycopene extracted from tomatoes is safe for use as a color additive in foods and (2) the request to include under § 73.585 lycopene extracted from other plant sources, such as watermelon, is beyond the scope of the petitioned action for tomato-derived lycopene and is appropriately resolved through the submission of a separate petition.

The filing of the objections served to stay automatically the effectiveness of § 73.585. Section 701(e)(2) of the act states that ''Until final action upon such objections is taken by the Secretary * * *, the filing of such objections shall operate to stay the effectiveness of those provisions of the order to which the objections are made.'' Section 701(e)(3) of the act further provides that ''as soon as practicable * * *, the Secretary shall by order act upon such objections and make such order public.''

The agency has completed its evaluation of the objections and concludes that a continuation of the stay of this regulation is not warranted.

In the absence of any other objections and requests for a hearing, the agency, therefore, further concludes that this document constitutes final action on the objections received in response to the regulation as prescribed in section 701(e)(2) of the act. Therefore, the agency is acting to end the stay of the regulation by establishing a new effective date of February 24, 2006 for this regulation, listing tomato lycopene extract and tomato lycopene concentrate as color additives in foods. As announced in the **Federal Register** of July 26, 2005 (70 FR 43043), the previous effective date of the regulation was August 26, 2005.

Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs, notice is given that the objections filed in response to the final rule that was published on July 26, 2005 (70 FR 43043), do not form the basis for further stay of this final rule or require amendment of the regulations. Accordingly, the stay of § 73.585 that FDA is announcing in this document, is removed effective February 24, 2006.

Dated: February 16, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

[FR Doc. 06–1710 Filed 2–23–06; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[TD 9252]

RIN 1545–BF22

Procedures for Administrative Review of a Determination That an Authorized Recipient Has Failed to Safeguard Tax Returns or Return Information

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTIONS: Temporary regulations.

SUMMARY: This document contains temporary regulations regarding administrative review procedures for certain government agencies and other authorized recipients of tax returns or return information (authorized recipients) whose receipt of returns and return information may be suspended or terminated because they do not maintain proper safeguards. The temporary regulations provide guidance to responsible IRS personnel and authorized recipients as to these administrative procedures. The text of these temporary regulations serves as the text of the proposed regulations set forth in the notice of proposed rulemaking on this subject in the Proposed Rules section of this issue of the **Federal Register**.

DATES: *Effective Date:* These regulations are effective February 24, 2006.

Applicability Date: For dates of applicability, see § 301.6103(p)(7)–1T(e).

FOR FURTHER INFORMATION CONTACT: Melinda Fisher, (202) 622–4580 (not a toll-free number).

SUPPLEMENTARY INFORMATION:

Background

Under section 6103 of the Internal Revenue Code (Code), tax returns and return information are protected from disclosure except in specifically enumerated circumstances. Where disclosure is permitted, section 6103

generally imposes strict safeguarding requirements and requires the IRS to monitor and enforce compliance with those requirements. Section 6103(p)(7) requires the Secretary of the Treasury to prescribe procedures providing for administrative review of any determination under section 6103(p)(4) that an agency, body, or commission receiving returns or return information pursuant to section 6103(d) has failed to meet the safeguarding requirements. Withdrawn § 301.6103(p)(7)–1 set forth the procedures for terminating future disclosures to these authorized recipients. These temporary regulations provide the intermediate review and termination procedures for all authorized recipients identified in section 6103(p)(4).

With an increasing volume of authorized disclosures of returns and return information, it is critical that authorized recipients of returns and return information adhere to the strict safeguard requirements of the Code and that the IRS take all necessary steps to ensure that those requirements are met. If unauthorized disclosures do occur, it is similarly important that the IRS take steps to address them and ensure that they are not repeated. Such steps include, as appropriate, suspension or termination of further disclosures to an authorized recipient. Nevertheless, because the authority to receive returns and return information is provided by law, authorized disclosures should not be suspended or terminated without appropriate administrative review procedures. These temporary regulations set forth procedures to ensure that authorized recipients provide the proper security and protection to returns and return information.

Explanation of Provisions

There are four basic parts to the statutory scheme Congress created in section 6103 of the Code to protect the confidentiality of tax returns and return information:

1. The general rule that makes returns and return information confidential except as expressly authorized in the Code;

2. The exceptions to the general rule detailing permissible disclosures;

3. Technical, administrative, and physical safeguard provisions to prevent authorized recipients of returns and return information from inspecting, using, or disclosing the returns and return information in an unauthorized manner, and accounting, recordkeeping and reporting requirements that detail what inspections and disclosures are made for certain purposes to assist in oversight; and

4. Criminal penalties for the willful unauthorized inspection or disclosure of returns and return information and a civil cause of action for the taxpayer whose returns or return information has been inspected or disclosed in a manner not authorized by the Code.

Section 6103(p)(4) provides that no returns or return information may be disclosed by the IRS to certain government agencies and other authorized recipients unless they establish procedures satisfactory to the IRS for safeguarding the returns and return information they receive. These procedures are set forth in Publication 1075, Tax Information Security Guidelines for Federal, State and Local Agencies, which is available at *http://www.irs.gov/formspubs/list.* Disclosure of returns and return information to the authorized recipients described in section 6103(p)(4) is conditioned on the recipient maintaining a secure place for storing the returns and return information, restricting access to returns and return information to persons whose duty requires access and to whom disclosure can be made under the internal revenue laws, providing other safeguards necessary to keeping the returns and return information confidential, reporting to the IRS on the safeguard procedures, and returning to the IRS or destroying the returns and return information upon completion of use. The IRS reviews, on a regular basis, safeguards established by authorized recipients of returns and return information.

If there are any unauthorized inspections or disclosures of returns or return information by authorized recipients, further disclosures may be terminated or suspended until the IRS is satisfied that adequate protective measures have been taken to prevent a recurrence of unauthorized inspection or disclosure. In addition, the IRS may terminate or suspend disclosure to any authorized recipient if the IRS determines that adequate safeguards are not being maintained.

The Code, in section 6103(p)(4), (p)(7), and (q) authorizes the IRS to promulgate regulations to carry out its statutory safeguard responsibilities. More specifically, section 6103(p)(7) requires that the IRS promulgate regulations establishing procedures for an administrative review of any determination by the IRS under section 6103(p)(4) that a State tax agency authorized to receive returns and return information under section 6103(d) has failed to meet the requirements of section 6103(p)(4). See Tax Reform Act of 1976, S. Rep. 94–938, 94th Cong., 2d Sess. 345 (1976). Under current § 301.6103(p)(7)–1 of the Procedure and Administration Regulations (26 CFR Part 301), the IRS has established procedures whereby State tax agencies that receive returns and return information pursuant to section 6103(d) have an opportunity, prior to a suspension or termination of disclosure, to contest a preliminary finding by the IRS of inadequate safeguards or unauthorized disclosure, or to establish that a State tax agency has taken steps to prevent a recurrence of the violation.

This document adopts temporary regulations that extend the administrative review procedure applicable to State tax agencies to any authorized recipient specified in section 6103(p)(4) with respect to which the IRS has made a preliminary finding of inadequate safeguards or unauthorized disclosure. The temporary regulations also apply this administrative review procedure to any such authorized recipient with respect to which the IRS has made a preliminary finding as to unauthorized inspection of returns or return information. The temporary regulations treat unauthorized inspection in the same manner as unauthorized disclosure because both unauthorized acts are proscribed by the Code. In particular, section 7213A, enacted by the Taxpayer Browsing Protection Act of 1997, Public Law 105–35 (111 Stat. 1104), specifically treats the unauthorized inspection of a return or return information as a misdemeanor.

Special Analyses

It has been determined that these temporary regulations are not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. Pursuant to 5 U.S.C. 553(b)(B) it has been determined that prior notice and public comment on these temporary regulations are unnecessary and contrary to the public interest. These regulations do not impose any burdens or obligations on any person, but instead provide certain rights of administrative review. Moreover, these regulations are necessary to protect taxpayer confidentiality and the integrity of return information. For the same reasons, it has been determined pursuant to 5 U.S.C. 553(d)(3) that good cause exists to dispense with a delayed effective date for these regulations. For applicability of the Regulatory Flexibility Act (5 U.S.C. chapter 6), please refer to the cross-reference notice of proposed rulemaking published elsewhere in this issue of the **Federal Register**. Pursuant to section 7805(f) of

the Code, these temporary regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Drafting Information

The principal author of these temporary regulations is Melinda K. Fisher, Office of the Associate Chief Counsel (Procedure & Administration), Disclosure and Privacy Law Division.

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Amendments to the Regulations

■ Accordingly, 26 CFR Part 301 is amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

■ **Paragraph 1.** The authority citation for part 301 is amended by adding an entry in numerical order to read, in part, as follows:

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

Sections 301.6103(p)(4)–1 and 301.6103(p)(7)–1T also issued under 26 U.S.C. 6103(p)(4) and (7) and (q), * * *

■ **Par. 2.** Section 301.6103(p)(4)–1T is added to read as follows:

§ 301.6103(p)(4)–1T Procedures relating to safeguards for returns or return information (temporary).

For security guidelines and other safeguards for protecting returns and return information, see guidance published by the Internal Revenue Service. For procedures for administrative review of a determination that an authorized recipient has failed to safeguard returns or return information, see § 301.6103(p)(7)–1T.

§ 301.6103(p)(7)–1 [Removed]

■ **Par. 3.** Section 301.6103(p)(7)–1 is removed.

■ **Par. 4.** Section 301.6103(p)(7)–1T is added to read as follows:

§ 301.6103(p)(7)–1T Procedures for administrative review of a determination that an authorized recipient has failed to safeguard returns or return information (temporary).

(a) *In general.* Notwithstanding any section of the Internal Revenue Code, the Internal Revenue Service (IRS) may terminate or suspend disclosure of returns and return information to any authorized recipient specified in subsection (p)(4) of section 6103, if the IRS makes a determination that:

(1) The authorized recipient has allowed an unauthorized inspection or disclosure of returns or return information and that the authorized recipient has not taken adequate corrective action to prevent the recurrence of an unauthorized inspection or disclosure, or

(2) The authorized recipient does not satisfactorily maintain the safeguards prescribed by section 6103(p)(4), and has made no adequate plan to improve its system to maintain the safeguards satisfactorily.

(b) *Notice of IRS's intention to terminate or suspend disclosure.* Prior to terminating or suspending authorized disclosures, the IRS will notify the authorized recipient in writing of the IRS's preliminary determination and of the IRS's intention to discontinue disclosure of returns and return information to the authorized recipient. Upon so notifying the authorized recipient, the IRS, if it determines that tax administration otherwise would be seriously impaired, may suspend further disclosures of returns and return information to the authorized recipient pending a final determination by the Commissioner or a Deputy Commissioner described in paragraph (d)(2) of this section.

(c) *Authorized recipient's right to appeal.* An authorized recipient shall have 30 days from the date of receipt of a notice described in paragraph (b) of this section to appeal the preliminary determination described in paragraph (b) of this section. The appeal shall be made directly to the Commissioner.

(d) *Procedures for administrative review.* (1) To appeal a preliminary determination described in paragraph (b) of this section, the authorized recipient shall send a written request for a conference to: Commissioner of Internal Revenue (Attention: SE:S:CLD:GLD), 1111 Constitution Avenue, NW., Washington, DC 20224. The request must include a complete description of the authorized recipient's present system of safeguarding returns or return information, as well as a complete description of its practices with respect to the inspection, disclosure, and use of the returns or return information it (including any authorized contractors or agents) receives under the Internal Revenue Code. The request then must state the reason or reasons the authorized recipient believes that such system, or practice, including improvements, if any, to such system or practice expected to be made in the near future, is or will be adequate to safeguard returns or return information.

(2) Within 45 days of the receipt of the request made in accordance with the provisions of paragraph (d)(1) of this section, the Commissioner or Deputy Commissioner personally will hold a conference with representatives of the authorized recipient, after which the Commissioner or Deputy Commissioner will make a final determination with respect to the appeal.

(e) *Effective date.* This section is applicable to all authorized recipients of returns and return information that are subject to the safeguard requirements set forth in section 6103(p)(4) on or after February 23, 2006.

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

Approved: February 11, 2006.

Eric Solomon,

Acting Deputy Assistant Secretary of the Treasury (Tax Policy).

[FR Doc. 06–1713 Filed 2–23–06; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 146

RIN 0790–AH73

Compliance of DoD Members, Employees, and Family Members Outside the United States With Court Orders

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This document removes part 146, ''Compliance of DoD Members, Employees, and Family Members Outside the United States With Court Orders'' in Title 32 of the Code of Federal Regulations. This part has served the purpose for which it was intended in the CFR and is no longer necessary.

DATES: *Effective Date:* February 24, 2006.

FOR FURTHER INFORMATION CONTACT: L.M. Bynum, (703) 696–4970.

SUPPLEMENTARY INFORMATION: The DoD Directive 5525.9 has been converted into a DoD Instruction and is available at *http://www.dtic.mil/whs/directives/corres/html/552509.htm*

List of Subjects in 32 CFR Part 146

Courts, Government employees, Intergovernmental relations, Military personnel.

PART 146—[REMOVED]

■ Accordingly, by the authority of 10 U.S.C. 301, 32 CFR part 146 is removed.

Dated: February 17, 2006.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 06–1730 Filed 2–23–06; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

32 CFR Part 343

[DoD Directive 5124.02]

Under Secretary of Defense for Personnel and Readiness (USD(P&R))

AGENCY: Department of Defense.

ACTION: Final rule.

SUMMARY: This document removes part 343, ''Under Secretary of Defense for Personnel and Readiness (USD(P&R))'' in Title 32 of the Code of Federal Regulations. This part has served the purpose for which it was intended in the CFR and is no longer necessary.

DATES: *Effective Date:* February 24, 2006.

FOR FURTHER INFORMATION CONTACT: L.M. Bynum, (703) 696–4970.

SUPPLEMENTARY INFORMATION: This part 343 is removed to as a part of a DoD exercise to remove organizational charters from the CFR. The revised DoD Directive 5124.04 is available at *http://www.dtic.mil/whs/directives/corres/htm/512402.htm*

List of Subjects in 32 CFR Part 343

Organizations.

PART 343—[REMOVED]

Accordingly, by the authority of 10 U.S.C. 301, 32 CFR part 343 is removed.

Dated: February 17, 2006.

L.M. Bynum,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 06–1731 Filed 2–23–06; 8:45 am]

BILLING CODE 5001–06–M

POSTAL SERVICE

39 CFR Part 111

Bundling Flat-Size and Irregular Parcel Mail

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: This final rule requires mailers to use two bands to secure all bundles of presorted flat-size mail and irregular parcels when those bundles are not shrinkwrapped.

DATES: *Effective Date:* April 30, 2006.

FOR FURTHER INFORMATION CONTACT: Bill Chatfield, 202–268–7278.

SUPPLEMENTARY INFORMATION:

Background

We published a proposal in the **Federal Register** (70 FR 66314; November 2, 2005) to require mailers to use at least two bands—one band around the length and one around the width—when only banding is used to secure bundles of flat-size and irregular parcel mailpieces. This requirement eliminates the current option to place only one band around bundles 1-inch thick or less.

Bundle integrity—the ability of bundles to remain intact—is crucial for our new, high-speed Automated Package Processing System (APPS). When bundles break open, we lose the value of mailers' presort, and we must handle individual pieces manually. Manual handling of mailpieces from broken or loose bundles results in delayed delivery and increases our processing costs.

Comments Received

We received two comments on our proposal. One commenter said it may be difficult to use two bands and maintain visible address and presort information on the top piece of each bundle. Secure bundles with visible addresses and presort designations are key APPS requirements. Mailers may use clear, smooth strapping or place the address on an unobscured part of the mailpiece (for example, in the center of one of the quadrants on the face of the mailpiece). Mailers may avoid banding altogether by shrinkwrapping bundles.

The commenter also said that the new address visibility requirement should have been published together with the new bundling standards. While we changed the standards for address visibility on October 27, 2005, mailers were given a 6-month grace period to comply. We encourage mailers to meet those standards as soon as possible, but mailers are not required to comply until April 30, 2006. The April 30, 2006, implementation date for the new bundling standards matches the compliance date for address visibility.

The second commenter disagreed that bundles prepared with only banding should be required to have bands around the length and width. The commenter stated that, in some cases, using two parallel bands around the width of the bundle is sufficient.

The standards that require at least one band around the length and one around the width for most bundles are not new standards and help ensure that bundles maintain their integrity. Mailers may use two parallel bands around the width when it can increase the integrity of the bundle, but these bands must be in addition to a third band around the length. The new standard requiring at least one band around the length and one around the width for all bundles that are not shrinkwrapped will prevent even small bundles from falling apart.

Effective Date

Mailers must prepare presort bundles of flat-size mail and irregular parcels according to the new standards beginning April 30, 2006, but we encourage mailers to follow the new standards immediately.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

■ Accordingly, 39 CFR part 111 is amended as follows:

PART 111—[AMENDED]

■ 1. The authority citation for 39 CFR Part 111 continues to read as follows:

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

■ 2. Amend the following sections of *Mailing Standards of the United States Postal Service*, Domestic Mail Manual (DMM) as follows:

* * * * *

300 Discount Flats

* * * * *

330 First-Class Mail

* * * * *

335 Mail Preparation

* * * * *

2.0 BUNDLES

* * * * *

2.4 Securing Bundles

■ [Add new item b as follows. Make an identical change in 345.2.5 (for Standard Mail flats), 365.2.5 (for Bound Printed Matter flats), 375.2.5 (for Media Mail flats), 385.2.5 (for Library Mail flats), 435.2.5 (for First-Class Mail parcels), 465.2.5 (for Bound Printed Matter parcels), 475.2.5 (for Media Mail parcels), 485.2.5 (for Library Mail parcels), and 707.19.4 (for Periodicals).]

* * * * *

■ b. When using only banding to secure bundles, the following additional requirements apply.

■ 1. Use at least one band to encircle the length of the bundle and use at least one band to encircle the width of the bundle.

■ 2. Use tension sufficient to tighten and depress the edges of the bundle so that pieces do not slip out of the banding during transit and processing.

* * * * *

340 Standard Mail

* * * * *

345 Mail Preparation

* * * * *

2.0 BUNDLES

* * * * *

2.6 Preparing Bundles in Sacks

■ [Revise introductory text to refer to the new banding requirements as follows. Delete item b to remove the old banding requirements and renumber items c through f as items b through e. Make identical changes in 707.19.8 (for Periodicals).]

■ In addition to the standards in 2.5, mailers must prepare and secure bundles placed in sacks as follows.

* * * * *

■ [Switch 445.2.5 and 445.2.6 for Standard Mail parcels. Revise new 2.5 using the text in 335.2.4 above; revise new 2.6 using the text in 345.2.6 above.]

* * * * *

■ [Replace text in 705.8.5.11 with text in new 335.2.4 above for bundles on pallets. Delete 705.8.5.12; renumber 8.5.13 and 8.5.14 as new 8.5.12 and 8.5.13.]

* * * * *

Neva R. Watson,

Attorney, Legislative.

[FR Doc. 06–1703 Filed 2–23–06; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA–OAR–2002–0053, FRL–8025–9]

RIN 2060–AK35

Standards of Performance for Stationary Gas Turbines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule; amendments.

SUMMARY: EPA is taking direct final action to revise certain portions of the standards of performance for stationary gas turbines. We are taking direct final action to revise the standards to clarify that EPA is not imposing new requirements for turbines constructed after 1977. Owners and operators of existing and new turbines may use monitoring that meets the pre-existing monitoring requirements. In addition, we have described a number of acceptable compliance monitoring options that owners and operators may elect to use for these units. We see making the amendments by direct final rule as non-controversial and anticipate no adverse comments.

DATES: The direct final rule amendments are effective on April 25, 2006 without further notice, unless EPA receives adverse comment by March 27, 2006 or a public hearing is requested. If EPA receives such comments, it will publish a timely withdrawal in the **Federal Register** indicating which provisions are being withdrawn due to adverse comment.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–OAR–2002–0053. 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, *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 through *www.regulations.gov* or in hard copy at the Air and Radiation Docket, Docket ID No. EPA–OAR–2002–0053, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air and Radiation Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Mr. Jaime Pagán, Combustion Group, Emission Standards Division (C439–01), U.S. EPA, Research Triangle Park, North Carolina 27711; telephone number (919) 541–5340; facsimile number (919) 541–5450; electronic mail address ''*pagan.jaime@epa.gov*.''

SUPPLEMENTARY INFORMATION: *Regulated Entities.* Entities potentially regulated by this action are those that own and operate stationary gas turbines, and are the same as the existing rule in 40 CFR part 60, subpart GG. Regulated categories and entities include:

Category	NAICS	SIC	Examples of regulated entities
Any industry using a stationary combustion turbine as defined in 40 CFR 60.331(a).	2211	4911	Electric services.
	486210	4922	Natural gas transmission.
	211111	1311	Crude petroleum and natural gas.
	211112	1321	Natural gas liquids.
	221	4931	Electric and other services, combined.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. If you have questions regarding the applicability of this action to a particular entity, consult the contact person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

Comments. EPA is publishing the direct final amendments without prior proposal because we view the amendments as noncontroversial and anticipate no adverse comment. In the ''Proposed Rules'' section of this **Federal Register**, EPA is publishing a separate document that will serve as the proposal in the event that timely adverse comments are received. Comments may be submitted using the methods and following the instructions specified in the proposal published in the ''Proposed Rules'' section of today's **Federal Register**. If EPA receives adverse comment on the amendments, we will publish a timely withdrawal in the **Federal Register** indicating which provisions will become effective and which provisions are being withdrawn

due to adverse comment. EPA will address all public comments on the proposed rule in a subsequent final rule based on the proposed rule. Any of the distinct amendments in the direct final rule for which we do not receive adverse comment will become effective on the date set out above. EPA will not institute a second comment period on the direct final rule. Any parties interested in commenting must do so at this time.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of the final rule is also available on the WWW through the Technology Transfer Network (TTN). Following signature, a copy of the final rule will be posted on the TTN policy and guidance page for newly proposed or promulgated rules at the following address: *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 direct final rule amendments is available only by filing a petition for review in the U.S. Court of Appeals for the District of Columbia by April 25, 2006. Under section 307(d)(7)(B) of the CAA, only an objection to the direct final rule amendments that was raised with reasonable specificity during the period for public comment can be raised during judicial review. Moreover, under section 307(b)(2) of the CAA, the requirements established by the direct final rule amendments may not be challenged separately in any civil or criminal proceedings brought by EPA to enforce these requirements.

Organization of this document. The information presented in this preamble is organized as follows:

I. Background
II. Today's Action
  A. Monitoring Options
  B. Other Minor Revisions to the Rule Amendments
III. Statutory and Executive Order Reviews
  A. Executive Order 12866: Regulatory Planning and Review
  B. Paperwork Reduction Act
  C. Regulatory Flexibility Act
  D. Unfunded Mandates Reform Act
  E. Executive Order 13132: Federalism
  F. Executive Order 13175: Consultation and Coordination with Indian Tribal Governments
  G. Executive Order 13045: Protection of Children from Environmental Health and Safety Risks
  H. Executive Order 13211: Actions That Significantly Affect Energy Supply, Distribution, or Use
  I. National Technology Transfer and Advancement Act
  J. Congressional Review Act

I. Background

Under section 111 of the Clean Air Act (CAA), 42 U.S.C. 7411, the EPA promulgated standards of performance for stationary gas turbines (40 CFR part 60, subpart GG). The standards were promulgated on September 10, 1979 (44 FR 52798). Since that time, there have been many advances in the design of NO_X emission controls used in gas turbines, and additional test methods have been developed to measure emissions from gas turbines. As a result of these advances, we have had many requests for case-by-case approvals of alternative testing and monitoring procedures for gas turbines regulated under subpart GG of 40 CFR part 60. We promulgated the 2004 amendments to subpart GG of 40 CFR part 60 to codify the alternatives that have been routinely approved. Additionally, we were attempting to harmonize, where appropriate, the provisions of subpart GG of 40 CFR part 60 with the monitoring provisions of 40 CFR part 75, the continuous emission monitoring requirements of the acid rain program under title IV of the CAA, since many existing and new gas turbines are subject to both regulations.

On April 14, 2003, we published a direct final rule (68 FR 17990) and a parallel proposal (68 FR 18003) amending the standards of performance for stationary gas turbines (40 CFR part 60, subpart GG). We stated in the preambles to the direct final rule and parallel proposal that if we received adverse comments on one or more distinct provisions of the direct final rule, we would publish a timely withdrawal of those distinct provisions in the **Federal Register**. The preamble to the proposal also stated that if a public hearing was requested by April 24, 2003, the hearing would be held on May 14, 2003, and the comment period would be extended until 30 days after the date of the public hearing. Since a public hearing was requested, the comment period was extended until June 13, 2003. The entire direct final rule was withdrawn in order to avoid the direct final rule becoming effective.

On July 8, 2004, we published a final rule (69 FR 41346) amending the standards of performance for stationary gas turbines (40 CFR part 60, subpart GG). On September 1, 2004, the Interstate Natural Gas Association of America filed a Petition for Review of EPA's final rule. Interstate Natural Gas Association of America v. EPA, No. 04–1296 (D.C. Cir.). In accordance with a settlement agreement in that case, EPA is promulgating the direct final rule, which contains certain revisions to the final rule published on July 8, 2004.

II. Today's Action

A. Monitoring Options

Under the original provisions of subpart GG, 40 CFR part 60, any affected unit with a water injection system to control NO_X emissions was required to install and operate a continuous monitoring system to monitor and record the fuel consumption and the ratio of water to fuel being fired in the turbine. These operating parameters demonstrate that a turbine continues to operate under the same performance conditions as those documented during the initial and any subsequent compliance tests, thus providing reasonable assurance of compliance with the NO_X standard. Subpart GG of 40 CFR part 60, as originally promulgated, did not include NO_X monitoring requirements for gas turbines that did not use water injection to control NO_X.

The amendments finalized on July 8, 2004, were intended to codify several alternative testing and monitoring procedures for NO_X emissions that have routinely been approved by EPA, State, and local permitting authorities. The amendments were also intended to reflect changes in NO_X emission control technologies and turbine design since the standards were promulgated. We stated in the preamble to the 2004 amendments that nothing in the amendments was intended to impose new requirements for turbines constructed between 1977 and the effective date of the final rule amendments.

The 2004 amendments set forth several alternative methods for monitoring NO_X emissions that could be used by owners or operators of newer turbines (turbines put into operation since subpart GG of 40 CFR part 60 was originally promulgated) (40 CFR 60.334(b) through (f)). Some of these provisions presented NO_X monitoring options for turbines that use water or steam to control NO_X emissions (40 CFR 60.334(b) and (d)), while others presented NO_X monitoring options for turbines that do not use water or steam to control NO_X (40 CFR 60.334(c), (e), and (f)). For both newer turbines that use water or steam to control NO_X emissions and those that do not, these provisions were written using permissive language (the owner or operator ''may'' use a particular method) rather than obligatory language (the owner or operator ''shall'' use a particular method).

While we stated in the July 8, 2004, preamble to the final rule amendments that nothing in the amendments was intended to impose new requirements for newer turbines, the preamble also contained statements that may have implied that newer turbines that do not use water or steam to control NO_X emissions were required to install one of the types of monitoring devices described in the amendments. (See, e.g., response to comment at 69 FR 41352 (''We do not agree with the commenter's suggested clarification that the monitoring requirements should apply only to turbines that use steam or water injection to control NO_X emissions to comply with the NO_X standards under 40 CFR 60.332(a). * * * Although a turbine may be able to meet the NO_X emission standard with other control technologies, continuous monitoring is needed to ensure that the emission limit is being met at all times.'').) Furthermore, while the final rule provisions governing newer turbines that do not use water or steam to control NO_X emissions were written using permissive language, the final rule, read in conjunction with the preamble language, could be interpreted to imply that owners or operators of such newer turbines were required to install one of the types of monitoring devices. In addition, other final rule provisions, namely 40 CFR 60.334(j) and 40 CFR 60.335(b)(8), appeared to support the reading of the NO_X monitoring standards as requiring that newer turbines not using water or steam to control NO_X must comply with one of the continuous monitoring options.

Because, contrary to our stated intent, the standards applying to newer turbines that do not use water or steam to control NO_X could be read to impose new monitoring requirements, we are revising particular provisions of the amended subpart GG of 40 CFR part 60 regulations to make clear that the enumerated monitoring methods are optional rather than mandatory. We have revised the amended standards at 40 CFR 60.334(c), (e), and (f) to clarify that the monitoring methods described in these provisions are options rather than requirements for turbines that do not use water or steam to control NO_X emissions.

We decided that it was not necessary to impose continuous monitoring requirements on turbines that do not use water injection to control NO_X because the NO_X emissions of these turbines are, in almost all instances, well below the 40 CFR part 60, subpart GG, NO_X emission limits. For example, most lean premix turbines and many diffusion-flame turbines do not need any add-on controls to meet the NO_X limit under subpart GG that can range from 75 to over 100 parts per million by volume NO_X, depending on the efficiency of the unit. It is very unlikely that the turbine will be found to be out of compliance with the NO_X limit. Thus, requiring the use of NO_X continuous emission monitoring systems (CEMS) is not appropriate. In addition, we have recently proposed standards of performance for new stationary combustion turbines in 40 CFR part 60, subpart KKKK, that will set new NO_X emissions limits and monitoring requirements. (70 FR 8314, February 18, 2005.) Thus, once the standards in subpart KKKK are final, the amendments to subpart GG of 40 CFR part 60 affect only gas turbines commencing construction, reconstruction, and modification after July 8, 2004, and prior to February 18, 2005, for newly constructed sources or 6 months after the date that subpart KKKK becomes final for reconstructed and modified sources.

B. Other Minor Revisions to the Rule Amendments

1. Revision to Language on Previously Approved Monitoring Procedures

The second sentence of amended 40 CFR 60.334(c) provided: ''Also, if the owner or operator has previously submitted and received EPA or local permitting authority approval of a petition for an alternative procedure of continuously monitoring compliance with the applicable NO_X emission limit under 40 CFR 60.332, that approved procedure may continue to be used, even if it deviates from paragraph (a) of this section.'' It has been brought to our attention that many alternative monitoring methods are approved by incorporation into permits, rather than through a petition process. Therefore, we have revised 40 CFR 60.334(c) to reflect that approval process. Furthermore, we have removed the word ''continuously'' and the final phrase of 40 CFR 60.334(c) because monitoring methods other than the continuous monitoring methods described in 40 CFR 60.334(a) and the first sentence of 40 CFR 60.334(c) have been approved by EPA, State, and local permitting authorities. In addition, the last sentence of 40 CFR 60.334(e) is being revised to reflect the fact that other monitoring methods, including periodic testing, have been approved by EPA, State, and local authorities for regulated turbines that do not use water and steam to control NO_X emissions.

2. Clarification of the Types of New Turbines Being Referred to in 40 CFR 60.334(f) Introductory Text

The introductory text to 40 CFR 60.334(f) described parametric monitoring options that could be used by new turbines. We added text to clarify our intent that this provision applies to turbines that commence construction after July 8, 2004, which do not use water or steam to control NO_X emissions.

3. Modification of the Reference to ''Lean Premixed (Low-NO_X) Combustion Mode'' in 40 CFR 60.334(f)(2)

Section 60.334(f)(2) described an acceptable continuous parameter monitoring option for turbines that do not use water or steam to control NO_X as follows: ''For any lean premix stationary combustion turbine, the owner or operator shall continuously monitor the appropriate parameters to determine whether the unit is operating in the lean premixed (low-NO_X) combustion mode.'' The petitioner has asserted that the term ''lean premixed (low-NO_X) combustion mode'' is not clearly defined, especially for units that are in load following applications or operating with short-duration load variability. Furthermore, current generation industrial turbines are not likely to exceed the new source performance standard (NSPS) emission limit even when operating in a transition mode. We believe that shortening this phrase to simply ''low-NO_X mode'' is a better indicator of acceptable emissions performance in compliance with the emission limit.

4. Other Minor Revisions to Reflect the Fact That the Described Monitoring Methods Are Optional for Turbines That Do Not Use Water or Steam To Control NO_X Emissions

For the same reasons that we modified 40 CFR 60.334(c), (e), and (f) to reflect the fact that the monitoring methods are options rather than requirements for the newer turbines in question, we revised the introductory text of 40 CFR 60.334(j), 60.334(j)(1)(iv), and 40 CFR 60.335(b)(8) to reflect that these monitoring methods are optional rather than required.

5. Addition of References to States as Permitting Authorities

We have revised 40 CFR 60.334(c) and (e) by adding a reference to State permitting authorities, to reflect the fact that State permitting authorities, in addition to EPA and local permitting authorities, are in some instances the appropriate authorities to approve alternative monitoring procedures.

6. Correction of an Inadvertent Error in 40 CFR 60.334(j)(5) That Resulted in Changes to the Frequency of Submittals of Excess Emissions Reports

Excess emissions reports for affected turbines are due semi-annually as required under 40 CFR 60.7(c). Only turbines that qualify under the ''ice fog'' exemption (40 CFR 60.334(j)(3)) are required to submit quarterly reports. When revising 40 CFR 60.334 in the July 8, 2004, final rule, we inadvertently stated in 40 CFR 60.334(j)(5) that the reports required under 40 CFR 60.7 shall be filed quarterly rather than semi-annually. In this action, we are revising 40 CFR 60.334(j)(5) to correct this inadvertent error.

III. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order 12866 (58 FR 51735, October 4, 1993), we must determine whether a regulatory action is ''significant'' and, therefore, subject to review by the Office of Management and Budget (OMB) 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 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.

It has been determined that today's action is not a ''significant regulatory action'' under the terms of Executive Order 12866 and is, therefore, not subject to Executive Order 12866 review.

B. Paperwork Reduction Act

Today's action does not impose any new information collection burden. 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.

Today's action contains no revisions to the information collection requirements of the current NSPS that would increase the burden to sources, and the currently approved OMB information collection requests are still in force for the final rule.

C. Regulatory Flexibility Act

EPA has determined that it is not necessary to prepare a regulatory flexibility analysis in connection with today's action.

For purposes of assessing the impacts of today's action on small entities, small entity is defined as: (1) A small business whose parent company has fewer than 100 or 1,000 employees, or fewer than 4 billion kilowatt per hour (kW-hr) per year of electricity usage, depending on the size definition for the affected North American Industry Classification System (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; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. It should be noted that small entities in six NAICS codes may be affected by the final rule, and the small business definition applied to each industry by NAICS code is that listed in the Small Business Administration size standards (13 CFR part 121).

After considering the economic impacts of today's action on small entities, EPA has concluded that this action will not have a significant economic impact on a substantial number of small entities. This conclusion is based on the fact that the direct final rule does not create, modify nor eliminate any of the requirements in the 40 CFR part 60, subpart GG regulations. Furthermore, the stringency of the emission standards is not affected by this action.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures by State, local, and tribal governments, in the aggregate, or by 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 objective 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.

EPA has determined that today's action contains no Federal mandates that may result in expenditures of $100 million or more for State, local, and tribal governments, in the aggregate, or the private sector in any 1 year. Thus, the final rule amendments are not subject to the requirements of sections 202 and 205 of the UMRA. In addition, EPA has determined that the final rule 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, today's action is 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 us to develop an accountable process to ensure ''meaningful and timely input by State and local officials in the development of regulatory policies that have federalism implications.'' ''Policies that have federalism implications'' are 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.''

Today's action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. Thus, Executive Order 13132 does not apply to today's action.

F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments

Executive Order 13175 (65 FR 67249, November 6, 2000) requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.''

Today's action does not have tribal implications. It will not have substantial direct effects on tribal governments, on the relationship between the Federal government and Indian tribes, or on the distribution of power and responsibilities between the Federal government and Indian tribes, as specified in Executive Order 13175. We do not know of any stationary gas turbines owned or operated by Indian tribal governments. However, if there are any, the effect of the final rule on communities of tribal governments would not be unique or disproportionate to the effect on other communities. Thus, Executive Order 13175 does not apply to today's action.

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 we have reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, we 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.

We interpret 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. Today's action is not subject to Executive Order 13045 because it is based on technology performance and not on health or safety risks.

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

Today's action is not subject to Executive Order 13211 because it is not a significant regulatory action under Executive Order 12866.

I. National Technology Transfer and Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act (NTTAA) of 1995 (Pub. L. 104–113; 15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in their regulatory and procurement activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, business practices) developed or adopted by one or more voluntary consensus bodies. The NTTAA directs EPA to provide Congress, through annual reports to OMB, with explanations when an agency does not use available and applicable voluntary consensus standards.

Today's action does not involve technical standards. Therefore, EPA did not consider the use of any voluntary consensus standards.

J. Congressional Review Act

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 the final rule amendments 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 final rule amendments in the **Federal Register**. Today's action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective April 25, 2006.

List of Subjects in 40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Reporting and recordkeeping requirements.

Dated: January 20, 2006.

Stephen L. Johnson,

Administrator.

■ For the reasons stated in the preamble, title 40, chapter I, part 60, of the Code of Federal Regulations is amended to read as follows:

PART 60—[AMENDED]

■ 1. The authority citation for part 60 continues to read as follows:

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

Subpart GG—[Amended]

■ 2. Section 60.334 is amended by:
■ a. Revising paragraphs (c) and (e);
■ b. Revising paragraph (f) introductory text and (f)(2); and
■ c. Revising paragraph (j) introductory text, (j)(1)(iv), and (j)(5) to read as follows:

§ 60.334 Monitoring of operations.

* * * * *

(c) For any turbine that commenced construction, reconstruction or modification after October 3, 1977, but before July 8, 2004, and which does not use steam or water injection to control NO_X emissions, the owner or operator may, but is not required to, for purposes of determining excess emissions, use a CEMS that meets the requirements of paragraph (b) of this section. Also, if the owner or operator has previously submitted and received EPA, State, or local permitting authority approval of a procedure for monitoring compliance with the applicable NO_X emission limit under § 60.332, that approved procedure may continue to be used.

* * * * *

(e) The owner or operator of any new turbine that commences construction after July 8, 2004, and which does not use water or steam injection to control NO_X emissions, may, but is not required to, elect to use a NO_X CEMS installed, certified, operated, maintained, and quality-assured as described in

paragraph (b) of this section. Other acceptable monitoring approaches include periodic testing approved by EPA or the State or local permitting authority or continuous parameter monitoring as described in paragraph (f) of this section.

(f) The owner or operator of a new turbine that commences construction after July 8, 2004, which does not use water or steam injection to control NO_X emissions may, but is not required to, perform continuous parameter monitoring as follows:

* * * * *

(2) For any lean premix stationary combustion turbine, the owner or operator shall continuously monitor the appropriate parameters to determine whether the unit is operating in low-NO_X mode.

* * * * *

(j) For each affected unit that elects to continuously monitor parameters or emissions, or to periodically determine the fuel sulfur content or fuel nitrogen content under this subpart, the owner or operator shall submit reports of excess emissions and monitor downtime, in accordance with § 60.7(c). Excess emissions shall be reported for all periods of unit operation, including startup, shutdown and malfunction. For the purpose of reports required under § 60.7(c), periods of excess emissions and monitor downtime that shall be reported are defined as follows:

(1) * * *

(iv) For owners or operators that elect, under paragraph (f) of this section, to monitor combustion parameters or parameters that document proper operation of the NO_X emission controls:

* * * * *

(5) All reports required under § 60.7(c) shall be postmarked by the 30th day following the end of each 6-month period.

■ 3. Section 60.335 is amended by revising paragraph (b)(8) to read as follows:

§ 60.335 Test methods and procedures.

* * * * *

(b) * * *

(8) If the owner or operator elects under § 60.334(f) to monitor combustion parameters or parameters indicative of proper operation of NO_X emission controls, the appropriate parameters shall be continuously monitored and recorded during each run of the initial performance test, to establish acceptable operating ranges, for purposes of the parameter monitoring plan for the affected unit, as specified in § 60.334(g).

* * * * *

[FR Doc. 06–1743 Filed 2–23–06; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 405, 410, 411, 413, 414, 424 and 426

[CMS–1502–F2 and CMS–1325–F]

RIN 0938–AN84 and 098–AN58

Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2006 and Certain Provisions Related to the Competitive Acquisition Program of Outpatient Drugs and Biologicals Under Part B; Correcting Amendment

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

ACTION: Correcting amendment to final rule with comment.

SUMMARY: In the November 21, 2005 **Federal Register** (70 FR 70116), we published a final rule with comment period entitled ''Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2006 and Certain Provisions Related to the Competitive Acquisition Program of Outpatient Drugs and Biologicals Under Part B.'' This correcting amendment corrects technical errors in the November 21, 2005 publication.

EFFECTIVE DATE: This correcting amendment is effective January 1, 2006.

FOR FURTHER INFORMATION CONTACT: Diane Milstead, (410) 786–3355.

SUPPLEMENTARY INFORMATION:

I. Background

FR Doc. 05–22160, entitled ''Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2006 and Certain Provisions Related to the Competitive Acquisition Program of Outpatient Drugs and Biologicals Under Part B'' and appearing in the **Federal Register** on November 21, 2005 (70 FR 70116), addressed Medicare Part B payment policy, including the physician fee schedule, that is applicable for calendar year (CY) 2006; and finalized certain provisions of the interim final rule to implement the Competitive Acquisition Program (CAP) for Part B Drugs.

It also revised Medicare Part B payment and related policies regarding: Physician work, practice expense and malpractice relative value units (RVUs); Medicare telehealth services; multiple diagnostic imaging procedures; covered outpatient drugs and biologicals; supplemental payments to Federally Qualified Health Centers (FQHCs); renal dialysis services; coverage for glaucoma screening services; National Coverage Decision (NCD) timeframes; and physician referrals for nuclear medicine services and supplies to health care entities with which physicians have financial relationships.

In addition, the rule finalized the interim RVUs for CY 2005 and issued interim RVUs for new and revised procedure codes for CY 2006. This rule also updated the codes subject to the physician self-referral prohibition and discussed payment policies relating to teaching anesthesia services, therapy caps, private contracts and opt-out, and chiropractic and oncology demonstrations.

We have identified a number of technical errors in that final rule with comment period.

II. Summary of Errors

We are identifying and correcting errors made to certain parts of the preamble, regulations text and addenda of the November 21, 2005 final rule with comment (70 FR 70116). In addition, addendum B, C, D, E and F are revised under this correcting amendment, although these addenda will not appear in the Code of Federal Regulations.

A. Summary of Preamble Errors

In the preamble text, there were a number of errors and omissions beginning on pages 70150 through 70335.

1. On page 70150, in the first column, in the last paragraph under Section m. (Additional PE Issues Raised by Commenters), in the second sentence, the number of the CPT code referenced is incorrect.

2. On page 70155, in the center column, the last sentence of the second paragraph under the discussion titled, ''3. Cardiac Catheritization and Angioplasty Exception,'' there was an error in one of the code ranges referenced.

3. On page 70263, in the third column; in last paragraph, the reference to Table 26 is incorrect.

4. On page 70263, Table 26 was numbered incorrectly.

5. On page 70274, in the first column; in the second paragraph language concerning the specific deleted practice

expense items was inadvertently omitted.

6. On page 70282, in the second column; from the top of the column, lines 8 through 11, the sentence, ''We are assigning a status indicator of N for these services because they are nonvcovered under Medicare.'' reflects an incorrect status indicator and will be revised.

7. On page 70282, in the third column; we inadvertently omitted a paragraph before section F. (Establishment of Interim PE RVUs for New and Revised Physician's Current Procedural Terminology (CPT) Codes and New Healthcare Common Procedure Coding System (HCPCS) Codes for 2006).

8. On page 70296, in the second column; in the last paragraph, in line 6, we incorrectly used the term ''PFS'', and that term will be replaced.

9. On page 70302, in Table 35, the figures for Annual Actual Expenditures and the Cumulative Actual Expenditures, for the period of 1/1/03–12/31/03, are incorrect and will be revised.

10. On page 70316, the first column, the percentage adjustment referenced in the third complete sentence is incorrect and will be revised.

11. On page 70320, the second footnote to Table 49 has incorrectly listed the numerical scaler. This footnote will be corrected.

These corrections are reflected in Section III.A of this correcting amendment.

B. Summary of Regulations Text Errors

In the regulation text, there were technical errors and omissions in § 405.2469, § 414.190, § 414.904, § 414.906, and § 426.340.

1. On page 70329, in the third column, under § 405.2469, paragraph (a)(1) does not reflect the correct format for amendatory language. Paragraph (a)(1) will be restructured.

2. On page 70331, in the third column, the reference to § 414.190 is incorrect.

3. On page 70332, in the third column, the title (Basis for payment.) for § 414.904 is incorrect.

4. On page 70333, in the first column, under § 414.906, we inadvertently omitted a change to bring the regulations text into conformity with our policy on updating CAP drug prices, as described in the interim final rule with comment period published July 6, 2005.

5. On page 70335, in the first column, under § 426.340, the statutory references in paragraphs (e)(2)(ii) and (f)(2)(ii) are incorrect.

The corrections are reflected in section III.B. of this correcting amendment.

C. Summary of Addendum B, C, D, E and F Errors

1. In Addendum B, pages 70337 through 70463, we are making the following corrections:

a. We assigned incorrect RVUs to the following Physicians' CPT or HCPCS codes:

50000:

i. 52648;

60000:

ii. 61630, 61635;

80000:

iii. 88385–26, 88385–TC, 88385, 88386–26, 88386–TC, and 88386;

90000:

iv. 90760, 90761, 90765, 90766, 90767, 90768, 90772, 90773, 90774, 90775, 92626, 92627, 93514, 96401, 96402, 96405, 96406, 96409, 96411, 96413, 96415, 96416, 96417, 96420, 96440, 96450, 96521, 96522, 96542, 97606, 99300, 99324, 99325, 99326, 99327, 99328, 99334, 99335, 99336, and 99337.

b. We assigned an incorrect global period for CPT code 92627.

c. We assigned incorrect status indicators to the following CPT or codes 0141T, 0142T, 0143T, 88385–26, 88385–TC, 88385, 88386–26, 88386–TC, 88386, 96523, 98960, 98961, 98962 and 99340.

d. The following HCPCS codes were inadvertently included: G9041, G9042, G9043 and G9044. These numbers should not have been included because they were not in effect.

e. HCPCS code G0332 was inadvertently omitted from the addendum.

f. The first footnote to addendum B should be corrected to read ''[1]CPT codes and descriptions only. Copyright 2005 American Medical Association. All Rights Reserved. Applicable FARS/DFARS apply.''

These corrections are reflected in Sections III.C.1. and 2. of this correcting amendment.

2. In Addendum C, pages 70463 through 70466, we are making the following corrections:

a. We assigned incorrect RVUs to the following CPT or alphanumeric HCPCS number for service codes:

60000:

i. 61630 and 61635.

80000:

ii. 88385–26 and 88386–26.

90000:

iii. 90760, 90761, 90765, 90766, 90767, 90768, 90772, 90773, 90774, 90775, 92626, 92627, 96401, 96402, 96409, 96411, 96413, 96415, 96416, 96417, 96450, 96521, 96522, 96523, 96542, 99300, 99324, 99325, 99326, 99327, 99328, 99334, 99335, 99336 and 99337.

b. We assigned incorrect status indicators to the following CPT codes 88385–26, 88386–26, 98960, 98961, 98962 and 99340.

These corrections are reflected in Section III.C.3 of this correcting amendment.

3. In Addendum D, pages 70466 through 70467, we are correcting the locality name ''Kansas*'' to read ''Kansas''.

These corrections are reflected in Section III.C.4 of this correcting amendment.

4. In Addendum E, pages 70468 through 70469, we are correcting the locality name ''Kansas*'' to read ''Kansas''.

These corrections are reflected in Section III.C.5 of this correcting amendment.

5. In Addendum F, pages 70469 through 70471, we are correcting this Addendum by replacing this Addendum in its entirety to address two errors. First, we inadvertently left a discontinued HCPCS code, J1750, on Addendum F. This code was replaced by J1751 and J1752 which are found on Addendum G ''Revised New Drugs for CAP Bidding for 2006''. Second, we included a new HCPCS code, J7318, which we understood would replace HCPCS codes J7317 and J7320. HCPCS J7318 was not issued and HCPCS codes J7317 & J3120 were retained. We have reweighted and corrected Addendum F to reflect these changes.

These corrections are reflected in Section III.C.6 of this correcting amendment.

III. Correction of Errors

In FR Doc. 05–22160, entitled ''Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2006 and Certain Provisions Related to the Competitive Acquisition Program of Outpatient Drugs and Biologicals Under Part B,'' which appeared in the **Federal Register** on November 21, 2005 (70 FR 70116), make the following corrections:

A. Correction of Preamble Errors

1. On page 70150, in the first column; in the last paragraph under Section m. (Additional PE Issues Raised by Commenters), in the second sentence, the number ''99755'' is corrected to read ''97755''.

2. On page 70155, in the center column; the last sentence of the second paragraph under the discussion titled, ''3. Cardiac Catheterization and

Angioplasty Exception,'' the number ''93617'' is corrected to read ''93618''.

3. On page 70263, in the third column; in the last paragraph, the phrase ''Table 26'' is corrected to read ''Table 26A''.

4. On page 70263, the table heading ''Table 26.—Example of Payments'' is corrected to read ''Table 26A.—Example of Payments''.

5. On page 70274, in the first column; in the second paragraph, the paragraph is corrected by adding a new sentence at the end of the paragraph to read as follows: ''Because payment for the supplies and equipment for both of these procedures is provided under a separate DMERC policy, we have deleted the following practice expense items from these codes: Supplies deleted include dressings, both Adaptic and microporous, the drainage canister, and the sharp debridement kit—which was identified as not being needed for the typical scenario; and, the vacuum pump was deleted from the equipment.''

6. On page 70282, in the second column; lines 8 through 11, the sentence, ''We are assigning a status indicator of N for these services because they are noncovered under Medicare.'' is corrected to read, ''We are assigning a status indicator of B for these services because payment for these services is bundled into payment for other Medicare services.''

7. On page 70282, in the third column; we are adding a new paragraph before section F. (Establishment of Interim PE RVUs for New and Revised Physician's Current Procedural Terminology (CPT) Codes and New Healthcare Common Procedure Coding System (HCPCS) Codes for 2006). The new paragraph reads as follows: ''CPT code 99339 *Individual physician supervision of patient (patient not present) in home, domiciliary or rest home (e.g., assisted living facility) requiring complex and multidisciplinary care modalities involving regular physician development and/or revision of care plans, review of subsequent reports of patient status, review of related laboratory and other studies, communication (including telephone calls) for purposes of assessment care decisions with health care professional(s), family member(s), surrogate decision maker(s) (e.g., legal guardian) and/or key caregiver(s) involved in patient's care, integration of new information into the medical treatment plan and/or adjustment of medical therapy, within a calendar month; 15–29 minutes.*

CPT code 99340 *Individual physician supervision of patient (patient not present) in home, domiciliary or rest home (e.g., assisted living facility) requiring complex and multidisciplinary care modalities involving regular physician development and/or revision of care plans, review of subsequent reports of patient status, review of related laboratory and other studies, communication (including telephone calls) for purposes of assessment care decisions with health care professional(s), family member(s), surrogate decision maker(s) (e.g., legal guardian) and/or key caregiver(s) involved inpatient's care, integration of new information into the medical treatment plan and/or adjustment of medical therapy, within a calendar month; 30 minutes or more.* We are assigning a status indicator of B for these codes because payment for these services is bundled into payment for other services.''

8. On page 70296, in the second column; in the last paragraph, in line 6, the term ''PFS'' is corrected to read ''Code List''.

9. On page 70302, in Table 35; in the third column titled ''Annual Actual Expenditures'', in line 10 (1/1/03–12/31/03) of that column, ''76.8'' is corrected to read ''78.2''; and in the fifth column titled ''Cumulative Actual Expenditures'', in line 10 (1/1/03–12/31/03) of that column, ''460.6'' is corrected to read ''462.0''.

10. On page 70316, in the first column; in the third complete sentence, the figure ''−0.6'' is corrected to read ''−0.15''.

11. On page 70320, in the second footnote to Table 49, the figure ''0.9984'' is corrected to read ''0.9985''.

B. Correction of Regulation Text Errors

List of Subjects

42 CFR Part 405

Administrative practice and procedure, Health facilities, Health professions, Kidney diseases, Medical devices, Medicare, Reporting and recordkeeping requirements, Rural areas, X-rays.

42 CFR Part 414

Administrative practice and procedure, Health facilities, Health professions, Kidney diseases, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 426

Administrative practice and procedure, Medicare, Reporting and recordkeeping requirements.

Given the errors summarized in section II.B. of this correcting amendment, we are making the following correcting amendments to 42 CFR parts 405, 414, and 426:

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

■ 1. The authority citation for part 405 continues to read as follows:

Authority: Secs. 1102, 1861, 1862(a), 1871, 1874, 1881, and 1886(k) of the Social Security Act (42 U.S.C. 1302, 1395x, 1395y(a), 1395hh, 1395kk, 1395rr, and 1395ww(k)), and sec. 353 of the Public Health Service Act (42 U.S.C. 263a).

■ 2. Section 405.2469 is amended by revising paragraph (a)(1) to read as follows:

§ 405.2469 Federally Qualified Health Centers supplemental payments.

* * * * *

(a) *Calculation of supplemental payment.* (1) The supplemental payment for Federally Qualified Health Center covered services provided to Medicare patients enrolled in Medicare Advantage plans is based on the difference between—

(i) Payments received by the center from the Medicare Advantage plan as determined on a per visit basis; and

(ii) The Federally Qualified Health Center's all-inclusive cost-based per visit rate as set forth in this subpart, less any amount the FQHC may charge as described in section 1857(e)(3)(B) of the Act.

* * * * *

PART 414—PAYMENT FOR PART B MEDICAL AND OTHER HEALTH SERVICES

■ 3. The authority citation for part 414 continues to read as follows:

Authority: Secs. 1102, 1871, and 1881(b)(1) of the Social Security Act (42 U.S.C. 1302, 1395hh, and 1395rr(b)(1)).

■ 4. Section 414.906 is amended by revising paragraph (c)(1) introductory text to read as follows:

§ 414.906 Competitive acquisition program as the basis of payment.

* * * * *

(c) *Computation of payment amount.* (1) Except as specified in paragraph (c)(2) of this section, payment for CAP drugs is based on bids submitted, as a result of the bidding process as described in § 414.910. Based on these bids, a single payment amount for each CAP drug in the competitive acquisition area is determined on the basis of the bids submitted and accepted and updated from the bidding period to the payment year. This single payment amount is then updated on an annual

basis based on the approved CAP vendor's reasonable net acquisition costs for that category as determined by CMS, based, in part, on information disclosed to CMS and limited by the weighted payment amount established under section 1847A of the Act across all drugs for which a composite bid is required in the category, and limited by the payment amount established under section 1847A of the Act for each other drug for which the approved CAP vendor submits a bid in accordance with § 414.910. Adjustment to the payment amounts may be made more often than annually, but no more often than quarterly, in any of the following cases:

* * * * *

PART 426—REVIEW OF NATIONAL COVERAGE DETERMINATIONS AND LOCAL COVERAGE DETERMINATIONS

■ 5. The authority citation for part 426 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

■ 6. Section 426.340 is amended by revising paragraphs (e)(2)(ii) and (f)(2)(ii) to read as follows:

§ 426.340 Procedures for review of new evidence.

* * * * *

(e) * * *

(2) * * *

(ii) For NCDs, in compliance with the timeframes specified in section 1862(1) of the Act, by which CMS completes the reconsideration.

(f) * * *

(2) * * *

(ii) For NCDs, the reconsideration timeframe specified by the Board, in compliance with section 1862(l) of the Act.

* * * * *

C. Correction of Addendum Errors

■ Given the errors summarized in Section II.C of this correcting amendment, we are making the following corrections to Addendum B, C, D, E, and F. These addenda will not appear in the Code of Federal Regulations.

■ 1. On pages 70337 through 70463, the following entries to Addendum B are corrected to read as follows:

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—CONTINUED

CPT [1]/ HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Nonfacility PE RVUs	Facility PE RVUs	Malpractice RVUs	Nonfacility total	Facility total	Global
0141T		I	Perq islet transplant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
0142T		I	Open islet transplant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
0143T		I	Laparoscopic islet transplant	0.00	0.00	0.00	0.00	0.00	0.00	XXX
52648		A	Laser surgery of prostate	11.19	74.15	4.80	0.79	86.07	16.78	090
61630		N	Intracranial angioplasty	+21.08	NA	12.53	2.01	NA	35.62	090
61635		N	Intracran angioplasty w/stent	+23.08	NA	13.58	2.20	NA	38.86	090
88385	26	A	Eval molecul probes, 51–250	1.50	0.65	NA	0.06	2.21	NA	XXX
88385	TC	A	Eval molecul probes, 51–250	0.00	6.45	NA	0.06	6.51	NA	XXX
88385		A	Eval molecul probes, 51–250	1.50	7.10	NA	0.12	8.72	NA	XXX
88386	26	A	Eval molecul probes, 251–500	1.88	0.82	NA	0.08	2.78	NA	XXX
88386	TC	A	Eval molecul probes, 251–500	0.00	6.23	NA	0.08	6.31	NA	XXX
88386		A	Eval molecul probes, 251–500	1.88	7.05	NA	0.16	9.09	NA	XXX
90760		A	Hydration iv infusion init	0.17	1.43	NA	0.07	1.67	NA	XXX
90761		A	Hydrate iv infusion, add-on	0.09	0.40	NA	0.04	0.53	NA	ZZZ
90765		A	Ther/proph/diag iv inf, init	0.2	11.76	NA	0.07	2.04	NA	XXX
90766		A	Ther/proph/dg iv inf, add-on	0.18	0.46	NA	0.04	0.68	NA	ZZZ
90767		A	Tx/proph/dg addl seq iv inf	0.19	0.89	NA	0.04	1.12	NA	ZZZ
90768		A	Ther/diag concurrent inf	0.17	0.44	NA	0.04	0.65	NA	ZZZ
90772		A	Ther/proph/diag inj, sc/im	0.17	0.31	NA	0.01	0.49	NA	XXX
90773		A	Ther/proph/diag inj, ia	0.17	0.31	NA	0.02	0.50	NA	XXX
90774		A	Ther/proph/diag inj, iv push	0.18	1.30	NA	0.04	1.52	NA	XXX
90775		A	Ther/proph/diag inj add-on	0.10	0.57	NA	0.04	0.71	NA	ZZZ
92626		A	Eval aud status rehab	0.00	2.20	NA	0.06	2.26	NA	XXX
92627		A	Evallaud status rehab add-on	0.00	0.55	NA	.02	0.57	NA	ZZZ
93514		C	Left heart catheterization	0.00	0.00	0.00	0.00	0.00	0.00	000
96401		A	Chemo, anti-neopl, sq/im	0.2	11.17	NA	0.01	1.39	NA	XXX
96402		A	Chemo hormon antineopl sq/im	0.19	1.01	NA	0.01	1.21	NA	XXX
96405		A	Chemo intralesional, up to 7	0.52	2.44	0.24	0.03	2.99	0.79	000
96406		A	Chemo intralesional over 7	0.80	3.02	0.29	0.03	3.85	1.12	000
96409		A	Chemo, iv push, sngl drug	0.24	2.93	NA	0.06	3.23	NA	XXX
96411		A	Chemo, iv push, addl drug	0.20	1.61	NA	0.06	1.87	NA	ZZZ
96413		A	Chemo, iv infusion, 1 hr	0.28	4.20	NA	0.08	4.56	NA	XXX
96415		A	Chemo, iv infusion, addl hr	0.19	0.77	NA	0.07	1.03	NA	ZZZ
96416		A	Chemo prolong infuse w/pump	0.21	4.61	NA	0.08	4.90	NA	XXX
96417		A	Chemo iv infuse each addl seq	0.2	11.95	NA	0.07	2.23	NA	ZZZ
96420		A	Chemo, ia, push technique	0.17	2.67	NA	0.08	2.92	NA	XXX
96440		A	Chemotherapy, intracavitary	2.37	8.15	1.23	0.17	10.693.77	000	
96450		A	Chemotherapy, into CNS	1.53	6.97	1.29	0.09	8.59	2.91	000
96521		A	Refill/maint, portable pump	0.21	3.77	NA	0.06	4.04	NA	XXX
96522		A	Refill/maint pump/resvr syst	0.21	2.65	NA	0.06	2.92	NA	XXX
96523		A	Irrig drug delivery device	0.04	0.69	NA	0.01	0.74	NA	XXX
96542		A	Chemotherapy injection	0.75	4.26	0.66	0.07	5.08	1.48	XXX
97606		A	Neg press wound tx, >50 cm	0.60	0.35	0.24	0.03	0.98	0.87	XXX

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—CONTINUED

CPT [1]/ HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Nonfacility PE RVUs	Facility PE RVUs	Malpractice RVUs	Nonfacility total	Facility total	Global
98960		B	Self-mgmt educ & train, 1 pt	0.00	0.00	0.00	0.00	0.00	0.00	XXX
98961		B	Self-mgmt educ/train, 2–4 pt	0.00	0.00	0.00	0.00	0.00	0.00	XXX
98962		B	Self-mgmt educ/train, 5–8 pt	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99300		A	Ic, infant pbw 2501–5000 gm	2.40	NA	0.84	0.15	NA	3.35	XXX
99324		A	Domicil/r-home visit new pat	1.01	0.49	NA	0.05	1.55	NA	XXX
99325		A	Domicil/r-home visit new pat	1.52	0.68	NA	0.07	2.27	NA	XXX
99326		A	Domicil/r-home visit new pat	2.27	0.92	NA	0.10	3.29	NA	XXX
99327		A	Domicil/r-home visit new pat	3.03	1.17	NA	0.13	4.33	NA	XXX
99328		A	Domicil/r-home visit new pat	3.78	1.42	NA	0.16	5.36	NA	XXX
99334		A	Domicil/r-home visit est pat	0.76	0.40	NA	0.04	1.20	NA	XXX
99335		A	Domicil/r-home visit est pat	1.26	0.58	NA	0.06	1.90	NA	XXX
99336		A	Domicil/r-home visit est pat	2.02	0.82	NA	0.09	2.93	NA	XXX
99337		A	Domicil/r-home visit est pat	3.03	1.15	NA	0.13	4.31	NA	XXX
99340		B	Domicil/r-home care supervis	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G0332		A	Preadmin IV immunoglobulin	0.00	1.91	NA	0.00	1.91	NA	XXX

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[2] Copyright 2005 American Dental Association. All Rights Reserved.
[3] Indicates RVUs are not used for Medicare payment.

2. On page 70463, the following entries to Addendum B, G9041, G9042, G9043, and G9044 are removed.

ADDENDUM B.—RELATIVE VALUE UNITS (RVUS) AND RELATED INFORMATION—CONTINUED

CPT [1]/ HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Nonfacility PE RVUs	Facility PE RVUs	Malpractice RVUs	Nonfacility total	Facility total	Global
G9041		X	Low vision rehab occupationa	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G9042		X	Low vision rehab orient/mobi	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G9043		X	Low vision lowvision therapy	0.00	0.00	0.00	0.00	0.00	0.00	XXX
G9044		X	Low vision rehabilate teache	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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[2] Copyright 2005 American Dental Association. All Rights Reserved.
[3] +Indicates RVUs are not used for Medicare payment.

■ 3. On pages 70463 through 70466, the following entries to Addendum C are corrected to read as follows:

ADDENDUM C.—CODES WITH INTERIM RVUS

CPT [1]/ HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Nonfacility PE RVUs	Facility PE RVUs	Malpractice RVUs	Nonfacility Total	Facility Total	Global
61630		N	Intracranial angioplasty	+21.08	NA	12.53	2.01	NA	35.62	090
61635		N	Intracran angioplasty w/stent	+23.08	NA	13.58	2.20	NA	30.66	090
88385	26	A	Eval Molecul probes, 51–250	1.50	0.65	NA	0.06	2.21	NA	XXX
88386	26	A	Eval Molecul probes, 251–500	1.88	0.82	NA	0.08	2.78	NA	XXX
90760		A	Hydration iv infusion, init	0.17	1.43	NA	0.07	1.67	NA	XXX
90761		A	Hydrate iv infusion, add-on	0.09	0.40	NA	0.04	0.53	NA	ZZZ
90765		A	Ther/proph/diag iv inf, init	0.21	1.76	NA	0.07	2.04	NA	XXX
90766		A	Ther/proph/dg iv inf, add-on	0.18	0.46	NA	0.04	0.68	NA	ZZZ
90767		A	Tx/proph/dg addl seq iv inf	0.19	0.89	NA	0.04	1.12	NA	ZZZ
90768		A	Ther/diag concurrent inf	0.17	0.44	NA	0.04	0.65	NA	ZZZ
90772		A	Ther/proph/diag inj, sc/im	0.17	0.31	NA	0.01	0.49	NA	XXX
90773		A	Ther/proph/diag inj, ia	0.17	0.31	NA	0.02	0.50	NA	XXX
90774		A	Ther/proph/diag inj, iv push	0.18	1.30	NA	0.04	1.52	NA	XXX
90775		A	Ther/proph/diag inj add-on	0.10	0.57	NA	0.04	0.71	NA	ZZZ
92626		A	Eval aud status rehab	0.00	2.20	NA	0.06	2.26	NA	XXX
92627		A	Evalaud status rehab add-on	0.00	0.55	NA	0.02	0.57	NA	ZZZ
96401		A	Chemo, anti-neopl, sq/im	0.21	1.17	NA	0.01	1.39	NA	XXX
96402		A	Chemo hormone antineopl sq/im	0.19	1.01	NA	0.01	1.21	NA	XXX
96409		A	Chemo, iv push, sngl drug	0.24	2.93	NA	0.06	3.23	NA	XXX
96411		A	Chemo, iv push, addl drug	0.20	1.61	NA	0.06	1.87	NA	ZZZ
96413		A	Chemo, iv infusion, 1 hr	0.28	4.20	NA	0.08	4.56	NA	XXX
96415		A	Chemo, iv infusion, addl hr	0.19	0.77	NA	0.07	1.03	NA	ZZZ
96416		A	Chemo prolong infuse w/pump	0.21	4.61	NA	0.08	4.90	NA	XXX
96417		A	Chemo iv infuse each addl seq	0.21	1.95	NA	0.07	2.23	NA	ZZZ
96450		A	Chemotherapy, into CNS	1.53	6.97	1.29	0.09	8.59	2.91	000

ADDENDUM C.—CODES WITH INTERIM RVUS—Continued

CPT [1]/ HCPCS [2]	Mod	Status	Description	Physician work RVUs [3]	Nonfacility PE RVUs	Facility PE RVUs	Malpractice RVUs	Nonfacility Total	Facility Total	Global
96521		A	Refill/maint, portable pump	0.21	3.77	NA	0.06	4.04	NA	XXX
96522		A	Refil/maint pump/resvr syst	0.21	2.65	NA	0.06	2.92	NA	XXX
96523		A	Irrig drug delivery device	0.04	0.69	NA	0.01	0.74	NA	XXX
96542		A	Chemotherapy injection	0.75	4.26	0.66	0.07	5.08	1.48	XXX
98960		B	Self-mgmt educ & train, 1 pt	0.00	0.00	0.00	0.00	0.00	0.00	XXX
98961		B	Self-mgmt educ/train, 2–4 pt	0.00	0.00	0.00	0.00	0.00	0.00	XXX
98962		B	Self-mgmt educ/train 5–8 pt	0.00	0.00	0.00	0.00	0.00	0.00	XXX
99300		A	Ic, infant pbw 2501–5000 gm	2.40	NA	0.84	0.15	NA	3.35	XXX
99324		A	Domicil/r-home visit new pat	1.01	0.49	NA	0.05	1.55	NA	XXX
99325		A	Domicil/r-home visit new pat	1.52	0.68	NA	0.07	2.27	NA	XXX
99326		A	Domicil/r-home visit new pat	2.27	0.92	NA	0.10	3.29	NA	XXX
99327		A	Domicil/r-home visit new pat	3.03	1.17	NA	0.13	4.33	NA	XXX
99328		A	Domicil/r-home visit new pat	3.78	1.42	NA	0.16	5.36	NA	XXX
99334		A	Domicil/r-home visit est pat	0.76	0.40	NA	0.04	1.20	NA	XXX
99335		A	Domicil/r-home visit est pat	1.26	0.58	NA	0.06	1.90	NA	XXX
99336		A	Domicil/r-home visit est pat	2.02	0.82	NA	0.09	2.93	NA	XXX
99337		A	Domicil/r-home visit est pat	3.03	1.15	NA	0.13	4.31	NA	XXX
99340		B	Domicil/r-home care supervis	0.00	0.00	0.00	0.00	0.00	0.00	XXX

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[2] Copyright 2005 American Dental Association. All Rights Reserved.
[3] +Indicates RVUs are not used for Medicare payment.

■ 4. On page 70467, in Addendum D, in the 11th entry, in the third column, the locality ''Kansas*'' is corrected to read ''Kansas'' as follows:

ADDENDUM D.—2006 GEOGRAPHIC PRACTICE COST INDICES BY MEDICARE CARRIER AND LOCALITY—CONTINUED

Carrier	Locality	Locality name	Work GPCI	PE GPCI	MP GPCI
00650	00	Kansas	1.000	0.878	0.721

■ 5. On page 70469, in Addendum E, in the fourth entry, in the third column, the locality ''Kansas*'' is corrected to read ''Kansas'' as follows:

ADDENDUM E.—2006 GAFS—CONTINUED

Carrier	Locality	Locality name	2006 GAF
00650	00	Kansas	0.0936

■ 6. On pages 70469 through 70471, Addendum F, in its entirety, is corrected to read as follows:

ADDENDUM F.—REVISED SINGLE DRUG CATEGORY LIST

HCPCS	Long description	Weight
J0150	Injection, adenosine for therapeutic use, 6 mg	0.00070000
J0152	Injection, adenosine for diagnostic use, 30 mg	0.00459478
J0170	Injection, adrenalin, epinephrine, 1 ml ampule	0.00007897
J0207	Injection, amifostine, 500 mg	0.00016099
J0215	Injection, alefacept, 0.5 mg	0.00083383
J0280	Injection, aminophyllin, 250 mg	0.00082088
J0290	Injection, ampicillin sodium, 500 mg	0.00012657
J0475	Injection, baclofen, 10 mg	0.00024643
J0540	Injection, penicillin g benzathine and penicillin g procaine, 1,200,000 units	0.00007209
J0550	Injection, penicillin g benzathine and penicillin g procaine, 2,400,000 units	0.00001831
J0570	Injection, penicillin g benzathine, 1,200,000 units	0.00004605
J0585	Botulinum toxin type A, per unit	0.03743206
J0587	Botulinum toxin type B, per 100 units	0.00150704
J0600	Injection, edetate calcium disodium, 1000 mg	0.00004459
J0637	Injection, caspofungin acetate, 5 mg	0.00008483
J0640	Injection, leucovorin calcium, per 50 mg	0.01064503
J0670	Injection, mepivacaine hydrochloride, per 10 ml	0.00038398

ADDENDUM F.—REVISED SINGLE DRUG CATEGORY LIST—Continued

HCPCS	Long description	Weight
J0690	Injection, cefazolin sodium, 500 mg	0.00042410
J0692	Injection, cefepime hydrochloride, 500 mg	0.00024846
J0696	Injection, ceftriaxone sodium, per 250 mg	0.00668833
J0698	Injection, cefotaxime sodium, per gm	0.00014878
J0702	Injection, betamethasone acetate & betamethasone sodium phosphate, per 3 mg	0.00287709
J0704	Injection, betamethasone sodium phosphate, per 4 mg	0.00057059
J0735	Injection, clonidine hydrochloride, 1 mg	0.00034149
J0800	Injection, corticotropin, 40 units	0.00363945
J0881	Injection, darbepoetin alfa, 1 mcg (non-ESRD use)	0.15953454
J0885	Injection, epoetin alpha, (for non ESRD use), per 1000 units	0.25136609
J0895	Injection, deferoxamine mesylate, 500 mg	0.00024448
J1000	Injection, depo-estradiol cypionate, 5 mg	0.00021013
J1020	Injection, methylprednisolone acetate, 20 mg	0.00127329
J1030	Injection, methylprednisolone acetate, 40 mg	0.00593138
J1040	Injection, methylprednisolone acetate, 80 mg	0.00527803
J1051	Injection, medroxyprogesterone acetate, 50 mg	0.00006526
J1094	Injection, dexamethasone acetate, 1 mg	0.00351268
J1100	Injection, dexamethasone sodium phosphate, 1 mg	0.05492057
J1190	Injection, dexrazoxane hydrochloride, per 250 mg	0.00002444
J1200	Injection, diphenhydramine hcl, 50 mg	0.00216491
J1212	Injection, DMSO, dimethyl sulfoxide, 50%, 50 ml	0.00008475
J1245	Injection, dipyridamole, per 10 mg	0.00383178
J1250	Injection, dobutamine hydrochloride, per 250 mg	0.00053182
J1260	Injection, dolasetron mesylate, 10 mg	0.01737101
J1335	Injection, ertapenem sodium, 500 mg	0.00013263
J1440	Injection, filgrastim (G–CSF), 300 mcg	0.00193572
J1441	Injection, filgrastim (G–CSF), 480 mcg	0.00407388
J1450	Injection fluconazole, 200 mg	0.00001609
J1580	Injection, garamycin, gentamicin, 80 mg	0.00039937
J1600	Injection, gold sodium thiomalate, 50 mg	0.00005613
J1626	Injection, granisetron hydrochloride, 100 mcg	0.01483731
J1631	Injection, haloperidol decanoate, per 50 mg	0.00020702
J1642	Injection, heparin sodium, (heparin lock flush), per 10 units	0.06422737
J1644	Injection, heparin sodium, per 1000 units	0.00354562
J1645	Injection, dalteparin sodium, per 2500 iu	0.00011526
J1650	Injection, enoxaparin sodium, 10 mg	0.00135618
J1655	Injection, tinzaparin sodium, 1000 iu	0.00047170
J1720	Injection, hydrocortisone sodium succinate, 100 mg	0.00013327
J1745	Injection infliximab, 10 mg	0.02762721
J1756	Injection, iron sucrose, 1 mg	0.01026994
J1885	Injection, ketorolac tromethamine, per 15 mg	0.00330082
J1940	Injection, furosemide, 20 mg	0.00065369
J1956	Injection, levofloxacin, 250 mg	0.00008629
J2001	Injection, lidocaine hcl for intravenous infusion, 10 mg	0.00077528
J2010	Injection, lincomycin hcl, 300 mg	0.00062461
J2150	Injection, mannitol, 25% in 50 ml	0.00029211
J2260	Injection, milrinone lactate, 5 mg	0.00004959
J2300	Injection, nalbuphine hydrochloride, per 10 mg	0.00026341
J2325	Injection, nesiritide, 0.1 mg	0.00027406
J2353	Injection, octreotide, depot form for intramuscular injection, 1 mg	0.00195107
J2354	Injection, octreotide, non-depot subcutaneous or intravenous injection, 25 mcg	0.00008412
J2405	Injection, ondansetron hydrochloride, per 1 mg	0.01373037
J2430	Injection, pamidronate disodium, per 30 mg	0.00156790
J2505	Injection, pegfilgrastim, 6 mg	0.00065114
J2550	Injection, promethazine hcl, 50 mg	0.00068681
J2680	Injection, fluphenazine decanoate, 25 mg	0.00015113
J2765	Injection, metoclopramide hCL, 10 mg	0.00011134
J2780	Injection, ranitidine hydrochloride, 25 mg	0.00088550
J2820	Injection, sargramostim (GM–CSF), 50 mcg	0.00217910
J2912	Injection, sodium chloride, 0.9%, per 2 ml	0.00680009
J2916	Injection, sodium ferric gluconate complex in sucrose injection, 12.5 mg	0.00061134
J2920	Injection, methylprednisolone sodium succinate, 40 mg	0.00031230
J2930	Injection, methylprednisolone sodium succinate, 125 mg	0.00077199
J2997	Injection, alteplase recombinant, 1 mg	0.00012239
J3260	Injection, tobramycin sulfate, 80 mg	0.00018292
J3301	Injection, triamcinolone acetonide, per 10 mg	0.02166537
J3302	Injection, triamcinolone diacetate, per 5 mg	0.00173214
J3303	Injection, triamcinolone hexacetonide, per 5 mg	0.00094603
J3315	Injection, triptorelin pamoate, 3.75 mg	0.00000713
J3370	Injection, vancomycin hCL, 500 mg	0.00084187
J3396	Injection, verteporfin, 0.1 mg	0.05438624
J3410	Injection, hydroxyzine hCL, 25 mg	0.00041004

ADDENDUM F.—REVISED SINGLE DRUG CATEGORY LIST—Continued

HCPCS	Long description	Weight
J3420	Injection, vitamin B–12 cyanocobalamin, up to 1000 mcg	0.01203050
J3475	Injection, magnesium sulfate, per 500 mg	0.00108505
J3480	Injection, potassium chloride, per 2 meq	0.00215709
J3487	Injection, zoledronic acid, 1 mg	0.00336479
J7030	Infusion, normal saline solution, 1000 cc	0.00102834
J7040	Infusion, normal saline solution, sterile (500 ml = 1 unit)	0.00243166
J7042	5% dextrose/normal saline (500 ml = 1 unit)	0.00049872
J7050	Infusion, normal saline solution, 250 cc	0.00993344
J7060	5% dextrose/water (500 ml = 1 unit)	0.00102860
J7070	Infusion, D5W, 1000 cc	0.00015894
J7120	Ringers lactate infusion, 1000 cc	0.00016980
J7317	Sodium hyaluronate, per 20 to 25 mg dose for intra-articular injection	0.00191598
J7320	Hylan G–F 20, 16 mg, for intra articular injection	0.00149854
J9000	Doxorubicin hCL, 10 mg	0.00235846
J9001	Doxorubicin hydrochloride, all lipid formulations, 10 mg	0.00032536
J9031	BCG (Intravesical) per instillation	0.00049267
J9040	Bleomycin sulfate, 15 units	0.00003728
J9045	Carboplatin, 50 mg	0.00570096
J9050	Carmustine, 100 mg	0.00000890
J9060	Cisplatin, powder or solution, per 10 mg	0.00095393
J9062	Cisplatin, 50 mg	0.00025430
J9065	Injection, cladribine, per 1 mg	0.00008142
J9070	Cyclophosphamide, 100 mg	0.00062691
J9080	Cyclophosphamide, 200 mg	0.00004968
J9090	Cyclophosphamide, 500 mg	0.00008125
J9091	Cyclophosphamide, 1.0 gram	0.00005049
J9092	Cyclophosphamide, 2.0 gram	0.00000530
J9093	Cyclophosphamide, lyophilized, 100 mg	0.00092680
J9094	Cyclophosphamide, lyophilized, 200 mg	0.00009190
J9095	Cyclophosphamide, lyophilized, 500 mg	0.00017696
J9096	Cyclophosphamide, lyophilized, 1.0 gram	0.00013977
J9097	Cyclophosphamide, lyophilized, 2.0 gram	0.00001360
J9098	Cytarabine liposome, 10 mg	0.00000817
J9100	Cytarabine, 100 mg	0.00013010
J9110	Cytarabine, 500 mg	0.00002076
J9130	Dacarbazine, 100 mg	0.00009429
J9140	Dacarbazine, 200 mg	0.00007024
J9150	Daunorubicin, 10 mg	0.00000490
J9170	Docetaxel, 20 mg	0.00257221
J9178	Injection, epirubicin hCL, 2 mg	0.00121917
J9181	Etoposide, 10 mg	0.00231466
J9182	Etoposide, 100 mg	0.00053112
J9185	Fludarabine phosphate, 50 mg	0.00030647
J9190	Fluorouracil, 500 mg	0.00396193
J9200	Floxuridine, 500 mg	0.00000409
J9201	Gemcitabine hCL, 200 mg	0.00496182
J9202	Goserelin acetate implant, per 3.6 mg	0.00288597
J9206	Irinotecan, 20 mg	0.00319095
J9208	Ifosfamide, 1 gm	0.00007892
J9209	Mesna, 200 mg	0.00036868
J9211	Idarubicin hydrochloride, 5 mg	0.00000318
J9213	Interferon, ALFA–2A, recombinant, 3 million units	0.00008082
J9214	Interferon, ALFA–2B, recombinant, 1 million units	0.00675198
J9219	Leuprolide acetate implant, 65 mg	0.00006526
J9245	Injection, melphalan hydrochloride, 50 mg	0.00000159
J9250	Methotrexate sodium, 5 mg	0.00186700
J9260	Methotrexate sodium, 50 mg	0.00051449
J9263	Injection, oxaliplatin, 0.5 mg	0.07318565
J9265	Paclitaxel, 30 mg	0.00556692
J9268	Pentostatin, per 10 mg	0.00000645
J9280	Mitomycin, 5 mg	0.00004077
J9290	Mitomycin, 20 mg	0.00003481
J9291	Mitomycin, 40 mg	0.00006143
J9293	Injection, mitoxantrone hydrochloride, per 5 mg	0.00025120
J9310	Rituximab, 100 mg	0.00409565
J9320	Streptozocin, 1 gm	0.00000673
J9340	Thiotepa, 15 mg	0.00002452
J9350	Topotecan, 4 mg	0.00018268
J9355	Trastuzumab, 10 mg	0.00543348
J9360	Vinblastine sulfate, 1 mg	0.00035813
J9370	Vincristine sulfate, 1 mg	0.00019751
J9375	Vincristine sulfate, 2 mg	0.00011515

ADDENDUM F.—REVISED SINGLE DRUG CATEGORY LIST—Continued

HCPCS	Long description	Weight
J9390	Vinorelbine tartrate, per 10 mg	0.00111035
J9395	Injection, fulvestrant, 25 mg	0.00126670
J9600	Porfimer sodium, 75 mg	0.00000030
Q3025	Injection, interferon BETA–1A, 11 mcg for intramuscular use	0.00078263

IV. Waiver of Proposed Rulemaking and Delay in Effective Date

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** to provide a period for public comment before the provisions of a rule take effect in accordance with section 553(b) of the Administrative Procedure Act (APA) (5 U.S.C. 553(b)). However, we can waive the notice and comment procedures if the Secretary finds, for good cause, that the notice and comment process is impracticable, unnecessary or contrary to the public interest, and incorporates a statement of the finding and the reasons therefore in the rule. We can also waive the 30-day delay in effective date under the APA (5 U.S.C. 553(d)) when there is good cause to do so and we publish in the rule an explanation of our good cause.

This correcting amendment addresses technical errors and omissions made in FR Doc. 05–22160, entitled ''Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2006 and Certain Provisions Related to the Competitive Acquisition Program of Outpatient Drugs and Biologicals Under Part B,'' which appeared in the **Federal Register** on November 21, 2005 (70 FR 70116) and was made effective January 1, 2006. The provisions of this final rule with comment period have been previously subjected to notice and comment procedures. These corrections are consistent with the discussion and text and do not make substantive changes to the CY 2006 published rule. As such, this correcting amendment is intended to ensure the CY 2006 final rule with comment accurately reflects the policy adopted. Therefore, we find that undertaking further notice and comment procedures to incorporate these corrections into the final rule with comment is unnecessary and contrary to the public interest.

For the same reasons, we are also waiving the 30-day delay in effective date for this correcting amendment. We believe that it is in the public interest to ensure that the CY 2006 final rule with comment accurately states our policy on physician fee schedule and other Part B payment policies, and provisions related to the competitive acquisition program of outpatient drugs and biologicals under Part B. Therefore, delaying the effective date of these corrections beyond the January 1, 2006 effective date of the final rule with comment period would be contrary to the public interest. In so doing, we find good cause to waive the 30-day delay in the effective date.

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

Dated: February 7, 2006.

Ann C. Agnew,

Executive Secretary to the Department.

[FR Doc. 06–1711 Filed 2–23–06; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 411 and 489

[CMS–6272–IFC]

RIN 0938–AN27

Medicare Program; Medicare Secondary Payer Amendments

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

ACTION: Interim final rule with comment period.

SUMMARY: This interim final rule with comment period implements amendments to the Medicare Secondary Payer (MSP) provisions under Title III of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA). The MMA amendments clarify the MSP provisions regarding the obligations of primary plans and primary payers, the nature of the insurance arrangements subject to the MSP rules, the circumstances under which Medicare may make conditional payments, and the obligations of primary payers to reimburse Medicare.

DATES: Effective date: These regulations are effective on April 25, 2006.

Comment date: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on April 25, 2006.

ADDRESSES: In commenting, please refer to file code CMS–6272–IFC. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

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

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

2. *By regular mail.* You may mail written comments (one original and two copies) to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–6272–IFC, g1P.O. Box 8017, Baltimore, MD 21244–8017.

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

3. *By express or overnight mail.* You may send written comments (one original and two copies) to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–6272–IFC, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

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

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

(Because access to the interior of the HHH Building is not readily available to persons without Federal Government identification, commenters are encouraged to leave their comments in

the CMS drop slots located in the main lobby of the building. A stamp-in clock is available for persons wishing to retain a proof of filing by stamping in and retaining an extra copy of the comments being filed.)

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

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

FOR FURTHER INFORMATION CONTACT: Suzanne Ripley, (410) 786–0970.

SUPPLEMENTARY INFORMATION: *Submitting Comments:* We welcome comments from the public on all issues set forth in this rule to assist us in fully considering issues and developing policies. You can assist us by referencing the file code CMS–6272–IFC and the specific ''issue identifier'' that precedes the section on which you choose to comment.

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

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

I. Background

[If you choose to comment on issues in this section, please indicate the caption ''Background'' at the beginning of your comment.]

Beginning in 1980, the Congress enacted a series of amendments to section 1862(b) of the Social Security Act (the Act) (hereafter referred to as the Medicare Secondary Payer (MSP) provisions) to protect the financial integrity of the Medicare program by making Medicare a secondary payer, rather than a primary payer of health care services, when certain types of other health care coverage are available. (Workers' compensation had already been primary to Medicare since the implementation of the original Medicare statute.) In enacting the MSP provisions, the Congress intended that the MSP provisions be construed to make Medicare a secondary payer to the maximum extent possible. These statutory provisions are set forth in regulations at 42 CFR part 411, Exclusions From Medicare and Limitations on Medicare Payment.

II. MMA Amendments to the Medicare Secondary Payer (MSP) Provisions

[If you choose to comment on issues in this section, please indicate the caption ''MMA Amendments to the Medicare Secondary Payer Provisions'' at the beginning of your comment.]

The Congress later became aware that various parties were pressing several interpretations of the MSP provisions that would, if ultimately accepted, severely limit the applicability of the MSP provisions at considerable expense to the Medicare program. Many of these interpretations were presented in the context of Federal court litigation over the meaning of various MSP provisions. The Congress rejected these attempts to incorrectly limit the application and scope of the MSP statute. The Congress passed section 301 under Title III of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) (Pub. L. 108–173) on December 8, 2003 to clarify its original intent regarding the MSP provisions under section 1862(b) of the Act, thereby indicating that these interpretations were incorrect and that the Secretary's interpretations were accurate. These clarifications are effective as if enacted on the date of the original legislation.

Section 301(a) of the MMA amends section 1862(b)(2)(A)(ii) of the Act to remove the term ''promptly.'' This amendment establishes that various parties were incorrect in their interpretation that section 1862(b)(2)(A)(ii) of the Act applied only if the workers' compensation law or plan, liability insurance, or no-fault insurance has paid or could reasonably be expected to pay for services ''promptly.'' This amendment also adds language at section 1862(b)(2)(B) of the Act to clarify that the Secretary may make payment subject to reimbursement if the workers' compensation law or plan, liability insurance, or no-fault insurance has not paid or could not reasonably be expected to pay for services ''promptly.''

Section 301(b)(1) of the MMA amends section 1862(b)(2)(A) of the Act to clarify the application of the term ''self-insured plan.'' It establishes that ''an entity that engages in a business, trade, or profession shall be deemed to have a self-insured plan if it carries its own risk (whether by a failure to obtain insurance, or otherwise) in whole or in part.''

Section 301(b)(2)(A) of the MMA amends section 1862(b)(2)(B) of the Act to specify that a primary plan, and an entity that receives payment from a primary plan, shall reimburse the appropriate Trust Fund for any payment that the Secretary makes with respect to an item or service if it is demonstrated that the primary plan has or had a responsibility to make payment with respect to the item or service. It adds language establishing that a primary plan's responsibility for this payment ''may be demonstrated by a judgment, a payment conditioned upon the recipient's compromise, waiver, or release (whether or not there is a determination or admission of liability) of payment for items or services included in a claim against the primary plan or the primary plan's insured, or by other means.''

Section 301(b)(3) of the MMA amends section 1862(b)(2) of the Act to further delineate those entities (that is, ''primary payers'') from which the United States may seek reimbursement. It amends language specifying that the United States may bring an action against ''all entities that are or were required or responsible (directly, as an insurer or self-insurer, as a third-party administrator, as an employer that sponsors or contributes to a group health plan, or large group health plan, or otherwise) to make payment with respect to the same item or service (or any portion thereof) under a primary plan.'' This amendment specifies that the United States may recover double damages against these entities. Also, it amends language clarifying that the United States may recover payment from ''any entity that has received payment from a primary plan or from the proceeds of a primary plan's payment to any entity.''

Under section 301(d) of the MMA, these provisions are effective as if enacted on the date of the original legislation to reflect the original MSP provisions and Congressional intent at issue. As we discuss in more detail below, this interim final rule with comment period amends 42 CFR part 411 and § 489.20(i)(2)(ii) of our regulations to implement these MSP provisions.

III. Provisions of This Interim Final Rule With Comment Period

[If you choose to comment on issues in this section, please indicate the caption ''Provisions of This Interim Final Rule with Comment Period'' at the beginning of your comment.]

As is the case with group health plan and large group health plan insurance, Medicare may not make payment if payment with respect to the same item or service has been made or can reasonably be expected to be made under workers' compensation, no-fault, or liability insurance. However, Medicare may make a payment conditioned on reimbursement when the workers' compensation, no-fault, or liability insurance (including a self-insured plan) plan has not made or cannot reasonably be expected to make payment with respect to such item or service promptly. In accordance with section 301(a) of the MMA, we are removing the word ''promptly'' from § 411.20(a)(2), § 411.40(b)(1)(i), and § 411.50(c)(1) and (c)(2) to clarify that these Medicare payments are conditional and must be reimbursed whenever a primary payer's responsibility to make payment is demonstrated.

At § 411.21, we are removing the definitions for ''third party payer'' and ''third party payment'' and replacing them with definitions for ''primary payer'' and ''primary payment.'' We are also providing a definition for ''primary plan.'' We are making these changes to conform to the statutory language under the MMA. Consistent with these changes, we are making nomenclature changes to replace the terms ''third party payer,'' ''third party payment,'' and ''third party plan'' with ''primary payer,'' ''primary payment,'' or ''primary plan,'' respectively under part 411 throughout subparts B through H. At § 411.33(f)(4), we are replacing the term ''third party'' with ''primary payer.'' We are also amending § 489.20(i)(2)(ii) to replace ''third party payment'' with ''primary payment.''

In this interim final rule with comment period, we are also adding language to the definition of ''self-insured'' plan in § 411.50(b) in accordance with section 301(b)(1) of the MMA. We are clarifying that an entity that engages in a business, trade, or profession is deemed to have a ''self-insured'' plan for liability insurance if it carries its own risk, in whole or in part. Any such entity's self-insured status may be demonstrated, among other ways, by the failure to obtain insurance.

In accordance with section 301(b)(2)(A) of the MMA, we are adding a new § 411.22 to clarify that a primary payer, and an entity that receives payment from a primary payer, become obligated to reimburse CMS if and when it is demonstrated that the primary payer has or had primary payment responsibility. This responsibility may be demonstrated by a judgment, a payment conditioned upon the recipient's compromise, waiver, or release (whether or not there is a determination or admission of liability) of payment for items and services included in a claim against the primary payer, or by other means, including but not limited to a settlement, award, or contractual obligation. This means that a primary payer may not extinguish its obligations under the MSP provisions by paying the wrong party—for example, by paying the Medicare beneficiary or the provider when it should have reimbursed the Medicare program. Primary payers are expected to reimburse CMS when it is demonstrated that they have or had payment responsibility.

In accordance with section 301(b)(3) of the MMA, the definition of ''primary payer'' in § 411.21, the new § 411.22, and the revised § 411.24(e) also clarify that the Medicare program may seek reimbursement from a primary payer, or any or all the entities responsible or required to make payment as a primary payer. With respect to debts where a group health plan or large group health plan is the primary plan, the amendments make clear that all employers that sponsor or contribute to the group health plan or large group health plan are primary payers required to reimburse Medicare regardless of whether the group health plan or large group health plan was an insured plan (that is, the employer or other plan sponsor purchased insurance) or was self-insured by the employer or other plan sponsor. Medicare may also seek reimbursement from any entity that has received payment from a primary payer. Entities that receive payment include, but are not limited to beneficiaries, attorneys, and providers or suppliers (including physicians).

Furthermore, in this interim final rule with comment period, we are revising § 411.24(e) by adding language pertaining to Medicare's authority to recover conditional payments. Specifically, in accordance with section 301(b)(3) of the MMA, we specify at § 411.24(e) that CMS has a direct right of action to recover from any primary payer. We are making a technical revision at § 411.24(f)(2) to replace the words ''is primary'' with ''is a primary plan.''

Consistent with section 301(b)(2)(A) of the MMA, this interim rule with comment period clarifies at § 411.24(i)(1) that, like liability insurance and disputed claims under group health plans and no-fault insurance, workers' compensation insurance and plans must also reimburse Medicare, although it paid some other entity, if it knew or should have known that the claimant was a Medicare beneficiary. Where Medicare has already recovered payment from the entity, reimbursement to Medicare by the workers' compensation insurance or plan is not required. However, nothing in this interim final rule with comment period will be construed to require us to first pursue the entity which receives payment before it can pursue the primary payer. Also consistent with section 301(b)(2)(A) of the MMA, we are adding language to § 411.45, § 411.52, and § 411.53 to specify that any conditional payment that Medicare makes is based upon the recovery rules under subpart B of part 411. In addition, at § 411.52, we clarify the basis for which Medicare makes payment in liability cases. We are revising § 411.53 by removing the terms '', or the provider or supplier,'' in the existing paragraph (a) to clarify that it is the beneficiary's responsibility to file a claim for no-fault benefits.

III. Response to Comments

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

IV. Waiver of Proposed Rulemaking

We ordinarily publish a notice of proposed rulemaking in the **Federal Register** and invite public comment on the proposed rule. The notice of proposed rulemaking includes a reference to the legal authority under which the rule is proposed, and the terms and substances of the proposed rule or a description of the subjects and issues involved. This procedure can be waived, however, if an agency finds good cause that a notice-and-comment procedure is impracticable, unnecessary, or contrary to the public interest and incorporates a statement of the finding and its reasons in the rule issued.

We find it unnecessary to undertake notice and comment rulemaking

because this interim final rule with comment period merely conforms part 411 and § 489.20(i)(2)(ii) of the regulations to statutory changes affected by section 301 of the MMA. Therefore, we find good cause to waive the notice of proposed rulemaking and to issue this final rule on an interim basis. We are providing a 60-day public comment period.

V. Collection of Information Requirements

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

VI. Regulatory Impact Statement

[If you choose to comment on issues in this section, please indicate the caption ''Regulatory Impact'' at the beginning of your comment.]

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

Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, if regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects, distributive impacts, and equity). A regulatory impact analysis (RIA) must be prepared for major rules with economically significant effects ($100 million or more in any 1 year). We have determined that the effect of this interim final rule with comment period on the economy and the Medicare program is not economically significant, since it merely clarifies certain MSP provisions to reflect original congressional intent and ratifies the manner in which we have implemented/administered the MSP provisions. If the technical and clarifying amendments had not been enacted, ''savings'' reflected in the table below would have been lost and Medicare expenditures would have increased.

The table reflects the potential impact of a Fifth Circuit Court decision that held that the MSP liability provision did not apply when there was no liability insurance purchased or no formal plan of self-insurance recognized under the Internal Revenue Code. This placed a small portion of future MSP liability savings at risk. It was assumed that over time, some U.S. Circuit Courts could have reached a similar conclusion so that the potential losses of future MSP liability savings would increase slowly over time in addition to the projected growth of Medicare benefits. It was further assumed that some individuals who repaid Medicare before 2003 would sue for refunds and that favorable decisions would be rendered in some, but not all, cases. It was also assumed that the refunds of past MSP liability savings would peak about 2007. Lastly, it was assumed that MSP liability collections represent approximately 70 percent Part A claims payments and 30 percent Part B claims payments (which are based on historic MSP liability savings).

MEDICARE SAVINGS RETAINED
[ROUNDED TO THE NEAREST $10 MILLION]

	Part A	Part B	Total
2003	0	0	0
2004	10	0	10
2005	10	0	10
2006	10	0	10
2007	20	0	20
2008	10	0	10
2009	20	0	20
2010	20	10	30
2011	20	10	30
2012	20	10	30
2013	20	10	30
2014	20	10	30
2015	20	10	30

Therefore, this interim final rule with comment period is not a major rule as defined in Title 5, United States Code, section 804(2) and is not an economically significant rule under Executive Order 12866.

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

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule or notice having the effect of a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Core-Based Statistical Area and has fewer than 100 beds. We have determined that this interim final rule with comment period will not have a significant effect on the operations of a substantial number of small rural hospitals because there is and will be no change in the administration of the MSP provisions. Therefore, we are not preparing an analysis for section 1102(b) of the Act.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule or notice having the effect of a rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. That threshold level is currently approximately $120 million. This interim final rule with comment period has no consequential effect on State, local, or tribal governments or on the private sector because there is and will be no change in the administration of the MSP provisions.

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

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

List of Subjects

42 CFR Part 411

Kidney diseases, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 489

Health facilities, Medicare, Reporting and recordkeeping requirements.

■ For the reasons set forth in the preamble, the Centers for Medicare & Medicaid Services amends 42 CFR chapter IV as set forth below:

PART 411—EXCLUSIONS FROM MEDICARE AND LIMITATIONS ON MEDICARE PAYMENT

■ 1. The authority citation for part 411 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act (42 U.S.C. 1302 and 1395hh).

§ 411.20 [Amended]

■ 2. Section 411.20 is amended by removing the word ''promptly'' in paragraph (a)(2) introductory text.

■ 3. Section 411.21 is amended by adding definitions of ''primary payer,'' ''primary payment,'' and ''primary plan'' and removing the definitions of ''third party payer'' and ''third party payment'' to read as follows:

§ 411.21 Definitions.

* * * * *

Primary payer means, when used in the context in which Medicare is the secondary payer, any entity that is or was required or responsible to make payment with respect to an item or service (or any portion thereof) under a primary plan. These entities include, but are not limited to, insurers or self-insurers, third party administrators, and all employers that sponsor or contribute to group health plans or large group health plans.

Primary payment means, when used in the context in which Medicare is the secondary payer, payment by a primary payer for services that are also covered under Medicare.

Primary plan means, when used in the context in which Medicare is the secondary payer, a group health plan or large group health plan, a workers' compensation law or plan, an automobile or liability insurance policy or plan (including a self-insured plan), or no-fault insurance.

* * * * *

■ 4. A new § 411.22 is added to read as follows:

§ 411.22 Reimbursement obligations of primary payers and entities that received payment from primary payers.

(a) A primary payer, and an entity that receives payment from a primary payer, must reimburse CMS for any payment if it is demonstrated that the primary payer has or had a responsibility to make payment.

(b) A primary payer's responsibility for payment may be demonstrated by—

(1) A judgment;

(2) A payment conditioned upon the recipient's compromise, waiver, or release (whether or not there is a determination or admission of liability) of payment for items or services included in a claim against the primary payer or the primary payer's insured; or

(3) By other means, including but not limited to a settlement, award, or contractual obligation.

§ 411.24 [Amended]

■ 5. Section 411.24 is amended by—

■ A. Revising paragraph (e).

■ B. Removing the words ''is primary'' and adding in its place the phrase ''is a primary plan'' in paragraph (f)(2).

■ C. Adding '', workers' compensation insurance or plan,'' after ''group health plans'' and before ''and'' in paragraph (i)(1).

Revisions for paragraph (e) read as follows:

§ 411.24 Recovery of conditional payments.

* * * * *

(e) Recovery from primary payers. CMS has a direct right of action to recover from any primary payer.

* * * * *

■ 6. Section 411.33(f)(4) introductory text is revised to read as follows:

§ 411.33 Amount of Medicare secondary payment.

* * * * *

(f) Examples: * * *

(4) A hospital furnished 5 days of inpatient care in 1987 to a Medicare beneficiary. The provider's charges for Medicare-covered services were $4,000 and the gross amount payable was $3,500. The provider agreed to accept $3,000 from the primary payer as payment in full. The primary payer paid $2,900 due to a deductible requirement under the primary plan. Medicare considers the amount the provider is obligated to accept as full payment ($3,000) to be the provider charges. The Medicare secondary payment is the lowest of the following:

* * * * *

§ 411.40 [Amended]

■ 7. Section 411.40 is amended by removing the word ''promptly'' in paragraph (b)(1)(i).

■ 8. Section 411.45 is revised to read as follows:

§ 411.45 Basis for conditional Medicare payment in workers' compensation cases.

(a) A conditional Medicare payment may be made under either of the following circumstances:

(1) The beneficiary has filed a proper claim for workers' compensation benefits, but the intermediary or carrier determines that the workers' compensation carrier will not pay promptly. This includes cases in which a workers' compensation carrier has denied a claim.

(2) The beneficiary, because of physical or mental capacity, failed to file a proper claim.

(b) Any conditional payment that CMS makes is conditioned on reimbursement to CMS in accordance with subpart B of this part.

§ 411.50 [Amended]

■ 9. Section 411.50 is amended by—

■ A. Revising the definition of ''self-insured plan'' in paragraph (b).

■ B. Removing the word ''promptly'' in paragraphs (c)(1) and (c)(2).

■ The revision reads as follows:

§ 411.50 General provisions.

* * * * *

(b) *Definitions.*

* * * * *

Self-insured plan means a plan under which an individual, or a private or governmental entity, carries its own risk instead of taking out insurance with a carrier. This term includes a plan of an individual or other entity engaged in a business, trade, or profession, a plan of a non-profit organization such as a social, fraternal, labor, educational, religious, or professional organization, and the plan established by the Federal government to pay liability claims under the Federal Tort Claims Act. An entity that engages in a business, trade, or profession is deemed to have a self-insured plan for purposes of liability insurance if it carries its own risk (whether by a failure to obtain insurance, or otherwise) in whole or in part.

* * * * *

■ 10. Section 411.52 is revised to read as follows:

§ 411.52 Basis for conditional Medicare payment in liability cases.

(a) A conditional Medicare payment may be made in liability cases under either of the following circumstances:

(1) The beneficiary has filed a proper claim for liability insurance benefits but the intermediary or carrier determines that the liability insurer will not pay promptly for any reason other than the circumstances described in § 411.32(a)(1). This includes cases in which the liability insurance carrier has denied the claim.

(2) The beneficiary has not filed a claim for liability insurance benefits.

(b) Any conditional payment that CMS makes is conditioned on reimbursement to CMS in accordance with subpart B of this part.

■ 11. Section 411.53 is revised to read as follows:

§ 411.53 Basis for conditional Medicare payment in no-fault cases.

(a) A conditional Medicare payment may be made in no-fault cases under either of the following circumstances:

(1) The beneficiary has filed a proper claim for no-fault insurance benefits but the intermediary or carrier determines that the no-fault insurer will not pay promptly for any reason other than the circumstances described in § 411.32(a)(1). This includes cases in which the no-fault insurance carrier has denied the claim.

(2) The beneficiary, because of physical or mental incapacity, failed to meet a claim-filing requirement stipulated in the policy.

(b) Any conditional payment that CMS makes is conditioned on reimbursement to CMS in accordance with subpart B of this part.

PART 411—[NOMENCLATURE CHANGE]

■ 12. In part 411, revise all references to ''third party payer'' to read ''primary payer'; revise all references to ''third party payment'' to read ''primary payment'; and revise all references to ''third party plan'' to read ''primary plan''.

PART 489—PROVIDER AGREEMENTS AND SUPPLIER APPROVAL

■ 1. The authority citation for part 489 continues to read as follows:

Authority: Secs. 1102 and 1871 of the Social Security Act.

§ 489.20 [Amended]

■ 2. Section § 489.20(i)(2)(ii) introductory text is amended by removing the words ''third party payment'' and adding in its place the words ''primary payment''.

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

Dated: February 8, 2006.

Mark B. McClellan,

Administrator, Centers for Medicare & Medicaid Services.

Approved: November 14, 2005.

Michael O. Leavitt,

Secretary, Department of Health and Human Services.

[FR Doc. 06–1712 Filed 2–23–06; 8:45 am]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 051128313–6029–02; I.D. 111705C]

RIN 0648–AT20

Fisheries of the Northeastern United States; Atlantic Bluefish Fisheries; 2006 Atlantic Bluefish Specifications; Quota Adjustment; 2006 Research Set-Aside Project

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

ACTION: Final rule; final specifications for the 2006 Atlantic bluefish fishery.

SUMMARY: NMFS issues 2006 specifications for the Atlantic bluefish fishery, including state-by-state commercial quotas, a recreational harvest limit, and recreational possession limits for Atlantic bluefish off the east coast of the United States. The intent of these specifications is to establish the allowable 2006 harvest levels and possession limits to attain the target fishing mortality rate (F), consistent with the stock rebuilding program in Amendment 1 to the Atlantic Bluefish Fishery Management Plan (FMP). This action will publish final specifications that are modified from those contained in the proposed rule.

DATES: This rule is effective March 27, 2006, through December 31, 2006.

ADDRESSES: Copies of the specifications document, including the Environmental Assessment (EA) and the Initial Regulatory Flexibility Analysis (IRFA) are available from Daniel Furlong, Executive Director, Mid-Atlantic Fishery Management Council, Room 2115, Federal Building, 300 South Street, Dover, DE 19901 6790. The specifications document is also accessible via the Internet at *http://www.nero.nmfs.gov*.

The Final Regulatory Flexibility Analysis (FRFA) consists of the IRFA, public comments and responses contained in this final rule, and a summary of impacts and alternatives contained in this final rule.

The small entity compliance guide is available from Patricia A. Kurkul, Regional Administrator, Northeast Regional Office, National Marine Fisheries Service, One Blackburn Drive, Gloucester, MA 01930 2298.

The Northeast Fisheries Science Center 41st Stock Assessment Review Committee (SARC) Panelist Reports are available at: *http://www.nefsc.noaa.gov/nefsc/saw/saw41/*.

FOR FURTHER INFORMATION CONTACT: Bonnie Van Pelt, Fishery Policy Analyst, (978) 281–9244.

SUPPLEMENTARY INFORMATION:

Background

The regulations implementing the Atlantic Bluefish Fishery Management Plan (FMP) appear at 50 CFR part 648, subparts A and J. Regulations requiring annual specifications are found at 50 CFR 648.160. The management unit for bluefish (Pomatomus saltatrix) is U.S. waters of the western Atlantic Ocean.

The FMP requires that the Mid-Atlantic Fishery Management Council (Council) recommend, on an annual basis, total allowable landings (TAL) for the fishery, consisting of a commercial quota and recreational harvest limit.

The annual review process for bluefish requires that the Council's Bluefish Monitoring Committee (Monitoring Committee) review and make recommendations based on the best available data including, but not limited to, commercial and recreational catch/landing statistics, current estimates of fishing mortality, stock abundance, discards for the recreational fishery, and juvenile recruitment. Based on the recommendations of the Monitoring Committee, the Council makes a recommendation to NMFS. This FMP is a joint plan with the Atlantic States Marine Fisheries Commission (Commission); therefore, the Commission meets during the annual specification process to adopt complementary measures.

The Council's recommendations must include supporting documentation concerning the environmental, economic, and social impacts of the recommendations. NMFS is responsible for reviewing these recommendations to ensure they achieve the FMP objectives, and may modify them if they do not. NMFS then publishes proposed specifications in the Federal Register. After considering public comment, NMFS publishes final specifications in the Federal Register.

In July 2005, the Monitoring Committee accepted the most recent bluefish stock assessment as the basis for its specification recommendations to the Council. In August 2005, the Council approved the Monitoring Committee's recommendations and the Commission's Bluefish Board (Board) adopted complementary management measures.

Final Specifications

Stock Assessment

The SARC rejected the previous bluefish assessment in 2004, because of the instability of estimates derived from a catch/effort stock assessment model. A new model, called the age-structured assessment program (ASAP) model was used to assess the bluefish stock in 2005 and was reviewed by the SARC during the 41st Stock Assessment Workshop (SAW-41) in June 2005. The ASAP model is based on new methods for calculating biological reference points and biomass estimates (i.e., thresholds and targets for defining whether bluefish is overfished or whether overfishing is occurring). Although there were opposing viewpoints regarding the use of the ASAP model among the participating SAW-41 panel members, two of the three panelists felt that the assessment was adequate for management purposes. The panelists also recognized the need for a recreational catch rate abundance index, better information on discard rates and mortality, and an improved modeling approach (see **ADDRESSES** for link to panelist reports).

According to Amendment 1 to the FMP (Amendment 1), overfishing for bluefish occurs when the target fishing mortality rate (F) exceeds the fishing mortality rate that allows maximum sustainable yield (F_{MSY}), or the maximum F threshold. The stock is considered overfished if the biomass (B) falls below the minimum biomass threshold, which is defined as 1/2 B_{MSY}. The Amendment also established that the long term target F ($F_{0.1}$) is 90 percent of F_{MSY}, and the long term target B is B_{MSY}.

The SAW-41 model results generated new biological reference points: (1) Maximum fishing mortality threshold or F_{MSY} = 0.19; (2) $F_{0.1}$ = 0.18, the long term fishing mortality target; (3) minimum biomass threshold, or 1/2 B_{MSY} = 73.5 million lb (33,351 mt); and (4) B_{MSY} = 147 million lb (66,678 mt), the long term biomass target. Based on the new biological reference points, and the 2004 estimate of bluefish stock biomass (104 million lb (47,235 mt)), the bluefish stock is not considered overfished. Estimates of fishing mortality have declined from 0.41 in 1991 to 0.15 in 2004. Therefore, the new model results also conclude that the Atlantic stock of bluefish is not experiencing overfishing, i.e., the model estimated the maximum fishing mortality threshold, F_{MSY} = 0.19, and F_{2004} = 0.15, therefore F_{2004} is less than F_{MSY}.

2006 TAL

The FMP specifies that the bluefish stock is to be rebuilt to B_{MSY} over a 9-year period. The FMP requires the Council to recommend, on an annual basis, a level of total allowable catch (TAC) consistent with the rebuilding program in the FMP. An estimate of annual discards is deducted from the TAC to calculate the TAL that can be taken during the year by the commercial and recreational fishing sectors combined. The TAL is composed of a commercial quota and a recreational harvest limit. The FMP rebuilding program requires the TAC for any given year to be set based either on the target F resulting from the stock rebuilding schedule specified in the FMP (0.31 for 2006), or the F estimated in the most recent fishing year (F_{2004} = 0.15), whichever is lower. Therefore, the 2006 recommendation is based on an estimated F of 0.15. Furthermore, the best information available indicates that the TAC of 29.15 million lb (13,222 mt) could achieve the target F (F = 0.15) in 2006, based on biomass estimates and associated yields that were projected using the ASAP model from SAW-41 in 2005.

The TAL for 2006 is derived by subtracting an estimate of discards of 4.35 million lb (1,973 mt), the average discard level from 2000-2004, from the TAC. After subtracting estimated discards, the 2006 TAL is approximately 24 percent less than the 2005 TAL, or 24.80 million lb (11,249 mt). Based strictly on the percentages specified in the FMP (17 percent commercial, 83 percent recreational), the commercial quota for 2006 would be 4,215,802 lb (1,912 mt), and the recreational harvest limit would be 20,583,033 lb (9,336 mt) in 2006. In addition, up to 3 percent of the TAL may be allocated as RSA quota. The discussion below describes how the TAL is allocated to the commercial and recreational sectors, and then adjusted downward proportionally to account for any approved bluefish RSA.

Council Recommendation: Commercial Quota and Recreational Harvest Limit

The FMP stipulates that in any year in which 17 percent of the TAL is less than 10.50 million lb (4,763 mt), the commercial quota may be increased up to 10.50 million lb (4,763 mt) as long as the recreational fishery is not projected to land more than 83 percent of the TAL in the upcoming fishing year, and the combined projected recreational landings and commercial quota would not exceed the TAL. Given recreational harvest trends in recent years--an average of 12.70 million lb (5,761 mt) over the last 5 years--the Council and the Board recommended that the recreational harvest limit for 2006 approximate actual 2004 recreational landings (15.15 million lb (6,872 mt)). Therefore, the Council recommended that 5,367,197 lb (2,435 mt) be transferred from the initial recreational allocation of 20,583,033 lb (9,336 mt) resulting in a 2006 recreational harvest limit of 15,215,836 lb (6,902 mt) and a commercial quota of 9,582,999 lb (4,347 mt).

RSA

A request for proposals was published to solicit research proposals to utilize RSA in 2006 based on research priorities identified by the Council (April 18, 2005; 70 FR 20104). One research project that would utilize bluefish RSA has been approved by the Northeast Regional Administrator (RA) and forwarded to the NOAA Grants Office. The FMP allows the Council and NMFS to allocate up to 3 percent of the TAL as RSA, to support fishery research. Therefore, a 363,677–lb (164,961–kg) RSA quota is specified for 2006; 1.5 percent of the total allowed under the FMP. The commercial and recreational allocation are reduced in an amount proportional to the overall TAL to account for the RSA (See *Final 2006 Commercial Quota and Recreational Harvest Limit* section below for adjusted commercial quota and recreational harvest limit).

Recreational Possession Limit

A recreational possession limit of up to 15 fish per person will be maintained in 2006 to achieve the recreational harvest limit.

Final 2006 Commercial Quota and Recreational Harvest Limit

Although the Council recommendation, described above, was based on the best information available at the time, new landing projections for the 2006 fishing year that were not available at the time of the Council's recommendation or at the time of publication of the proposed rule, reveal that the initial transfer amount would allow recreational harvest limits to be exceeded. The revised transfer amount accounts for projected recreational landings of 16,472,573 lb (7,472 mt), based on updated recreational landings data provided by the Marine Recreational Fisheries Statistics Survey (MRFSS) Program. This final rule will reduce the amount of the transfer from the recreational to the commercial sector by 1.50 million lb (680,389 kg), from 5,367,197 lb (2,435 mt) to 3,865,294 lb (1,753 mt), commensurate

with increased recreational landings trends. Therefore, the initial recreational allocation of 20,583,034 lb (9,336 mt) will be reduced by 3,865,294 lb (1,753 mt) resulting in a post-transfer commercial quota of 8,081,096 lb (3,666 mt) and a recreational harvest limit of 16,717,740 lb (7,583 mt). After adjusting for the RSA quota, the resulting 2006 specifications will include a commercial quota of 7,962,586 lb (3,612 mt) and a recreational harvest limit of 16,472,573 lb (7,472 mt). The RSA quota will remain unchanged at 363,677 lb (164,961 kg).

Final State Commercial Allocations

The 2006 commercial quota is allocated by state as shown in Table 1 below, according to the percentages specified in the FMP. Table 1 shows the allocations both before and after the deductions made to reflect the RSA quota allocation.

Table 1. Bluefish Commercial State-by-State Allocations for 2006[1]

States	Quota	2006 Commercial Quota		2006 Commercial Quota With Research Set-Aside Deducted	
	Percent Share	(lb)	(kg)	(lb)	(kg)
ME	0.6685	54,022	24,504	53,083	24,078
NH	0.4145	33,496	15,194	32,914	14,929
MA	6.7167	542,783	246,205	533,344	241,921
RI	6.8081	550,169	249,555	540,601	245,213
CT	1.2663	102,331	46,417	100,551	45,609
NY	10.3851	839,230	380,672	824,635	374,048
NJ	14.8162	1,197,311	543,097	1,176,489	533,647
DE	1.8782	151,779	68,847	149,140	67,649
MD	3.0018	242,578	110,033	238,360	108,118
VA	11.8795	959,994	435,450	943,299	427,873
NC	32.0608	2,590,864	1,175,208	2,545,807	1,154,759
SC	0.0352	2,845	1,290	2,795	1,268
GA	0.0095	768	348	754	342
FL	10.0597	812,934	368,744	798,797	362,328
Total	100.0001	8,081,096	3,665,561	7,962,586	3,611,769

Comments and Responses

The following comment was received concerning the December 19, 2005 (70 FR 75111), proposed rule.

Comment: The commenter expressed general support for environmental reforms and conservation of bluefish for future generations. The commenter indicated that the recreational harvest possession limit should be reduced to one fish per person. The commenter also indicated that commercial fishery landings information was unreliable and biased and that the catch statistics result in correspondingly high quota allocations to the commercial sector. The commenter suggested that the TAC be reduced by 50 percent initially, and by 10 percent in each subsequent year.

Response: This final rule is designed to provide for the fair and efficient use of the Federal bluefish quotas. While NMFS acknowledges the importance of the issues raised by the commenter, those of a general nature are outside the scope of this rulemaking. The commenter gave no specific rationale for why the quotas ought to be reduced in the manner suggested or for why the recreational possession limit should be reduced to one fish per person. There is no known scientific basis for either of the commenter's suggestions. The reasons presented by the Council and NMFS for recommending the final specifications are discussed in the preambles to both the proposed and final rules, and sufficient analysis is contained within the supporting documents. This final rule implements measures to reduce bluefish fishing mortality to levels less than those prescribed under the FMP in year 8 of the stock rebuilding plan. The Council is required to recommend annual fishing measures, such as recreational possession limits, to ensure that the recommended quotas will not be exceeded. The Commission and the Council agreed that a possession limit of 15 fish per angler is appropriate to limit bluefish mortality to sustainable levels and further rebuild the bluefish stock. Furthermore, this final rule implements an alternative that will transfer less quota than originally recommended from the recreational sector to the commercial sector to ensure that 2006 recreational harvest limits not be exceeded.

Changes from the Proposed Rule

While there is no regulatory text, the preamble to this final rule describes a revision in the amount of the transfer (less quota than was originally recommended) from the recreational to the commercial sector based on recent recreational landings data. The resulting statewide allocations are contained in Table 1.

Classification

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

Included in this final rule is the Final Regulatory Flexibility Analysis (FRFA) prepared pursuant to section 604(a) of the Regulatory Flexibility Act (RFA). The FRFA describes the economic

impact that this final rule will have on small entities and incorporates a portion of the IRFA, which is summarized in the proposed rule, the comments and responses on the proposed rule (70 FR 75111, December 19, 2005), and the analyses completed in support of this action. A copy of the EA and IRFA are available from the Council (see **ADDRESSES**). This final rule implements a new alternative and does not repeat the analysis of the alternatives included in the IRFA. The proposed rule contains a summary of the economic analysis that the Council completed on the original alternatives. This final rule contains a comparative analysis of the impacts of the new alternative relative to the 2005 commercial quota and recreational harvest, 2005 preliminary landings, and the Council's preferred alterative.

FRFA

Statement of Objective and Need

A description of the reasons why this action is being considered, and the objectives of, and legal basis for, the final rule is found in the preamble to this final rule.

Summary of Significant Issues Raised in Public Comments

One comment was submitted on the proposed rule, but was not specific to the IRFA or the economic effects of the rule. NMFS has responded to the comment in the Comments and Responses section of the preamble to this final rule. No changes were made to the final rule as a result of the comment that was received.

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

An active participant in the commercial bluefish fishery sector is defined as any vessel that reported having landed one or more pounds of bluefish to a Federal dealer during calendar year 2004. Vessels that fish for bluefish commercially must sell their catch to Federal dealers. All vessels affected by this rulemaking have gross receipts less than $3.5 million and are considered to be small entities under the RFA (up to $3.5 million or $5.0 million in gross annual receipts for commercial and recreational activity, respectively). Since there are no large entities participating in this fishery, there are no disproportionate effects resulting from small versus large entities. In the absence of quantitative data, qualitative analyses were conducted.

Of the active, federally permitted vessels in 2004, 748 landed bluefish from Maine to North Carolina. Northeast dealer data do not fully cover vessel activity from South Carolina to Florida. South Atlantic Trip Ticket Report data were used to identify 819 vessels that landed bluefish in North Carolina and 591 vessels that may have landed bluefish on Florida's east coast. Some of these vessels were identified in the Northeast dealer data, therefore double counting is possible. The bluefish landings in South Carolina and Georgia represented less than 1/10 of 1 percent of total landings, a negligible proportion of the total bluefish landings along the Atlantic coast in 2004. Therefore, it is assumed that no vessels landed bluefish from South Carolina and Georgia.

In addition, in recent years, approximately 2,063 party/charter vessels may have been active and/or caught bluefish in either state or Federal waters. All of these vessels are considered small entities under the RFA, having gross receipts of less than $5 million annually. Since the recreational possession limits will remain at 15 fish per person, there should be no impact on demand for party/charter vessel fishing, and, therefore, no impact on revenues earned by party/charter vessels.

Description of Projected Reporting, Recordkeeping, and Other Compliance Requirements

No additional reporting, recordkeeping, or other compliance requirements are included in this final rule.

Description of the Steps Taken To Minimize Economic Impact on Small Entities

Specification of commercial quota, recreational harvest levels, and possession limits is constrained by the conservation objectives of the FMP, under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). The decreased commercial quota may affect individual states, by increasing the probability that they will need to invoke the transfer provision to avoid a quota overage. Individual state quotas will be approximately 15 percent less than they would have been under the Council's preferred alternative (see Table 2). However, states that utilize the allowable transfer provisions and receive the quota they require to meet market demands before an overage occurs may mitigate any economic impacts associated with potential foregone revenues. We considered a TAL that would have allowed a higher allocation of quota to the commercial sector than the preferred alternative, but this alternative would have been inconsistent with the goals and objectives of the FMP and the Magnuson-Stevens Act, and the mandates of *Natural Resources Defense Council* v. *Daley (341 U.S. App. D.C. 119, 209 F.3d 747, 754 (D.C. Cir. 2000))* i.e., the TAL must have at least a fifty percent probability of achieving its targets. The new alternative, which will transfer less quota from the recreational to the commercial sector than was offered in the proposed rule (see Table 2), is being implemented consistent with recent recreational landing trends and should ensure that 2006 recreational harvest limits are not exceeded. In addition, the 2006 coastwide commercial quota is higher than commercial landings in recent years; therefore, no negative economic impacts are expected relative to the status quo and the Council's preferred alternative. In conclusion, there are no other alternatives that would further mitigate economic impacts to vessels engaged in the fishery more than the chosen alternative.

The difference between the new alternative and alternatives previously analyzed, relates only to the manner in which the overall TAL is allocated between the commercial and recreational components of the bluefish fishery (Table 2). The commercial quota specified by the new alternative represents a 23 percent decrease from the 2005 commercial quota, while the 2006 recreational harvest limit under this alternative would be approximately 18 percent lower than the recreational harvest limit specified in 2005. The commercial quota that is being allocated through the new alternative (after adjusting for the RSA) remains higher than recent landings; e.g., the 2006 coast wide quota is approximately 36 percent higher than preliminary 2005 commercial landings and 5 percent higher than actual 2004 landings. The recreational harvest limit would be 30 percent higher, or 3.8 million pounds (1,724 mt) above the average recreational landings for the last 5 years (12.698 million lb (5,760 mt)), and 9 percent higher than actual 2004 recreational landings (15.146 million lb (5,653 mt)).

Table 2. Comparison in LB (MT) of the Alternatives of Quota Combinations Reviewed						
	2006 Initial TAL	2006 Post-Transfer Commercial Quota	2006 Post-Transfer Recreational Harvest Limit	2006 Research Set-Aside	2006 Adjusted Commercial Quota	2006 Adjusted Recreational Harvest Limit
2006 Final Quota Alternative						
Final Rule Preferred Alternative	24,798,836 (11,249)	8,081,096 (3,666)	16,717,740 (7,583)	363,677 (165)	7,962,586 (3,612)	16,472,573 (7,472)
Council's Preferred Quota Alternative						
Proposed Rule Preferred Alternative	24,798,836 (11,249)	9,582,999 (4,347)	15,215,836 (6,902)	363,677 (165)	9,442,465 (4,283)	14,992,694 (6,801)
2005 Final Quota Alternative						
Preferred Alternative	30,853,578 (13,995)	10,500,000 (4,763)	20,353,578 (9,232)	297,750 (135)	10,398,671 (4,717)	20,157,157 (9,143)

The impacts on revenues of the proposed RSA were analyzed. The social and economic impacts of this proposed RSA are expected to be minimal. Assuming the full RSA is allocated for bluefish, the set-aside amount could be worth as much as $101,830 dockside, based on an average 2004 ex-vessel price of $0.28 per pound for bluefish. Assuming an equal reduction among all 748 active dealer reported vessels, this could mean a reduction of about $136 per individual vessel. Changes in the recreational harvest limit would be insignificant (less than a 2 percent decrease), if 1.5 percent of the TAL is used for research.

It is unlikely that there would be negative economic impacts as a result of the RSA quota. The RSAs are expected to yield important long-term benefits associated with improved data upon which to base management decisions. A full analysis is available from the Council (see **ADDRESSES**).

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

Dated: February 16, 2006.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. 06–1691 Filed 2–23–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 040804229–4300–02; I.D. 021706B]

Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Northeast Multispecies Fishery; Modification of the Yellowtail Flounder Landing Limit for the U.S./Canada Management Area

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

ACTION: Temporary rule; landing limit.

SUMMARY: NMFS announces that the Administrator, Northeast (NE) Region, NMFS (Regional Administrator), is modifying the Georges Bank (GB) yellowtail flounder trip limit from 1,500 lb (680.4 kg) per day up to a maximum of 15,000 lb (6,804.1 kg) per trip, to 15,000 lb (6,804.1 kg) per trip with no daily limit, for NE multispecies days-at-sea (DAS) vessels fishing in the U.S./Canada Management Area. This action is authorized by the regulations implementing Amendment 13 to the NE Multispecies Fishery Management Plan and is intended to prevent under-harvesting the Total Allowable Catch (TAC) for GB yellowtail flounder while ensuring that the TAC will not be exceeded during the 2005 fishing year. This action is being taken to provide additional opportunities for vessels to fully harvest the GB yellowtail flounder TAC under the authority of the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act).

DATES: Effective February 21, 2006, through April 30, 2006.

FOR FURTHER INFORMATION CONTACT: Mark Grant, Fishery Management Specialist, (978) 281–9145, fax (978) 281–9135.

SUPPLEMENTARY INFORMATION: Regulations governing the GB yellowtail flounder landing limit within the U.S./Canada Management Area are found at 50 CFR 648.85(a)(3)(iv)(C) and (D). The regulations authorize vessels issued a valid limited access NE multispecies permit and fishing under a NE multispecies DAS to fish in the U.S./Canada Management Area, as defined at § 648.85(a)(1), under specific conditions. The TAC for GB yellowtail flounder for the 2005 fishing year (May 1, 2005—April 30, 2006) is 4,260 mt. On

February 9, 2006 (71 FR 6984), NMFS implemented a GB yellowtail trip limit of 1,500 lb (680.4 kg) per day, up to a maximum of 15,000 lb (6,804.1 kg) per trip, as required by the regulations at § 648.85(a)(3)(iv)(C)(*2*). That action was non-discretionary and was based on the Regional Administrator's projection that 70 percent (2,982 mt) of the GB yellowtail flounder TAC of 4,260 mt would be harvested by February 9, 2006.

The regulations at § 648.85(a)(3)(iv)(D) authorize the Regional Administrator to increase or decrease the trip limits in the U.S./Canada Management Area to prevent over-harvesting or under-harvesting the TAC allocation. Based upon Vessel Monitoring System (VMS) reports and other available information, the Regional Administrator has determined that the current rate of harvest will result in the under-harvest of the GB yellowtail flounder TAC during the 2005 fishing year. Based on this information, the Regional Administrator is removing the 1,500-lb (680.4-kg) per day limit and retaining the 15,000-lb (6,804.1-kg) trip limit, for NE multispecies DAS vessels fishing in the U.S./Canada Management Area, effective February 21, 2006, through April 30, 2006. Vessels landing on or after February 21, 2006 may possess and land up to 15,000 lb (6,804.1 kg) of GB yellowtail flounder, regardless of the length of their trip.

Classification

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

Pursuant to 5 U.S.C. 553(b)(B), the Assistant Administrator (AA) finds good cause to waive prior notice and opportunity for public comment for this action, because notice and comment would be impracticable and contrary to the public interest. The regulations at § 648.85(a)(3)(iv)(D) grant the Regional Administrator the authority to adjust the GB yellowtail flounder trip limits to prevent over-harvesting or under-harvesting the TAC allocation. Given that approximately 30 percent of the GB yellowtail flounder TAC remains unharvested and the 2005 fishing year ends on April 30, 2006, the time necessary to provide for prior notice, opportunity for public comment, or delayed effectiveness would prevent the agency from ensuring that the 2005 TAC for GB yellowtail flounder will be fully harvested. It was not possible to take this action earlier because the trigger for implementing the non-discretionary 1,500-lb (680.4-kg) daily limit (projected date that 70 percent of the TAC would be harvested) did not occur until February 9, 2006. If implementation of this action is delayed, the NE multispecies fishery could be prevented from fully harvesting the TAC for GB yellowtail flounder during the 2005 fishing year. Under-harvesting the GB yellowtail TAC would result in increased economic impacts to the industry and social impacts beyond those analyzed for Amendment 13, as the full potential revenue from the available GB yellowtail TAC in the U.S./Canada Management Area would not be realized.

The AA finds good cause, pursuant to 5 U.S.C. 553(d)(3), to waive the entire 30-day delayed effectiveness period for this action. For the reasons specified above, a delay in the effectiveness of the trip limit modification in this rule would prevent the agency from meeting its management obligation and ensuring the opportunity for the 2005 catch TAC for GB yellowtail flounder specified for the Western and Eastern U.S./Canada Areas to be fully harvested. Any such delay could lead to the negative impacts to the fishing industry described above.

The rate of harvest of the GB yellowtail flounder TAC in the Western and Eastern U.S./Canada Areas is updated weekly on the Internet at *http://www.nero.noaa.gov.* Accordingly, the public is able to obtain information that would provide at least some advanced notice of a potential action to provide additional opportunities to the NE multispecies industry to fully harvest the TAC for GB yellowtail flounder during the 2005 fishing year. Further, the potential for this action was considered and open to public comment during the development of Amendment 13. Therefore, any negative effect the waiving of public comment and delayed effectiveness may have on the public is mitigated by these factors.

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

Dated: February 21, 2006.

James P. Burgess,

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

[FR Doc. 06–1753 Filed 2–21–06; 2:48 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 041126333–5040–02; I.D. 021606E]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Catching Pacific Cod for Processing by the Offshore Component 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 cod by vessels catching Pacific cod for processing by the offshore component 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 cod apportioned to vessels catching Pacific cod for processing by the offshore component of the Western Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), February 19, 2006, until 1200 hrs, A.l.t., September 1, 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 A season allocation of the 2006 TAC of Pacific cod apportioned to vessels catching Pacific cod for processing by the offshore component of the Western Regulatory Area of the GOA is 828 metric tons (mt) as established by the 2005 and 2006 harvest specifications for groundfish of the GOA (70 FR 8958, February 24, 2005).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2006 TAC of Pacific cod apportioned to vessels catching Pacific cod for processing by the offshore component of the Western

Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 643 mt, and is setting aside the remaining 185 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 cod by vessels catching Pacific cod for processing by the offshore component 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 cod apportioned to vessels catching Pacific cod for processing by the offshore component of 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 January xx, 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: February 21, 2006.

James P. Burgess,

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

[FR Doc. 06–1754 Filed 2–21–06; 2:48 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 041126333–5040–02; I.D. 021606F]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Catching Pacific Cod for Processing by the Offshore Component in the Central 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 cod by vessels catching Pacific cod for processing by the offshore component in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the A season allocation of the 2006 total allowable catch (TAC) of Pacific cod apportioned to vessels catching Pacific cod for processing by the offshore component of the Central Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), February 19, 2006, until 1200 hrs, A.l.t., September 1, 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 A season allocation of the 2006 TAC of Pacific cod apportioned to vessels catching Pacific cod for processing by the offshore component of the Central Regulatory Area of the GOA is 1,324 metric tons (mt) as established by the 2005 and 2006 harvest specifications for groundfish of the GOA (70 FR 8958, February 24, 2005).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2006 TAC of Pacific cod apportioned to vessels catching Pacific cod for processing by the offshore component of the Central Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 1,019 mt, and is setting aside the remaining 305 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 cod by vessels catching Pacific cod for processing by the offshore component in the Central 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 cod apportioned to vessels catching Pacific cod for processing by the offshore component of the Central 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 February 16, 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: February 21, 2006.

James P. Burgess,

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

[FR Doc. 06–1752 Filed 2–21–06; 2:48 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 041126332–5039–02; I.D. 022106B]

Fisheries of the Exclusive Economic Zone Off Alaska; Rock Sole, Flathead Sole, and ''Other Flatfish'' by Vessels Using Trawl Gear in 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 closing directed fishing for rock sole, flathead sole, and ''other flatfish'' by vessels using trawl gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the first seasonal allowance of the 2006 halibut bycatch allowance specified for the trawl rock sole, flathead sole, and ''other flatfish'' fishery category in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), February 21, 2006, through 1200 hrs, A.l.t., April 1, 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 first seasonal allowance of the 2006 halibut bycatch allowance specified for the trawl rock sole, flathead sole, and ''other flatfish'' fishery category in the BSAI is 448 metric tons as established by the 2005 and 2006 final harvest specifications for groundfish in the BSAI (70 FR 8979, February 24, 2005).

In accordance with § 679.21(e)(7)(v), the Administrator, Alaska Region, NMFS, has determined that the first seasonal allowance of the 2006 halibut bycatch allowance specified for the trawl rock sole, flathead sole, and ''other flatfish'' fishery category in the BSAI has been caught. Consequently, NMFS is closing directed fishing for rock sole, flathead sole, and ''other flatfish'' by vessels using trawl gear in the BSAI.

''Other flatfish'' includes Alaska plaice, as well as all other flatfish species except for Pacific halibut (a prohibited species), Greenland turbot, rock sole, yellowfin sole, flathead sole, and arrowtooth flounder.

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 directed fishing for rock sole, flathead sole, and ''other flatfish'' by vessels using trawl gear in 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 February 18, 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 § 679.21 and is exempt from review under Executive Order 12866.

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

Dated: February 21, 2006.

Alan D. Risenhoover,

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

[FR Doc. 06–1751 Filed 2–21–06; 2:49 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 041126332–5039–02; I.D. 021706A]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher/Processor Vessels Using Hook-and-line Gear in 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 cod by catcher/processor vessels using hook-and-line gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the A season allowance of the 2006 total allowable catch (TAC) of Pacific cod specified for catcher/processor vessels using hook-and-line gear in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), February 18, 2006, until 1200 hrs, A.l.t., June 10, 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 A season allowance of the 2006 Pacific cod TAC allocated to catcher/processor vessels using hook-and-line gear in the BSAI is 43,916 metric tons as established by the 2005 and 2006 final harvest specifications for groundfish in the BSAI (70 FR 8979, February 24, 2005). See §§§ 679.20(c)(3)(iii) and (c)(5), and (a)(7)(i)(C).

In accordance with § 679.20(d)(1)(iii), the Administrator, Alaska Region, NMFS, has determined that the A season allowance of the 2006 Pacific cod TAC allocated to catcher/processor vessels using hook-and-line gear in the BSAI will soon be reached. Consequently, NMFS is prohibiting

directed fishing for Pacific cod by catcher/processor vessels using hook-and-line gear in 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 cod by catcher/processor vessels using hook-and-line gear in the BSAI.

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: February 21, 2006.

James P. Burgess,

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

[FR Doc. 06–1750 Filed 2–21–06; 2:49 pm]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 041126332–5039–02; I.D. 021606D]

Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel 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 Atka mackerel in the Central Aleutian District of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the A season allowance of the 2006 Atka mackerel total allowable catch (TAC) in the Central Aleutian District of the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), February 18, 2006, through 1200 hrs, A.l.t., September 1, 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 A season allowance of the 2006 Atka mackerel TAC in the Central Aleutian District of the BSAI is 16,419 metric tons (mt) as established by the 2005 and 2006 final harvest specifications for groundfish in the BSAI (70 FR 8979, February 24, 2005).

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the 2006 Atka mackerel TAC in the Central Aleutian District of the BSAI will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 16,369 mt, and is setting aside the remaining 50 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 Atka mackerel 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 Atka mackerel 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 February 16, 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: February 21, 2006.

James P. Burgess,

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

[FR Doc. 06–1749 Filed 2–21–06; 2:49 pm]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 71, No. 37
Friday, February 24, 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.

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2005–22358; Directorate Identifier 2005–NE–20–AD]

RIN 2120–AA64

Airworthiness Directives; Engine Components Inc. (ECi) Reciprocating Engine Cylinder Assemblies

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to supersede an existing airworthiness directive (AD) for Lycoming Engines (formerly Textron Lycoming) models 320, 360, and 540 series, ''Parallel Valve'' reciprocating engines, with certain Engine Components Inc. (ECi) cylinder assemblies, part number (P/N) AEL65102 series ''Classic Cast'', installed. That AD currently requires replacing these ECi cylinder assemblies. This proposed AD would require the same actions, but would replace the ''Engine Models'' Table 1 and ''Engines Installed On, But Not Limited To'' Table 2 with corrected tables. Also, this proposed AD would correct a casting part number. This proposed AD results from reports of applicability errors found in AD 2005–26–10. We are proposing this AD to prevent loss of engine power due to cracks in the cylinder assemblies and possible engine failure caused by separation of a cylinder head.

DATES: We must receive any comments on this proposed AD by March 13, 2006.

ADDRESSES: Use one of the following addresses to comment on this proposed AD.

- DOT Docket Web site: Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- Government-wide rulemaking Web site: Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- Mail: Docket Management Facility; U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- Fax: (202) 493–2251.
- 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.

FOR FURTHER INFORMATION CONTACT: Peter Hakala, Aerospace Engineer, Special Certification Office, FAA, Rotorcraft Directorate, 2601 Meacham Blvd., Fort Worth, TX 76193; telephone (817) 222–5145; fax (817) 222–5785.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to send any written relevant data, views, or arguments regarding this proposal. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2005–22358; Directorate Identifier 2005–NE–20–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments received by the closing date and may amend the proposed AD in light of those comments.

We will post all comments we receive, without change, to *http://dms.dot.gov,* including any personal information you provide. We will also post a report summarizing each substantive verbal contact with FAA personnel concerning this proposed AD. Using the search function of the DMS Web site, anyone can find and read the comments in any of our dockets, including the name of the individual who sent the comment (or signed the comment on behalf of an association, business, labor union, etc.). You may review the DOT's complete Privacy Act Statement in the **Federal Register** published on April 11, 2000 (65 FR 19477–78) or you may visit *http://dms.dot.gov.*

Examining the AD Docket

You may examine the docket that contains the proposal, any comments received and any final disposition in person at the DMS Docket Office between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The Docket Office (telephone (800) 647–5227) is located on the plaza level of the Department of Transportation Nassif Building at the street address stated in **ADDRESSES**. Comments will be available in the AD docket shortly after the DMS receives them.

Discussion

On December 19, 2005, we issued AD 2005–26–10, Amendment 39–14431 (70 FR 76385, December 27, 2005). That AD requires replacing ECi cylinder assemblies P/N AEL65102 series ''Classic Cast'', having casting P/N AEL65099 and SN 1 through 9879. That AD was the result of reports of about 30 failures of the subject cylinder assemblies marketed by ECi. That condition, if not corrected, could result in loss of engine power due to cracks in the cylinder assemblies and possible engine failure caused by separation of a cylinder head.

Actions Since AD 2005–26–10 was Issued

Since AD 2005–26–10 was issued, we received reports of errors in the ''Engine Models'' Table 1, and ''Engines Installed On, But Not Limited To'' Table 2. Also, we discovered an incorrect part number in paragraph (h)(3).

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other products of this same type design. For that reason, we are proposing this AD to ensure that operators are provided with the correct applicability, which would require:

- Replacing ECi cylinder assemblies P/N AEL65102 series ''Classic Cast'', having casting P/N AEL65099 and SN 1 through 9879 (sold from January 1997 to September 2001); (same as AD 2005–26–10);
- Replacing the ''Engine Models'' Table 1 with a corrected Table 1, to ensure that operators are provided with the correct applicability; and
- Replacing the ''Engines Installed On, But Not Limited To'' Table 2 with a corrected Table 2; and
- Replacing casting P/N AEL85009 with P/N AEL85099 in paragraph (h)(3),

''Definition of a Replacement Cylinder Assembly''.

Costs of Compliance

There were 9,879 ECi cylinder assemblies produced of the affected design available to the worldwide fleet. ECi reported that about fifteen percent of their cylinder assemblies go to foreign countries. We estimate ten percent of the remaining cylinders were never installed or are already removed from service, leaving 7,557 cylinder assemblies in service in the United States. We estimate that 1,574 Lycoming engines are in the United States with the subject cylinder assemblies installed. We estimate that it would take about two work hours per engine to perform the proposed aircraft inspections of the cylinder assemblies for applicability, and that the average labor rate is $65 per work hour. From the Lycoming Engines ''Removal and Installation Labor Allowance Guidebook'', dated May 2000, the complete cylinder replacement for a four cylinder engine takes 12 hours, while the complete cylinder replacement for a six cylinder engine takes 16 hours. Required parts would cost about $1,000 per cylinder assembly. Based on these figures, we estimate that the total cost of the proposed AD to U.S. operators to be $9,152,140. ECi indicated that they might give operators and repair stations credit for returned cylinder assemblies toward the purchase of new ECi cylinder assemblies.

Authority for This Rulemaking

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

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

Regulatory Findings

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

For the reasons discussed above, I certify that the proposed regulation:

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

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

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

We prepared a regulatory evaluation of the estimated costs to comply with this proposed AD. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Under the authority delegated to me by the Administrator, the Federal Aviation Administration proposes to amend 14 CFR part 39 as follows:

PART 39—AIRWORTHINESS DIRECTIVES

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

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

§ 39.13 [Amended]

2. The FAA amends § 39.13 by removing Amendment 39–14431 (70 FR 76385, December 27, 2005) and by adding the following new airworthiness directive:

Engine Components Incorporated (ECi): Docket No. FAA–2005–22358; Directorate Identifier 2005–NE–20–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this airworthiness directive (AD) action by March 13, 2006.

Affected ADs

(b) This AD supersedes AD 2005–26–10, Amendment 39–14431.

Applicability

(c) This AD applies to Lycoming Engines (formerly Textron Lycoming) models 320, 360, and 540 series, parallel valve, reciprocating engines specified in Table 1 of this AD, with Engine Components Inc. (ECi) cylinder assemblies, part number (P/N) AEL65102 series ''Classic Cast'', having casting P/N AEL65099 and serial numbers (SNs) 1 through 9879, (sold from January 1997 to September 2001) installed.

TABLE 1.—ENGINE MODELS

Cylinder head part number	Installed on engine models
AEL65102–NST04	O–320–A1B, A2B, A2C, A2D, A3A, A3B, B2B, B2C, B2D, B2E, B3B, B3C, C2B, C2C, C3B, C3C, D1A, D1AD, D1B, D1C, D1D, D1F, D2A, D2B, D2C, D2F, D2G, D2H, D2J, D3G, E1A, E1B, E1C, E1F, E1J, E2A, E2B, E2C, E2D, E2E, E2F, E2G, E2H, E3D, E3H.
	IO–320–A1A, A2A, B1A, B1B, B1C, B1D, B1E, B2A, D1A, D1AD, D1B, D1C, E1A, E1B, E2A, E2B.
	AEIO–320–D1B, D2B, E1A, E1B, E2A, E2B.
	AIO–320–A1A, A1B, A2A, A2B, B1B, C1B.
	LIO–320–B1A.
AEL65102–NST05	IO–320–C1A, C1B, C1F, F1A.
	LIO–320–C1A.
AEL65102–NST06	O–320–A1A, A2A, A2B, A2C, A3A, A3B, A3C, E1A, E1B, E2A, E2C, (also, an O–320 model with no suffix).
	IO–320–A1A, A2A.
AEL65102–NST07	IO–320–B1A, B1B.
	LIO–320–B1A.
AEL65102–NST08	O–320–B1A, B1B, B2A, B2B, B3A, B3B, B3C, C1A, C1B, C2A, C2B, C3A, C3B, C3C, D1A, D1B, D2A, D2B, D2C.

TABLE 1.—ENGINE MODELS—Continued

Cylinder head part number	Installed on engine models
AEL65102–NST10	O–360–A1A, A1C, A1D, A2A, A2E, A3A, A3D, A4A, B1A, B1B, B2A, B2B, C1A, C1C, C1G, C2A, C2B, C2C, C2D, D1A, D2A, D2B. IO–360–B1A, B1B, B1C. HO–360–A1A, B1A, B1B. HIO–360–B1A, B1B. AEIO–360–B1B. O–540–A1A, A1A5, A1B5, A1C5, A1D, A1D5, A2B, A3D5, A4A5, A4B5, A4C5, A4D5, B1A5, B1B5, B1D5, B2A5, B2B5, B2C5, B2C5D, B4A5, B4B5, B4B5D, D1A5, E1A, E4A5, E4B5, E4C5, F1A5, F1B5, G1A5, G2A5. IO–540–C1B5, C1C5, C2C, C4B5, C4B5D, C4C5, D4A5, D4B5, N1A5, N1A5D.
AEL65102–NST12	O–360–A1A, A1AD, A1D, A1F, A1F6, A1F6D, A1G, A1G6, A1G6D, A1H, A1H6, A1J, A1LD, A1P, A2A, A2D, A2F, A2G, A2H, A3A, A3AD, A3D, A4A, A4AD, A4D, A4G, A4J, A4JD, A4K, A4M, A4N, A4P, A5AD, B1A, B2C, C1A, C1C, C1E, C1F, C1G, C2A, C2B, C2C, C2D, C2E, C4F, C4P, D2A, F1A6, G1A6. HO–360 –C1A. LO–360–A1G6D, A1H6. HIO–360–B1A, B1B, G1A. LTO–360–A1A6D. TO–360–A1A6D. IO–360–B1B, B1BD, B1D, B1E, B1F, B1F6, B1G6, B2E, B2F, B2F6, B4A, E1A, L2A, M1A, M1B. AEIO–360–B1B, B1D, B1E, B1F, B1F6, B1G6, B1H, B2F, B2F6, B4A, H1A, H1B. O–540–A4D5, B2B5, B2C5, B2C5D, B4B5, B4B5D, E4A5, E4B5, E4B5D, E4C5, G1A5, G1A5D, G2A5, H1A5, H1A5D, H1B5, H1B5D, H2A5, H2A5D, H2B5D. IO–540–C4B5, C4B5D, C4D5, C4D5D, D4A5, D4B5, D4C5, N1A5, N1A5D, T4A5D, T4B5, T4B5D, T4C5D, V4A5, V4A5D. AEIO–540–D4A5, D4B5, D4C5, D4D5.
AEL65102–NST26	IO–540–J4A5, R1A5. TIO–540–C1A, E1A, G1A, H1A.
AEL65102–NST38	IO–360–F1A. TIO–540–AA1AD, AB1AD, AB1BD, AF1A, AG1A, AK1A, C1A, C1AD, K1AD, LTIO–540–K1AD.
AEL65102–NST43	O–360–J2A. O–540–F1B5, J1A5D, J1B5D, J1C5D, J1D5D, J2A5D, J2B5D, J2C5D, J2D5D, J3A5, J3A5D, J3C5D. IO–540–AB1A5, W1A5, W1A5D, W3A5D.
AEL65102–NST44	O–540–L3C5D.

For information, the subject engines are installed on, but not limited to, the aircraft listed in the following Table 2:

TABLE 2.—ENGINES INSTALLED ON, BUT NOT LIMITED TO

O–320–A1A	Piper Aircraft: Tri-Pacer (PA–22 ‘‘150’’, PA–22S ‘‘150’’), Apache (PA–23), Pawnee (PA–25). Doyn Aircraft: Doyn-Cessna (170, 170A, 170B). Mooney Aircraft: Mark (20A). Dinfia: Ranquel (1A–46). Simmering-Graz Pauker: Flamingo (SGP–M–222). Aviamilano: Scricciolo (P–19). Vos Helicopter Co.: Spring Bok.
O–320–A1B	Piper Aircraft: Tri-Pacer (PA–22 ‘‘150’’, PA–22S ‘‘150’’), Apache (PA–23). Doyn Aircraft: Doyn-Cessna (170, 170A, 170B). S.O.C.A.T.A.: Horizon (Gardan).
O–320–A2A	Piper Aircraft: Tri-Pacer (PA–22 ‘‘150’’, PA–22S ‘‘150’’), Agriculture (PA–18A ‘‘150’’) Super Cub (PA–18 ‘‘150’’), Caribbean (PA–22 ‘‘150’’), Pawnee (PA–25). Intermountain Mfg. Co.: Call Air Texas (A–5, A–5T). Lake Aircraft: Colonial (C–1). Rawdon Bros.: Rawdon (T–1, T–15, T–15D). Shinn Engineering: Shinn (2150–A). Dinfia: Ranquel (1A)46). Neiva: (1PD–5802). Sud: Gardan-Horizon (GY–80). LaVerda: Falco (F8L Series II, America). Malmo: Vipan (MF1–10). Kingsford Smith: Autocrat (SCRM–153). Aero Commander: 100.
O–320–A2B	Piper Aircraft: Tri-Pacer (PA–22 ‘‘150’’, PA–22S ‘‘150’’), Cherokee (PA–28 ‘‘150’’), Super Cub (PA–18 ‘‘150’’).

TABLE 2.—ENGINES INSTALLED ON, BUT NOT LIMITED TO—Continued

	Champion Aircraft: Challenger (7GCA, 7GCB, 7KC), Citabria (7GCAA, 7GCRC), Agriculture (7GCBA).
	Beagle: Pup (150).
	Artic: Interstate S1B2.
	Robinson: R–22.
	Varga: Kachina 2150A.
O–320–A2C	Robinson: R–22.
	Cicare: Cicare AG.
	Bellanca Aircraft: Citabria 150 (7GCAA), Citabria 150S (7GCBC).
O–320–A2D	Piper Aircraft: Apache (PA–23).
O–320–A3A	Doyn Aircraft: Doyn-Cessna (170, 170A, 170B).
	Corben-Fettes: Globe Special (Globe GC–1B).
O–320–A3B	Piper Aircraft: Apache (PA–23).
	Doyn Aircraft: Doyn-Cessna (170, 170A, 170B).
	Teal II: TSC (1A2).
O–320–B1A	Piper Aircraft: Apache (PA–23 ''160'').
	Doyn Aircraft: Doyn-Cessna (170, 170A, 170B).
	Malmo: Vipan (MF1–10).
O–320–B1B	Piper Aircraft: Apache (PA–23 ''160'').
	Doyn Aircraft: Doyn-Cessna (170, 170A, 170B).
O–320–B2A	Piper Aircraft: Tri-Pacer (PA–22 ''160'', PA–22S ''160'').
O–320–B2B	Piper Aircraft: Tri-Pacer (PA–22 ''160'', PA–22S ''160'').
	Beagle: Airedale (D5–160).
	Fuji-Heavy Industries: Fuji (F–200).
	Uirapuru: Aerotec 122.
O–320–B2C	Robinson: R–22.
O–320–B2D	Maule: MX–7–160.
O–320–B2E	Lycon.
O–320–B3A	Piper Aircraft: Apache (PA–23 ''160'').
	Doyn Aircraft: Doyn-Cessna (170, 170A, 170B).
O–320–B3B	Piper Aircraft: Apache (PA–23 ''160'')
	Doyn Aircraft: Doyn-Cessna (170, 170A, 170B).
	Sud: Gardan (GY80–160).
O–320–C1A	Piper Aircraft: Apache (PA–23 ''160'').
	Riley Aircraft: Rayjay (Apache).
O–320–C1B	Piper Aircraft: Apache (PA–23 ''160'').
O–320–C3A	Piper Aircraft: Apache (PA–23 ''160'').
O–320–C3B	Piper Aircraft: Apache (PA–23 ''160'').
O–320–D1A	Sud: Gardan (GY–80).
	Gyroflug: Speed Cancard.
	Grob: G115.
O–320–D1F	Slingsby: T67 Firefly.
O–320–D2A	Piper Aircraft: Cherokee (PA–28S ''160'').
	Robin: Major (DR400–140B), Chevalier (DR–360), (R–3140).
	S.O.C.A.T.A.: Tampico TB9.
	Slingsby: T67C Firefly.
	Daetwyler: MD–3–160.
	Nash Aircraft Ltd.: Petrel.
	Aviolight: P66D Delta.
	General Avia: Pinguino.
O–320–D2B	Beech Aircraft: Musketeer (M–23).
	Piper Aircraft: Cherokee (PA–28 ''160'').
O–320–D2J	Cessna Aircraft: Skyhawk 172.
O–320–D3G	Piper Aircraft: Warrior II, Cadet (PA–28–161).
O–320–E1A	Grob: G115.
O–320–E1C	M.B.B. (Messerschmitt-Boelkow-Blohm).: Monsun (BO–209–B).
O–320–E1F	M.B.B.: Monsun (BO–209–B).
O–320–E2A	Piper Aircraft: Cherokee (PA–28 ''140'', PA–28 ''150'').
	Robin: Major (DR–340), Sitar, Bagheera (GY–100–135).
	S.O.C.A.T.A.: Super Rallye (MS–886), Rallye Commodore (MS–892).
	Siai-Marchetti: (S–202).
	F.F.A.: Bravo (AS–202/15).
	Partenavia: Oscar (P66B), Bucker (131 APM).
	Aeromot: Paulistina P–56.
	Pezetel: Koliber 150.
O–320–E2C	Beech Aircraft: Musketeer III (M–23III).
	M.B.B.: Monsun (BO–209–B).
O–320–E2D	Cessna Aircraft: Cardinal (172–I, 177).
O–320–E2F	M.B.B.: Monsun (BO–209–B), Wassmer Pacific (WA–51).
O–320–E2G	American Aviation Corp.: Traveler.
O–320–E3D	Piper Aircraft: Cherokee (140).
	Beech Aircraft: Sport.
IO–320–B2A	Piper Aircraft: Twin Comanche (PA–30).
IO–320–B1C	Hi. Shear: Wing.
IO–320–B1D	Ted Smith Aircraft: Aerostar.

TABLE 2.—ENGINES INSTALLED ON, BUT NOT LIMITED TO—Continued

IO–320–C1A	Piper Aircraft: Twin Comanche (PA–30 Turbo).
IO–320–D1A	M.B.B.: Monsun (BO–209–C).
IO–320–D1B	M.B.B.: Monsun (BO–209–C).
IO–320–E1A	M.B.B.: Monsun (BO–209–C).
IO–320–E1B	Bellanca Aircraft.
IO–320–E2A	Champion Aircraft: Citabria.
IO–320–E2B	Bellanca Aircraft.
IO–320–F1A	CAAR Engineering: Carr Midget.
LIO–320–B1A	Piper Aircraft: Twin Comanche (PA–39).
LIO–320–C1A	Piper Aircraft: Twin Comanche (PA–39).
AIO–320–B1B	M.B.B.: Monsun (BO–209–C).
AEIO–320–D1B	Slingsby: T67M Firefly.
AEIO–320–D2B	Hundustan Aeronautics Ltd.: HT–2.
AEIO–320–E1A	Bellanca Aircraft.
	Champion Aircraft.
AEIO–320–E1B	Bellanca Aircraft.
	Champion Aircraft: Decathalon (8KCAB–CS).
AEIO–320–E2B	Bellanca Aircraft.
	Champion Aircraft: Decathalon (8KCAB).
O–320–A1A	Riley Aircraft: Riley Twin.
O–360–A1A	Beech Aircraft: Travel Air (95, B–95).
	Piper Aircraft: Comanche (PA–24).
	Intermountain Mfg. Co.: Call Air (A–6).
	Lake Aircraft: Colonial (C–2, LA–4, 4A or 4P).
	Doyn Aircraft: Doyn-Cessna (170B, 172, 172A, 172B).
	Mooney Aircraft: Mark ''20B'' (M–20B).
	Earl Horton: Pawnee (Piper PA–25).
	Dinfia: Ranquel (1A–51).
	Neiva: (1PD–5901).
	Regente: (N–591).
	Wassmer: Super 4 (WA–50A), Sancy (WA–40), Baladou (WA–40), Pariou (WA–40).
	Sud: Gardan (GY–180).
	Bolkow: (207).
	Partenavia: Oscar (P–66).
	Siai-Marchetti: (S–205).
	Procaer: Picchio (F–15–A).
	S.A.A.B.: Safir (91–D).
	Malmo: Vipan (MF–10B).
	Aero Boero: AB–180.
	Beagle: Airedale (A–109).
	DeHavilland: Drover (DHA–3MK3).
	Kingsford-Smith: Bushmaster (J5–6).
	Aero Engine Service Ltd.: Victa (R–2).
O–360–A1AD	S.O.C.A.T.A.: Tabago TB–10.
O–360–A1D	Piper Aircraft: Comanche (PA–24).
	Lake Aircraft: Colonial (LA–4, 4A or 4P).
	Doyn Aircraft: Doyn-Beech (Beech 95).
	Mooney Aircraft: Master ''21'' (M–20E), Mark ''20B'', ''20D'', (M20B, M20C), Mooney Statesman (M–20G).
	Dinfia: Querandi (1A–45).
	Wassmer: (WA–50).
	Malmo: Vipan (MF1–10).
	Cessna Aircraft: Skyhawk.
	Doyn Aircraft: Doyn-Piper (PA–23 ''160'').
O–360–A1F6	Cessna Aircraft: Cardinal.
O–360–A1F6D	Cessna Aircraft: Cardinal 177.
	Teal III: TSC (1A3).
O–360–A1G6	Aero Commander.
O–360–A1G6D	Beech Aircraft: Duchess 76.
O–360–A1H6	Piper Aircraft: Seminole (PA–44).
O–360–A1LD	Wassmer: Europa WA–52.
O–360–A1P	Aviat: Husky.
O–360–A2A	Center Est Aeronautique: Regente (DR–253).
	S.O.C.A.T.A.: Rallye Commodore (MS–893).
	Societe Aeronautique Normande: Mousquetaire (D–140).
	Bolkow: Klemm (K1–107C).
	Partenavia: Oscar (P–66).
	Beagle: Husky (D5–180) (J1–U).
O–360–A2D	Piper Aircraft: Comanche (PA–24), Cherokee ''C'' (PA–28 ''180'').
	Mooney Aircraft: Master ''21'' (M–20D), Mark ''21'' (M–20E).
O–360–A2E	Std. Helicopter.
O–360–A2F	Aero Commander: Lark (100).
	Cessna Aircraft: Cardinal.
O–360–A2G	Beech Aircraft: Sport.
O–360–A3A	C.A.A.R.P.S.A.N.: (M–23III).

TABLE 2.—ENGINES INSTALLED ON, BUT NOT LIMITED TO—Continued

	Societe Aeronautique Normande: Jodel (D–140C).
	Robin: Regent (DR400/180), Remorqueur (DR400/180R). R–3170.
	S.O.C.A.T.A.: Rallye 180GT, Sportavia Sportsman (RS–180).
	Norman Aeroplace Co.: NAC–1 Freelance.
	Nash Aircraft Ltd.: Petrel.
O–360–A3AD	S.O.C.A.T.A.: TB–10.
	Robin: Aiglon (R–1180T).
O–360–A4A	Piper Aircraft: Cherokee ''D'' (PA–28 ''180'').
O–360–A4D	Varga: Kachina.
O–360–A4G	Beech Aircraft: Musketeer Custom III.
O–360–A4K	Grumman American: Tiger.
	Beech Aircraft: Sundowner 180.
O–360–A4M	Piper Aircraft: Archer II (PA–28 ''18'').
	Valmet: PIK–23.
O–360–A4N	Cessna Aircraft: 172 (Optional).
O–360–A4P	Penn Yan: Super Cub Conversion.
O–360–A5AD	C. Itoh and Co.: Fuji FA –200.
O–360–B2C	Seabird Aviation: SB7L.
O–360–C1A	Intermountain Mfg. Co.: Call Air (A–6).
O–360–C1E	Bellanca Aircraft: Scout (8GCBC–CS).
O–360–C1F	Maule: Star Rocket MX–7–180.
O–360–C1G	Christen: Husky (A–1).
O–360–C2B	Hughes Tool Co.: (269A).
O–360–C2D	Hughes Tool Co.: (269A).
O–360–C2E	Hughes Tool Co.: (YHO–2HU) Military.
	Bellanca Aircraft: Scout (8GCBC FP).
O–360–C4F	Maule: MX–7–180A.
O–360–C4P	Penn Yan: Super Cub Conversion.
O–360–F1A6	Cessna Aircraft: Cutlass RG.
O–360–J2A	Robinson: R22.
IO–360–B1A	Beech Aircraft: Travel-Air (B–95A).
	Doyn Aircraft: Doyn-Piper (PA–23 ''200'').
IO–360–B1B	Beech Aircraft: Travel-Air (B–95B).
	Doyn Aircraft: Doyn-Piper (PA–23 ''200'').
	Fuji: (FA–200).
IO–360–B1D	United Consultants: See-Bee.
IO–360–B1E	Piper Aircraft: Arrow (PA–28 ''180R'').
IO–360–B1F	Utva: 75.
IO–360–B2E	C.A.A.R.P. C.A.P. (10).
IO–360–B1F6	Great Lakes: Trainer.
IO–360–B1G6	American Blimp: Spector 42.
IO–360–B2F6	Great Lakes: Trainer.
LO–360–A1G6D	Beech Aircraft: Duchess.
LO–360–A1H6	Piper Aircraft: Seminole (PA–44).
IO–360–E1A	T.R. Smith Aircraft: Aerostar.
IO–360–L2A	Cessna Aircraft: Skyhawk C–172.
IO–360–M1A	Diamond Aircraft: DA–40.
IO–360–M1B	Vans Aircraft: RV6, RV7, RV8.
	Lancair: 360.
AEIO–360–B1F	F.F.A.: Bravo (200).
	Grob: G115/Sport-Acro.
AEIO–360–B1G6	Great Lakes.
AEIO–360–B2F	Mundry: CAP–10.
AEIO–360–B4A	Pitts: S–1S.
AEIO–360–H1A	Bellanca Aircraft: Super Decathalon (8KCAB–180).
AEIO–360–H1B	American Champion: Super Decathalon.
VO–360–A1A	Brantly Hynes Helicopter: (B–2).
VO–360–A1B	Brantly Hynes Helicopter: (B–2, B2–A). Military (YHO–3BR).
VO–360–B1A	Brantly Hynes Helicopter: (B–2, B2–A).
IVO–360–A1A	Brantly Hynes Helicopter: (B2–B).
HO–360–B1A	Hughes Tool Co.: (269A).
HO–360–B1B	Hughes Tool Co.: (269A).
HO–360–C1A	Schweizer: (300C).
HIO–360–B1A	Hughes Tool Co.: Military (269–A–1), (TH–55A).
HIO–360–B1B	Hughes Tool Co.: (269A).
HIO–360–G1A	Schweizer: (CB).
O–540–A1A	Rhein-Flugzeugbau: (RF–1).
O–540–A1A5	Piper Aircraft: Comanche (PA–24 ''180'').
	Helio: Military (H–250).
	Yoeman Aviation: (YA–1).
O–540–A1B5	Piper Aircraft: Aztec (PA–23 ''250''), Comanche (PA–24 ''250'').
O–540–A1C5	Piper Aircraft: Comanche (PA–24 ''250'').
O–540–A1D	Found Bros.:00 (FBA–2C). Dornier: (DO–28–B1).
O–540–A1D5	Piper Aircraft: Aztec (PA–23 ''250''), Comanche (PA–24 ''250''), Military Aztec (U–11A).

TABLE 2.—ENGINES INSTALLED ON, BUT NOT LIMITED TO—Continued

	Dornier: (DO–28).
O–540–A2B	Aero Commander: (500).
	Mid-States Mfg. Co.: Twin Courier (H–500), (U–5).
O–540–A3D5	Piper Aircraft: Navy Aztec (PA–23 ''250'').
O–540–B1A5	Piper Aircraft: Apache (PA–23 ''235'').
O–540–B1B5	Piper Aircraft: Comanche (PA–24 ''250'').
	Doyn Aircraft: Doyn-Piper (PA–24 ''250'').
O–540–B1D5	Wassmer: (WA–421).
O–540–B2B5	Piper Aircraft: Pawnee (PA–25 ''235''), Cherokee (PA–28 ''235''), Aztec (PA–23 ''235'').
	Intermountain Mfg. Co.: Call Air (A–9).
	Rawdon Bros.: Rawdon (T–1).
	S.O.C.A.T.A.: Rallye 235CA.
O–540–B2C5	Piper Aircraft: Pawnee (PA–25 ''235'').
O–540–B4B5	Piper Aircraft: Cherokee (PA–28 ''235'').
	Embraer: Corioca (EMB–710).
	S.O.C.A.T.A.: Rallye 235GT, Rallye 235C.
	Maule: Star Rocket (MX–7–235), Super Rocket (M–6–235), Super Std. Rocket (M–7–235).
O–540–E4A5	Piper Aircraft: Comanche (PA–24 ''260'').
	Aviamilano: Flamingo (F–250).
	Siai-Marchetti: (SF–260), (SF–208).
O–540–E4B5	Britten-Norman: (BN–2).
	Piper Aircraft: Cherokee Six (PA–32 ''260'').
O–540–E4C5	Pilatus Britten-Norman: Islander (BN–2A–26), Islander (BN–2A–27), Islander II (BN–2B–26), Islander (BN–2A–21), Trislander (BN–2A–Mark III–2).
O–540–F1B5	Omega Aircraft: (BS–12D1).
	Robinson: (R–44).
O–540–G1A5	Piper Aircraft: Pawnee (PA–25 ''260'').
O–540–H1B5D	Aero Boero: 260.
O–540–H2A5	Embraer: Impanema ''AG''.
	Gippsland: GA–200.
O–540–H2B5D	Aero Boero: 260.
O–540–J1A5D	Maule: Star Rocket (MX–7–235), Super Rocket (M–6–235), Super Std. Rocket (M–7–235).
O–540–J3A5	Robin: R–3000/235.
O–540–J3A5D	Piper Aircraft: Dakota (PA–28–236).
O–540–J3C5D	Cessna Aircraft: Skylane RG.
O–540–L3C5D	Cessna Aircraft: TR–182, Turbo Skylane RG.
IO–540–C1B5	Piper Aircraft: Aztec B (PA–23 ''250''), Comanche (PA–24 ''250'').
IO–540–C1C5	Riley Aircraft: Turbo-Rocket.
IO–540–C4B5	Piper Aircraft: Aztec C (PA–23 ''250''), Aztec F.
	Wassmer: (WA4–21).
	Avions Pierre Robin: (HR100/250).
	Bellanca Aircraft: Aries T–250.
	Aerofab: Renegade 250.
IO–540–C4D5	S.O.C.A.T.A.: TB–20.
IO–540–C4D5D	S.O.C.A.T.A.: Trinidad TB–20.
IO–540–D4A5	Piper Aircraft: Comanche (PA–24 ''260'').
	Siai-Marchetti: (SF–260).
IO–540–D4B5	Cerva: (CE–43 Guepard).
IO–540–J4A5	Piper Aircraft: Aztec (PA–23 ''250'').
IO–540–R1A5	Piper Aircraft: Comanche (PA–24).
IO–540–T4A5D	General Aviation: Model 114.
IO–540–T4B5	Commander: 114B.
IO–540–T4B5D	Rockwell: 114.
IO–540–T4C5D	Lake Aircraft: Seawolf.
IO–540–V4A5	Maule: MT–7–260, M–7–260.
	Aircraft Manufacturing Factory.
IO–540–V4A5D	Brooklands: Scoutmaster.
IO–540–W1A5	Maule: MX–7–235, MT–7–235, M7–235.
IO–540–W1A5D	Maule: Star Rocket (MX–7–235), Super Rocket (M–6–235), Super Std. Rocket (M–7–235).
IO–540–W3A5D	Schweizer: Power Glider.
AEIO–540–D4A5	Christen: Pitts (S–2S), S–2B).
	Siai-Marchetti: SF–260.
	H.A.L.: HPT–32.
	Slingsby: Firefly T3A.
AEIO–540–D4B5	Moravan: Zlin–50L.
	H.A.L.: HPT–32.
AEIO–540–D4D5	Burkhart Grob: Grob G, 115T Aero.
TIO–540–C1A	Piper Aircraft: Turbo Aztec (PA–23–250).
TIO–540–K1AD	Piper Aircraft.
TIO–540–AA1AD	Aerofab Inc.: Turbo Renegade (270).
TIO–540–AB1AD	S.O.C.A.T.A.: Trinidad TC TB–21.
TIO–540–AB1BD	Schweizer.
TIO–540–AF1A	Mooney Aircraft: ''TLS'' M20M.
TIO–540–AG1A	Commander Aircraft: 114TC.

TABLE 2.—ENGINES INSTALLED ON, BUT NOT LIMITED TO—Continued

TIO–540–AK1A	Cessna Aircraft: Turbo Skylane T182T.
LTIO–540–K1AD	Piper Aircraft.

Unsafe Condition

(d) This AD results from reports of applicability errors found in AD 2005–26–10. We are issuing this AD to prevent loss of engine power due to cracks in the cylinder assemblies and possible engine failure caused by separation of a cylinder head.

Compliance

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

Engines Not Overhauled or Repaired Since New

(f) If your engine has not been overhauled or had any major repair since new, no further action is required.

Engines Overhauled or Repaired Since New

(g) If your engine was overhauled or repaired since new, do the following:

(1) Determine if ECi cylinder assemblies, P/N AEL65102 series ''Classic Cast'', having casting P/N AEL65099 and SNs 1 through 9879 are installed on your engine, as follows:

(i) Inspect the engine log books and maintenance records for reference to the subject ECi cylinder assemblies.

(ii) If the engine log books and maintenance records did not record the P/N and SN of the cylinder assemblies, visually inspect the cylinder assemblies and verify the P/N and SN of the cylinder assemblies.

(2) If the cylinder assemblies are not ECi, P/N AEL65102 series ''Classic Cast'', having casting P/N AEL65099, no further action is required.

(3) If any cylinder assembly is an ECi P/N AEL65102 series ''Classic Cast'', having casting P/N AEL65099 and a SN 1 through 9879, do the following:

(i) If the cylinder assembly has fewer than 800 operating hours-in-service (HIS) on the effective date of this AD, replace the cylinder assembly at no later than 800 operating HIS. No action is required until the operating HIS reaches 800 hours.

(ii) If the cylinder assembly has 800 operating HIS or more on the effective date of this AD, replace the cylinder assembly within 60 operating HIS after the effective date of this AD.

Definition of a Replacement Cylinder Assembly

(h) For the purpose of this AD, a replacement cylinder assembly is defined as follows:

(1) A serviceable cylinder assembly made by Lycoming Engines.

(2) A serviceable FAA-approved, Parts Manufacturer Approval cylinder assembly from another manufacturer.

(3) A serviceable ECi cylinder assembly, P/N AEL65102 series, ''Titan'', having casting P/N AEL85099.

(4) A serviceable ECi cylinder assembly, P/N AEL65102 series, having casting P/N AEL65099, that has a SN 9880 or higher.

Prohibition of Cylinder Assemblies, P/N AEL65102 Series ''Classic Cast'', Having Casting P/N AEL65099, and SNs 1 Through 9879

(i) After the effective date of this AD, do not install any ECi cylinder assembly, P/N AEL65102, having casting P/N AEL65099 that has a SN 1 through 9879, onto any engine.

Alternative Methods of Compliance

(j) The Manager, Special Certification Office, has the authority to approve alternative methods of compliance for this AD if requested using the procedures found in 14 CFR 39.19.

Related Information

(k) ECi Service Bulletin No. 05–08, Revision 1, dated December 29, 2005, pertains to the subject of this AD.

Issued in Burlington, Massachusetts, on February 15, 2006.

Ann C. Mollica,

Acting Manager, Engine and Propeller Directorate, Aircraft Certification Service.

[FR Doc. E6–2651 Filed 2–23–06; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

26 CFR Part 301

[REG–157271–05]

RIN 1545–BF21

Procedures for Administrative Review of a Determination That an Authorized Recipient Has Failed To Safeguard Tax Returns or Return Information

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice of proposed rulemaking by cross-reference to temporary regulations.

SUMMARY: In the Rules and Regulations section of this issue of the **Federal Register**, the IRS is issuing temporary regulations regarding administrative review procedures for certain government agencies and other authorized recipients of tax returns or return information (authorized recipients) whose receipt of returns and return information may be suspended or terminated because they do not maintain proper safeguards. The temporary regulations provide guidance to responsible IRS personnel and authorized recipients as to these administrative procedures. The text of the temporary regulations published in the Rules and Regulation section of this issue of the **Federal Register** serves as the text of the proposed regulations.

DATES: Written and electronic comments and requests for a public hearing must be received by May 25, 2006.

ADDRESSES: Send submissions to: CC:PA:LPD:PR (REG–157271–05), Room 5203, Internal Revenue Service, P.O. Box 7604, Ben Franklin Station, Washington, DC 20044. Submissions may be hand-delivered between the hours of 8 a.m. and 4 p.m. to CC:PA:LPD:PR (REG–157271–05), Courier's Desk, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC, or sent electronically, via the IRS Internet site at *http://www.irs.gov/regs,* or via the Federal eRulemaking Portal at *http://www.regulations.gov* (IRS and REG–148864–03).

FOR FURTHER INFORMATION CONTACT: Concerning submission of comments, Treena Garrett, (202) 622–7180; concerning the temporary regulations, Melinda K. Fisher, (202) 622–4580 (not toll-free numbers).

SUPPLEMENTARY INFORMATION:

Background

Under section 6103 of the Internal Revenue Code (Code), tax returns and return information are protected from disclosure except in specifically enumerated circumstances. Where disclosure is permitted, section 6103 generally imposes strict safeguarding requirements and requires the IRS to monitor and enforce compliance with those requirements. Section 6103(p)(7) requires the Secretary of the Treasury to prescribe procedures providing for administrative review of any determination under section 6103(p)(4) that an agency, body, or commission receiving returns or return information pursuant to section 6103(d) has failed to meet the safeguarding requirements. Withdrawn § 301.6103(p)(7)–1 set forth the procedures for terminating future disclosures to these authorized recipients. These proposed regulations provide the intermediate review and termination procedures for all

authorized recipients identified in section 6103(p)(4).

With an increasing volume of authorized disclosures of returns and return information, it is critical that authorized recipients of returns and return information adhere to the strict safeguard requirements of the Code and that the IRS take all necessary steps to ensure that those requirements are met. If unauthorized disclosures do occur, it is similarly important that the IRS take steps to address them and ensure that they are not repeated. Such steps include, as appropriate, suspension or termination of further disclosures to an authorized recipient. Nevertheless, because the authority to receive returns and return information is provided by law, authorized disclosures should not be suspended or terminated for failure to maintain adequate safeguards without appropriate administrative review procedures. The temporary regulations set forth procedures to ensure that authorized recipients provide the proper security and protection to returns and return information.

Temporary regulations in the Rules and Regulations section of this issue of the **Federal Register** amend the Procedure and Administration Regulations (26 CFR part 301) relating to section 6103(p)(4) and (p)(7). The temporary regulations provide the intermediate review and termination procedures for all authorized recipients.

The text of the temporary regulations also serves as the text of these proposed regulations. The preamble to the temporary regulations explains the proposed regulations.

Special Analyses

It has been determined that this notice of proposed rulemaking is not a significant regulatory action as defined in Executive Order 12866. Therefore, a regulatory assessment is not required. Pursuant to the Regulatory Flexibility Act (5 U.S.C. chapter 6), it is hereby certified that these regulations will not have a significant economic impact on a substantial number of small businesses. These regulations do not impose burdens or obligations on any person, but instead provide certain rights of administrative review. Accordingly, a regulatory flexibility analysis is not required. Pursuant to section 7805(f) of the Code, these proposed regulations will be submitted to the Chief Counsel for Advocacy of the Small Business Administration for comment on their impact on small business.

Comments and Requests for a Public Hearing

Before these proposed regulations are adopted as final regulations, consideration will be given to any electronic and written comments (a signed original and eight (8) copies) that are submitted timely to the IRS. The IRS and Treasury Department specifically request comments on the clarity of the proposed regulations and how they can be made easier to understand. All comments will be available for public inspection and copying. A public hearing may be scheduled if requested in writing by a person who timely submits comments. If a public hearing is scheduled, notice of the date, time, and place for the hearing will be published in the **Federal Register**.

Drafting Information

The principal author of these regulations is Melinda K. Fisher, Office of the Associate Chief Counsel (Procedure & Administration), Disclosure and Privacy Law Division.

List of Subjects in 26 CFR Part 301

Employment taxes, Estate taxes, Excise taxes, Gift taxes, Income taxes, Penalties, Reporting and recordkeeping requirements.

Proposed Amendments to the Regulations

Accordingly, 26 CFR part 301 is proposed to be amended as follows:

PART 301—PROCEDURE AND ADMINISTRATION

Paragraph 1. The authority citation for part 301 is amended, in part, by adding an entry in numerical order to read as follows:

Authority: 26 U.S.C. 7805 * * * Sections 301.6103(p)(4)–1 and 301.6103(p)(7)–1 also issued under 26 U.S.C. 6103(p)(4) and (7) and (q); * * *

Par. 2. Section 301.6103(p)(4)–1 is added to read as follows:

§ 301.6103(p)(4)–1 Procedures relating to safeguards for returns or return information.

[The text of proposed § 301.6103(p)(4)–1 is the same as the text of § 301.6103(p)(4)–1T published elsewhere in this issue of the **Federal Register**].

Par. 3. Section 301.6103(p)(7)–1 is added to read as follows:

§ 301.6103(p)(7)–1 Procedures for administrative review of a determination that an authorized recipient has failed to safeguard tax returns or return information.

[The text of proposed § 301.6103(p)(7)–1 is the same as the text of § 301.6103(p)(7)–1T published elsewhere in this issue of the **Federal Register**].

Mark E. Matthews,

Deputy Commissioner for Services and Enforcement.

[FR Doc. 06–1714 Filed 2–23–06; 8:45 am]

BILLING CODE 4830–01–U

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN 1024–AD42

Gateway National Recreation Area, Sandy Hook Unit, Personal Watercraft Use

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service (NPS) is proposing to designate an area for the limited purpose of providing passage access for personal watercraft (PWC) through park waters in the Sandy Hook Unit of Gateway National Recreation Area (GATE), New York/New Jersey. This proposed rule implements the provisions of the NPS general regulations authorizing park areas to allow the use of PWC by promulgating a special regulation. The individual parks must determine whether PWC use is appropriate for a specific park area based on an evaluation of that area's enabling legislation, resources and values, other visitor uses, and overall management objectives. The proposed rule designating areas where PWC may be used in the Jamaica Bay unit of GATE, New York/New Jersey is published in today's **Federal Register**.

DATES: Comments must be received by April 25, 2006.

ADDRESSES: You may submit comments, identified by the number RIN 1024–AD42, by any of the following methods:

—Federal rulemaking portal: *http://www.regulations.gov.* Follow the instructions for submitting electronic comments.

—E-mail NPS at *GATE_PWCComments@louisberger.com.* Use RIN 1024–AD42 in the subject line.

—Mail or hand deliver to: General Superintendent, Gateway National Recreation Area, 210 New York Avenue, Staten Island, NY 10306.

For additional information see ''Public Participation'' under **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: Jerry Case, Regulations Program Manager,

National Park Service, 1849 C Street, NW., Room 7241, Washington, DC 20240. Phone: (202) 208–4206. E-mail: *Jerry_Case@nps.gov.*

SUPPLEMENTARY INFORMATION:

Background

Additional Alternatives

The information contained in this proposed rule supports implementation of the preferred alternative for the Sandy Hook Unit of GATE in the Environmental Assessment (EA) published April 3, 2003. The public should be aware that three other alternatives were presented in the EA, including a no-PWC alternative for each unit, and those alternatives should also be reviewed and considered when making comments on this proposed rule. The EA may be viewed at *http://nps.gov/gate/pwc/ea.pdf.*

Personal Watercraft Regulation

On March 21, 2000, the National Park Service (NPS) published a regulation (36 CFR 3.24) on the management of PWC use within all units of the national park system (65 FR 15077). This regulation prohibits PWC use in all national park units unless the NPS determines that this type of water-based recreational activity is appropriate for the specific park unit based on the legislation establishing that park, the park's resources and values, other visitor uses of the area, and overall management objectives. The regulation prohibited PWC use in all park units effective April 20, 2000, except for 21 parks, lakeshores, seashores, and recreation areas, until the park unit adopted a special regulation to manage PWC use. The regulation established a 2-year grace period following the final rule publication to provide these 21 park units time to consider whether PWC use should continue.

Description of Gateway National Recreation Area and the Sandy Hook Unit

Gateway National Recreation Area is located in the heart of the New York City metropolitan area. The park, which extends through three New York City boroughs and into New Jersey, consists of more than 26,000 acres and has been assembled from city parks, military sites, and undeveloped land. Congress established GATE in 1972 as one of the first urban parks in the national park system. Gateway National Recreation Area is composed of three distinct units—Jamaica Bay, Staten Island, and Sandy Hook. These units comprise a seashore ecosystem of wildlife, private communities, and outdoor recreational activities in an urban environment. This proposed rule addresses PWC use in the Sandy Hook Unit. The proposed rule designating areas where PWC may be used in the Jamaica Bay unit of GATE, New York/New Jersey is published elsewhere in today's **Federal Register**.

The Sandy Hook Unit is located on a largely undisturbed peninsula at the northern end of the New Jersey coast; this unit encompasses approximately 1,665 land acres, including 7.5 miles of ocean beaches and sheltered bayside coves and hundreds of acres of ecologically significant barrier beach vegetation. The area features ocean beaches, Sandy Hook Bay, salt marshes, historic Fort Hancock, and Sandy Hook lighthouse. At the north end of the unit is the Fort Hancock complex. Hiking trails lead to dunes, ponds, a maritime holly forest, and some of the richest bird habitat in New Jersey.

Gateway National Recreation Area is unique from other national park units in that it has few natural buffer zones and exists where impacts from human use are constantly changing the environment. The lands and waters of GATE represent the last remnants of the original shoreline and provide a coastal recreation resource that may in the near future serve more visitors than any other national park in the system. Visitation has been estimated to be about 8 million annually. In 2001, the Jamaica Bay and Staten Island Units in New York received more than 6 million visitors and the Sandy Hook Unit in New Jersey received over 1 million visitors. Because of its urban setting, proximity to two major airports, and intense visitor use, GATE is less likely than some park units to ever offer substantial opportunities for solitude or quiet contemplative experiences.

Gateway National Recreation Area has demonstrated the potential for ecological reclamation in an urban setting. Scientists have noted that the ecological restoration of Jamaica Bay and other GATE areas is proof that we can work within natural systems to reclaim what has been severely impacted.

Purpose of Gateway National Recreation Area

Congress established GATE in October 27, 1972, as part of an effort to bring the national park system and its ethic of preserving and protecting outstanding resources closer to major urban areas: ''In order to preserve and protect for the use and enjoyment of present and future generations an area possessing outstanding natural and recreational features, the Gateway National Recreational Area * * * is hereby established.'' (16 U.S.C. 460(c)).

Significance of Gateway National Recreation Area

Gateway National Recreation Area's primary significance is provided in its *Strategic Plan* as follows:

Gateway National Recreation Area encompasses the largest collection of natural ecosystems, wildlife habitats, historic resources, and recreational opportunities in the New Jersey/New York metropolitan areas.

Gateway National Recreation Area endeavors to incorporate the NPS conservation ethic into those values consistent with its highly urbanized setting and visitor use patterns.

Natural and cultural resources and associated values are protected, restored, and maintained in good condition and managed within their broader ecosystem and cultural context to the maximum extent possible.

Visitors safely enjoy and are satisfied with the availability, accessibility, diversity, and quality of park recreational opportunities.

Authority and Jurisdiction

Under the National Park Service's Organic Act of 1916 (Organic Act) (16 U.S.C. 1, *et seq.*) Congress granted the NPS broad authority to regulate the use of the Federal areas known as national parks. In addition, the Organic Act (16 U.S.C. 3) allows the NPS, through the Secretary of the Interior, to ''make and publish such rules and regulations as he may deem necessary or proper for the use and management of the parks * * *''

16 U.S.C. 1a–1 states, ''The authorization of activities shall be conducted in light of the high public value and integrity of the National Park System and shall not be exercised in derogation of the values and purposes for which these various areas have been established * * *''

The NPS's regulatory authority over waters subject to the jurisdiction of the United States, including navigable waters and areas within their ordinary reach, is based upon the Property and, as with the United States Coast Guard, Commerce Clauses of the U.S. Constitution. In regard to the NPS, Congress in 1976 directed the NPS to ''promulgate and enforce regulations concerning boating and other activities on or relating to waters within areas of the National Park System, including waters subject to the jurisdiction of the United States * * *'' (16 U.S.C. 1a–2(h)). In 1996 the NPS published a final rule (61 FR 35136, July 5, 1996) amending 36 CFR 1.2(a)(3) to clarify its

authority to regulate activities within the National Park System boundaries occurring on waters subject to the jurisdiction of the United States.

PWC Use at Gateway National Recreation Area and the Sandy Hook Unit

Water-based recreational activity at GATE, including wading, swimming, fishing, and boating, are the most popular activities in the park. This can be attributed to the fact that all three park units are located alongside some of the finest shoreline in the nation, which includes expansive bays, basins, creeks, marshes, and open water. The primary use of the open water resources in the Sandy Hook unit is from powerboats and secondarily by PWC owners. Motorized watercraft using the water resources typically range from 15 to 23 feet in length. Some yachts and fishing boats in the park are 50 to 100 feet in length. Personal watercraft represented 10% to 15% of the motorized watercraft within the recreation area before the April 22, 2002, prohibition. Other water activities include sailing, kayaking, canoeing, windsurfing, and kite-skiing. In the past, the majority of the PWC use occured in the Staten Island Unit, followed closely by the Jamaica Bay Unit. Personal watercraft use at Sandy Hook was limited.

Personal watercraft use within GATE has probably occurred since PWC were first introduced to the public. Personal watercraft use began in the 1980's and grew very rapidly. While the increase in PWC use has recently slowed down, use still continued to climb slowly prior to the prohibition. The rise may be attributed to design features which make it possible now for some PWC to carry more than two passengers and even as many as six. Personal watercraft use is most popular for approximately six months of the year.

Before the general regulation (36 CFR 3.24) on PWC use was effective on April 22, 2002, of the three GATE units, only the Sandy Hook Unit had actively managed and restricted PWC use within its boundaries. The restrictions were accomplished through the use of the Superintendent's Compendium. Since June 1990, all waters in Horseshoe Cove, north of a line which runs from the end of the sand spit 120′ ESE to the shoreline of Sandy Hook, all waters within Spermaceti Cove, and all waters east of a line from the south end of Skeleton Island to the north End of Plum Island have been closed to PWC use.

Personal watercraft use in the Sandy Hook Unit is limited due to restrictions that cover large portions of the unit and unfavorable ocean and bay conditions. Occasionally violation notices are issued to PWC users who enter restricted areas. According to NPS records, between 2000 and 2001, the Sandy Hook Unit had an annual average of 17,309 watercraft visits, or an average of 108 per day over a 160-day season. Of this daily average, 15% (16) were assumed to be PWC.

The heaviest PWC use season is between July and September, when launches take place south of the unit from private and public properties and marinas, also along the area between Sandy Hook and the mainland. The Atlantic Highlands Municipal Harbor is the largest marina in Sandy Hook Bay, and approximately 35% its use is from PWC users. The marina regulates marine operations by prohibiting water-skiing and wave jumping within 100 feet of another vessel.

Of particular concern is the impact to GATE's estuaries, which include open salt water, salt marshes, and fresh water, which empties into these bodies of water. Gateway National Recreation Area has over 3,000 acres of fresh and tidal wetlands. The wetlands provide the habitat for hundreds of birds, fish, mammals, reptiles, amphibians, shellfish, and other invertebrate species. Water based recreational activity competes for use of the shoreline with wildlife. Due to the delicate nature of these areas and other visitor experience issues the NPS is recommending that PWC use should be prohibited, except to provide passage through the park waters when traveling in the Shrewsbury River Channel.

Resource Protection and Public Use Issues

Gateway National Recreation Area Environmental Assessment

As a companion document to this NPRM, NPS has issued the *Personal Watercraft Use Environmental Assessment for Gateway National Recreation Area.* The EA was open for public review and comment from May 15 to June 15, 2003. Copies of the EA may be downloaded at *http://nps.gov/gate/pwc/ea.pdf.*

The purpose of the EA is to evaluate a range of alternatives and strategies for the management of PWC use at GATE to ensure the protection of park resources and values while offering recreational opportunities as provided for in the National Recreation Area's enabling legislation, purpose, mission, and goals. The assessment assumed alternatives would be implemented beginning in 2002 and considered a 10-year period, from 2002 to 2012. The assessment also compares each alternative to PWC use before April 22, 2002, when the prohibition took effect. In addition, the EA defines such terms as ''negligible'' and ''adverse.'' In this document, these terms are used to describe the environmental impact. Refer to the EA for complete definitions.

The EA evaluates four alternatives addressing the use of PWC at the three park units of GATE—Jamaica Bay, Staten Island, and Sandy Hook. Each unit is assessed separately. The following describes the four alternatives discussed in the EA for the Sandy Hook Unit:

Under alternative A, a special regulation would be promulgated to continue the current management and regulation of PWC, as provided for in the Superintendent's Compendium for the Sandy Hook Unit. Personal watercraft use would continue to be prohibited from all waters in Horseshoe Cove, Spermaceti Cove, the area between the south end of Skeleton Hill Island and the north end of Plum Island, and within 500 feet of swimming beaches or 300 feet of other beaches. This alternative is considered the ''baseline'' alternative to compare against other management strategies, including closure of the unit to PWC use. Operational restrictions at the unit would include those regulations mandated by New Jersey State boating regulations.

Under alternative B, PWC use would continue but would be limited to the navigational channels in the Sandy Hook Unit. Personal watercraft use would be prohibited in all NPS jurisdictional waters in Sandy Hook Bay except for the Shrewsbury River Channel and the Sandy Hook Channel. The oceanside of the unit would be closed to PWC use. All other operational restrictions at the unit, including the New Jersey State boating regulations, would continue to be enforced, as described under alternative A.

Under alternative C, PWC use would continue but only in the navigational channel connecting the Shrewsbury River (at the southernmost boundary of the unit) with the waters of Sandy Hook Bay west of the park boundary. Personal watercraft use would not be allowed in the Sandy Hook Channel, the False Hook Channel (which parallels the Atlantic coast beaches), or in any of the oceanside waters. As described under alternative A, all operational restrictions, including the New Jersey State boating regulations, would continue to be enforced within the Shrewsbury River Channel.

The final alternative is a no-action alternative. The no-action alternative

assumes a scenario of discontinuing all PWC use within this national park system unit. The NPS would take no further action to promulgate a special regulation to retain PWC use, which would result in a ban on PWC use within the unit, including the portions of the Shrewsbury River Channel and the Sandy Hook Channel within the unit.

A preferred alternative is selected for each unit that would best fulfill park responsibilities as trustee of the sensitive habitat; ensure safe, healthful, productive, and aesthetically and culturally pleasing surroundings; and attain a wider range of beneficial uses of the environment without degradation, risk of health or safety, or other undesirable and unintended consequences. The following summarizes the preferred alternative at the Sandy Hook Unit.

Based on the environmental analysis prepared for PWC use at GATE, Sandy Hook Unit, alternative C is the preferred alternative. Alternative C allows limited and restricted PWC use under a special regulation solely for the purpose of access to waters outside of the park. This document proposes regulations to implement alternative C.

Under alternative C, PWC use would not be allowed within the park boundaries of the Sandy Hook Unit, except that PWC would only be allowed to transit the navigational channel connecting the Shrewsbury River (at the southernmost boundary of the unit) with the waters of Sandy Hook Bay west of the park boundary. Operational restrictions at the unit include those restrictions imposed by New Jersey State boating regulations.

As previously noted, NPS will consider the comments received on this proposal, as well as the comments received on the EA. In the final rule, the NPS will implement these alternatives as proposed, or choose a different alternative or combination of alternatives. Therefore, the public should review and consider the other alternatives contained in the EA when making comments on this proposed rule.

The following summarizes the predominant resource protection and public use issues associated with reinstating PWC use at the Sandy Hook Unit of GATE. Each of these issues is analyzed in the *Gateway National Recreation Area, Personal Watercraft Use Environmental Assessment.*

Water Quality

The proposed rule will manage PWC to prevent further degradation of water quality in estuarine and ocean waters, to manage PWC emissions that enter the water in accordance with anti-degradation policies and goals, and to protect plankton and other aquatic organisms from PWC emissions and sediment disturbances so that the viability of dependent species is conserved.

Most research on the effects of PWC on water quality focuses on the impacts of two-stroke engines, and it is assumed that any impacts caused by these engines also apply to the PWC powered by them. There is general agreement that two-stroke engines discharge a gas-oil mixture into the water. Fuel used in PWC engines contains many hydrocarbons, including benzene, toluene, ethylbenzene, and xylene (collectively referred to as BTEX) and polyaromatic hydrocarbons (PAHs). PAH also are released from boat engines, including those in PWC. These compounds are not found appreciably in the unburned fuel mixture, but rather are products of combustion. Discharges of these compounds—BTEX and PAH—have potential adverse effects on water quality.

A typical conventional (*i.e.*, carbureted) two-stroke PWC engine discharges as much as 30% of the unburned fuel mixture directly into the water. At common fuel consumption rates, an average two-hour ride on a PWC may discharge 3 gallons of fuel into the water. According to the California Air Resources Board, an average PWC can discharge between 1.2 and 3.3 gallons of fuel during one hour at full throttle. It is recognized that as time passes fewer of these types of PWCs are used and newer models sold have substantially reduced emissions. Hydrocarbon (HC) discharges to water are expected to decrease substantially over the next 10 years due to mandated improvements in engine technology.

Under this proposed rule only the portion of the Shrewsbury River Channel within the jurisdiction of the Sandy Hook Unit would be open to PWC use. This portion of the Shrewsbury River Channel consists of approximately 17 acres of surface water with an average depth of over 13 feet, which is slightly deeper than the 8-to 12-foot average depth of the unit's waters overall. This restriction would contribute to improved water quality by eliminating PWC pollutants and sediment suspension in shallow water areas of the unit. However, PWC use would be concentrated in a smaller area, resulting in more localized and intensified adverse effects of PWC pollutants before they are dispersed.

Since PWC use would be banned completely from the unit's oceanside waters (park boundary extends for quarter mile offshore), this proposed rule would have a beneficial impact on water quality and associated biota on this side of Sandy Hook. Impacts on water quality in the unit's bayside waters would be somewhat greater than under other options considered because PWC use would be concentrated within approximately 17 acres of surface water within the Shrewsbury River Channel. Currents in this navigational channel are swift, and tide- and wind-driven mixing would rapidly dilute PWC pollutants in this area. Impacts from PWC pollutants under ecotoxicological and human health benchmarks are expected to be negligible in 2002 and 2012. Cumulative impacts on aquatic organisms and human health from all motorized watercraft emissions would be negligible in all areas in 2002 and 2012. Therefore, this proposed rule would not impair water quality.

Air Quality

The proposed rule intends to manage PWC activity so that PWC air emissions of harmful compounds do not contribute to air quality degradation, and do not adversely affect visitor health and safety.

Personal watercraft emits various compounds that pollute the air. In the two-stroke engines commonly used in PWC, the lubricating oil is used once and is expelled as part of the exhaust; and the combustion process results in emissions of air pollutants such as volatile organic compounds (VOC), nitrogen oxides (NO_X), particulate matter (PM), and carbon monoxide (CO). Personal watercraft also emits fuel components such as benzene that are known to cause adverse health effects. Even though PWC engine exhaust is usually routed below the waterline, a portion of the exhaust gases go into the air. These air pollutants may adversely impact park visitor and employee health, as well as sensitive park resources.

For example, in the presence of sunlight VOC and NO_X emissions combine to form ozone. Ozone causes respiratory problems in humans, including cough, airway irritation, and chest pain during inhalations. Ozone is also toxic to sensitive species of vegetation. It causes visible foliar injury, decreases plant growth, and increases plant susceptibility to insects and disease. Carbon monoxide can affect humans as well. It interferes with the oxygen carrying capacity of blood, resulting in lack of oxygen to tissues. NO_X and PM emissions associated with PWC use can also degrade visibility. NO_X can also contribute to acid

deposition effects on plants, water, and soil. However, because emission estimates show that NO_X from PWC are minimal (less than 5 tons per year), acid deposition effects attributable to PWC use are expected to be minimal.

Under this proposed rule, only Shrewsbury River Channel within the Sandy Hook Unit would be open to PWC use. Restricting PWC use to the Shrewsbury River Channel within NPS boundaries, with no PWC use in oceanside waters, would result in negligible adverse impacts from CO and PM emissions. Located in an ozone non-attainment area, there would be minor adverse impacts from NO_X, while impacts from VOC would be moderate in 2002, decreasing to minor by 2012. Overall, emissions from all boating activities would result in moderate adverse impacts from CO and negligible adverse impacts from PM. For ozone precursors in a non-attainment area, impacts from NO_X would be moderate adverse and from VOC major adverse. Therefore, this proposed rule would not impair air quality resources.

Personal watercraft annual emissions would result in moderate adverse impacts for ozone exposure and negligible impacts for visibility. There are no perceptible visibility impacts or ozone injury on plants. Cumulative emissions from all PWC and other motorized boating activities would result in moderate adverse impacts related to ozone exposure and negligible impacts for visibility. Based on this analysis, this proposed rule would not impair air quality related values.

Soundscapes

The proposed rule would manage noise from PWC use in affected areas so that visitors' health and safety is not adversely affected and would improve conditions so visitor enjoyment will not be disturbed by PWC use.

The primary soundscape issue relative to PWC use is that other visitors may perceive the sound made by PWC as an intrusion or nuisance, thereby disrupting their experiences. This disruption is generally short term because PWC travel along the shore to outlying areas. However, as PWC use increases and concentrates at beach areas, related noise becomes more of an issue, particularly during certain times of the day.

The biggest difference between noise from PWC and that from motorboats is that the former continually leave the water, which magnifies noise in two ways. Without the muffling effect of water, the engine noise is typically 15 dBA louder and the smacking of the craft against the water surface results in a loud ''whoop'' or series of them. With the rapid maneuvering and frequent speed changes, the impeller has no constant ''throughput'' and no consistent load on the engine. Consequently, the engine speed rises and falls, resulting in a variable pitch. This constantly changing noise is often perceived as more disturbing than the constant noise from motorboats.

Personal watercraft users tend to operate close to shore, to operate in confined areas, and to travel in groups, making noise more noticeable to other recreationists. Motorboats traveling back and forth in one area at open throttle or spinning around in small inlets also generate complaints about noise levels; however, most motorboats tend to operate away from shore and to navigate in a straight line, thus being less noticeable to other recreationists.

Only the Shrewsbury River Channel in the Sandy Hook Unit would be open to PWC use under the proposed rule. Personal watercraft use that was allowed before April 22, 2002, on the oceanside and limited bayside areas of the unit would be eliminated. Other motorboat access to the unit's waters would not be affected. Personal watercraft-related noise impacts would be negligible over the short and long term and would mostly be caused by continued use outside unit boundaries. Ambient levels are higher on the bayside and would be slightly reduced from those previous to the ban as a result of prohibiting PWC within the park (up to a quarter mile off shore) except for use in the Shrewsbury River Channel. Due to the level of human activity and use restrictions, PWC use would result in negligible adverse impacts on other visitors and the natural soundscapes. Prohibiting PWC use on the oceanside of the unit would have a beneficial impact, reducing noise levels from PWC use.

Personal watercraft use restrictions would limit the areas of PWC use, with beneficial impacts on both the oceanside and bayside. Noise impacts would be negligible over the short and long term. Cumulative impacts of boating noise, ambient noise levels, and PWC noise would range from negligible to minor adverse, depending on location and time of year and compared to the natural soundscape. Therefore, the proposed rule would not impair any soundscape-related values.

Wildlife and Wildlife Habitat

This proposed rule intends to protect a part of the largest collection of natural ecosystems and wildlife habitats in the New York City metropolitan area, to protect birds and other wildlife from the effects of PWC-generated noise, especially during nesting seasons and other critical life stages, to protect fish and wildlife from the adverse effects that result from the bioaccumulation of contaminants, such as PAHs, emitted from PWC and to encourage increasing biodiversity of flora and fauna.

Some research suggests that PWC use affects wildlife by causing interruption of normal activities, alarm or flight, avoidance or degradation of habitat, and effects on reproductive success. This is thought to be a result of a combination of PWC speed, noise and ability to access sensitive areas, especially in shallow-water depths. Waterfowl and nesting birds are the most vulnerable to PWC. Fleeing a disturbance created by PWC may force birds to abandon eggs during crucial embryo development stages, prevent nest defense from predators, and contribute to stress and associated behavior changes. Impacts to sensitive species are documented under ''Threatened, Endangered, or Special Concern Species.''

Under the proposed rule, only the Shrewsbury River Channel would be open to PWC use in the Sandy Hook Unit. Prohibiting PWC use from all other areas within the unit would further minimize the potential for adverse impacts on wildlife, habitat, and aquatic fauna resulting in a beneficial impact. Negligible adverse impacts over the short and long term could result from disturbing waterfowl and other wildlife in open water near the Shrewsbury River Channel. Future increases in PWC use are likely around the Sandy Hook Unit, along with increases in other motorized watercraft use in and adjacent to the unit, with a greater potential for adverse effects to wildlife and habitat in the unit. The intensity of adverse impacts would be minor and indirect over the short and long term because species sensitive to noise and human activity are not expected to regularly occur in high-use areas or immediately adjacent habitats during peak periods. Therefore, limiting the area exposed to disturbance by PWC use would not impair wildlife, wildlife habitat, or aquatic fauna.

Threatened, Endangered, or Special Concern Species

This proposed rule aims to improve the status of GATE's four listed threatened and endangered and protected species and their habitats.

The same issues described for PWC use and general wildlife also pertain to special concern species. Potential impacts from PWC include inducing flight and alarm responses, disrupting normal behaviors and causing stress,

degrading habitat quality, and potentially affecting reproductive success. Special status species at the recreation area include Federal or State listed threatened, endangered, or candidate species.

The Endangered Species Act (16 U.S.C 1531 *et seq.*) mandates that all Federal agencies consider the potential effects of their actions on species listed as threatened or endangered. If the NPS determines that an action may adversely affect a federally listed species, consultation with the U.S. Fish and Wildlife Service is required to ensure that the action will not jeopardize the species' continued existence or result in the destruction or adverse modification of critical habitat.

Federally endangered wildlife species documented to occur in the Sandy Hook Unit include the Kemp's ridley sea turtle, leatherback sea turtle, northern right whale, humpback whale, and fin whale. Federally listed threatened wildlife species documented to occur in the area include the piping plover, loggerhead sea turtle, and northeastern beach tiger beetle.

Personal watercraft use would only be allowed in the Shrewsbury River Channel, which would minimize the potential for adverse impacts on special status species occurring in the unit. Impacts to species in nearshore and shoreline areas would be beneficial since most of these areas would be unaffected by PWC use. Closing all ocean beaches to PWC use within the unit would minimize the potential for disturbance of special status shorebirds nesting, foraging, or resting along the ocean beaches. Restricting PWC access from shallow water habitat would also enhance the quality habitat for sea turtles that may occur in the area. The proposed rule is not likely to adversely affect threatened, endangered, or special concern species that occur in the Sandy Hook Unit.

Shoreline Vegetation

This proposed regulation intends to regulate PWC use to reduce erosion in areas where shoreline vegetation is extremely sensitive and to manage PWC use to protect sensitive shoreline areas (vegetation/erosion) from PWC activity and access.

Under the proposed rule for the Sandy Hook Unit impacts to shoreline and tidal wetland vegetation and habitats would be beneficial because all shoreline and nearshore areas would be closed to PWC use. Cumulative impacts would be minor, direct and indirect, and adverse over the short and long term because of continued, limited access to shallow water areas by conventional motorized watercraft and continued foot traffic around landing areas. This proposed rule would not impair shoreline vegetation or wetland habitats.

Visitor Experience

In proposing this regulation, NPS aims to manage the potential conflicts between PWC use and park visitors and to help ensure that visitors safely enjoy and are satisfied with the quality of park recreational activities.

Impacts on PWC Users

Impacts would be both short and long term and minor to moderate as a consequence of closing most areas of the unit to PWC use. The Shrewsbury River Channel would remain open to PWC use. Other areas outside of NPS boundaries would remain available to PWC users.

Impacts on Other Boaters

Interactions between other boaters and PWC operators would continue on a limited basis within the Shrewsbury River Channel, but potential impacts on the non-PWC boater visitor experiences would be reduced because of the prohibition of PWCs in other use areas. Based on this analysis, the proposed rule would have negligible adverse impacts in the Shrewsbury River Channel and beneficial impacts elsewhere.

Impacts on Other Visitors

Other visitors would have limited contact with PWC operators. The effects on park visitors would be beneficial because PWC users would be prohibited from operating within park waters (except within the Shrewsbury River Channel) and prohibited from landing anywhere within the park.

Therefore, this proposed rule would have beneficial impacts on the experiences of visitors other than PWC users. There would be minor to moderate adverse impacts on PWC users as a consequence of closing most areas of the unit to PWC use other than the Shrewsbury River Channel. Cumulative impacts on all PWC users would be negligible to minor because areas outside the unit would remain open to PWC use. Impacts on other boaters, as well as other visitors onshore, would be beneficial within the unit and negligible adverse outside of the unit, with potential for increased congestion in the waterways outside the park. Most visitors would continue to be satisfied with their experiences at the Sandy Hook Unit.

Visitor Conflict and Safety

With this proposed rule, NPS intends to minimize or reduce the potential for PWC user accidents, to minimize or reduce the potential safety conflicts between PWC users and other water recreation users, to decrease visitor accident and incident rates, and to help ensure that visitors safely enjoy and are satisfied with the quality of park recreation activities.

Some research suggests that PWC use is viewed by some segments of the public as a nuisance due to the noise, speed, and overall environmental effects, while others believe that PWC use is no different from other watercraft, and recreational users have a ''right'' to enjoy this sport.

Closing most of Sandy Hook's waters to PWC use would have beneficial impacts on swimmers and other boaters. There would be a minor potential for accidents between PWC users and other boaters in the Shrewsbury River Channel. An increased potential for accidents between PWC users and other boaters could occur outside NPS waters. Some beneficial impacts would result from restrictions on PWC use and reduced potential for conflicts and accidents.

The Proposed Rule

As established by the April 2000 National Park Service rule, PWC use is prohibited in all NPS areas unless determined appropriate. The process used to identify appropriate PWC use at GATE considered the known and potential effects of PWC on park natural resources, traditional uses, and public health and safety.

National Park Service proposes to allow limited PWC use at GATE under a special regulation in § 7.29. Since NPS is proposing different special rules for each of the three units (Jamaica Bay, Staten Island, and Sandy Hook) within the GATE, three new paragraphs would be added to § 7.29.

Under this proposed rule, NPS proposes to allow PWC use in the Sandy Hook Unit only in the navigational channel connecting the Shrewsbury River (at the southernmost boundary of the unit) with the waters of Sandy Hook Bay west of the park boundary. Also this proposed rule would prohibit PWC users from launching or landing PWCs within the Sandy Hook Unit unit.

In addition to the limitations in the proposed special regulation, all State and Federal regulations regarding PWC use will be enforced by the NPS pursuant to 36 CFR 3.1. For the Sandy Hook Unit this would mean New Jersey law.

Compliance With Other Laws

Regulatory Planning and Review (Executive Order 12866)

This document is not a significant rule and has not been reviewed by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. This determination is based upon the Economic Impact Analysis (EIA) prepared for PWC use at all three units. The EIA may be viewed on the park's Web site at *http://nps.gov/gate/pwc/ea.pdf*. All preferred alternatives would best fulfill park responsibilities as trustee of the habitat; ensuring safe, healthful, productive, and aesthetically and culturally pleasing surroundings; and attaining a wide range of beneficial uses of the environment without degradation, risk of health or safety, or other undesirable and unintended consequences.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The EA has taken into consideration the following Federal, State and other agency plans and activities:

Federal

a. 1972 Coastal Zone Management Act.

b. 1982 Coastal Barriers Resources Act.

c. Gerritsen Creek Restoration Project (Army Corps of Engineers).

d. Jamaica Bay Ecosystem Restoration Project (National Park Service and Army Corps of Engineers).

e. Jamaica Bay Shoreline Protection Project (National Park Service and Army Corps of Engineers).

f. Jamaica Bay Ecological Research and Restoration Team (National Park Service and Army Corps of Engineers).

State

a. 2000 Non-Point Source Management Program (New York State).

b. New Jersey Coastal Management Plan.

c. New York Coastal Management Program.

d. New Jersey Watershed Management Area 12.

e. 1998 New York Clean Water Action Plan.

f. New Jersey Water Quality Standards.

g. 2000 New Jersey Water Quality Inventory Report.

h. New York Water Quality Standards, New York State.

Implementation Plan

a. New York and New Jersey State Boating Laws.

(3) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This rule does not raise novel legal or policy issues. This rule is one of the special regulations being issued for managing PWC use in National Park Units. The NPS published general regulations (36 CFR 3.24) in March 2000, requiring individual park areas to adopt special regulations to authorize PWC use. The implementation of the requirement of the general regulation continues to generate interest and discussion from the public concerning the overall effect of authorizing PWC use and NPS policy and park management.

Regulatory Flexibility Act

The Department of the Interior certifies that this rulemaking will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This certification is based on a report entitled ''Economic Analysis of Personal Watercraft Regulations in Gateway National Recreation Area'' (RTI, International, March 2002). This document may be viewed on the park's Web site at: *http://www.nps.gov/gate/pphtml/news.html.*

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. This rule is an agency specific rule and does not impose any other requirements on other agencies, governments, or the private sector.

Takings (Executive Order 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. A taking implication assessment is not required. No taking of personal property will occur as a result of this rule.

Federalism (Executive Order 13132)

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This proposed rule only affects use of NPS administered lands and waters. It has no outside effects on other areas by allowing PWC use in specific areas of the park.

Civil Justice Reform (Executive Order 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

This regulation does not require an information collection from 10 or more parties and a submission under the Paperwork Reduction Act is not required. An OMB Form 83–I is not required.

National Environmental Policy Act

As a companion document to this NPRM, NPS has issued the *Personal Watercraft Use Environmental Assessment for Gateway National Recreation Area.* The EA was open for public review and comment from May 15 to June 15, 2003. Copies of the EA may be downloaded from the Web at: *http://nps.gov/gate/pwc/ea.pdf.*

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government to Government Relations with Native American Tribal Governments'' (59 FR 22951) and 512 DM 2, we have evaluated potential effects on Federally recognized Indian tribes and have determined that there are no potential effects. In the EA, the *Sacred Sites/Native American Concerns* section states: This is not an issue at GATE because there are no known sacred sites or Native American concerns at GATE or, more specifically, within the vicinity of existing or potential future landing areas for PWC use areas.

Clarity of Rule

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to read if it were divided into more (but shorter) sections? (A ''section'' appears

in bold type and is preceded by the symbol ''§ '' and a numbered heading; for example [§ 7.29 Gateway Recreation Area.] (5) Is the description of the rule in the ''Supplementary Information'' section of the preamble helpful in understanding the proposed rule? What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You may also e-mail the comments to this address: *Exsec@ios.doi.gov.*

Drafting Information: The primary authors of this regulation are: Barry T. Sullivan, General Superintendent, José Rosario, Chief, Operations Support, HQ, Liam Strain, Park Ranger, Operations Support, HQ, Gateway NRA; Sarah Bransom, Environmental Quality Division; and Jerry Case, Regulations Program Manager.

Public Participation

You may submit comments, identified by the number RIN 1024–AD42, by any of the following methods:

—Federal rulemaking portal: *http://www.regulations.gov* Follow the instructions for submitting electronic comments.

—E-mail at *GATE_PWCComments@louisberger.com* Use RIN 1024–AD42 in the subject line.

—Mail or hand deliver to: General Superintendent, Gateway National Recreation Area, 210 New York Avenue, Staten Island, NY 10306.

Our practice is to make comments, including names and addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials or organizations or businesses, available for public inspection in their entirety.

List of Subjects in 36 CFR Part 7

District of Columbia, National Parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the National Park Service proposes to amend 36 CFR part 7 as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority for part 7 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 460(q), 462(k); Sec. 7.96 also issued under D.C. Code 8–137(1981) and D.C. Code 40–721 (1981).

2. Amend § 7.29 by adding paragraph (f) to read as follows:

§ 7.29 Gateway National Recreation Area

* * * * *

(f) *Personal watercraft (PWC): Sandy Hook Unit.*

(1) PWC use is allowed in the Sandy Hook Unit of Gateway National Recreation Area only in that portion of the Shrewsbury River Channel connecting the Shrewsbury River (at the southernmost boundary of the unit) with the waters of Sandy Hook Bay, west of the park boundary.

(2) Launching or landing PWCs within the Sandy Hook Unit is prohibited.

(3) The Superintendent may temporarily limit, restrict, or terminate access to the areas designated for PWC use after taking into consideration public health and safety, natural and cultural resource protection, and other management activities and objectives.

Dated: February 13, 2006.

Paul Hoffman,

Deputy Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. E6–2647 Filed 2–23–06; 8:45 am]

BILLING CODE 4312–52–P

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 7

RIN 1024–AD41

Gateway National Recreation Area, Jamaica Bay Unit, Personal Watercraft Use

AGENCY: National Park Service, Interior.

ACTION: Proposed rule.

SUMMARY: The National Park Service (NPS) is proposing to designate areas for the limited purpose of providing passage access through park waters for personal watercraft (PWC) use in the Jamaica Bay Unit of Gateway National Recreation Area (GATE), New York/New Jersey. This proposed rule implements the provisions of the NPS general regulations authorizing park areas to allow the use of PWC by promulgating a special regulation. Individual parks must determine whether PWC use is appropriate for a specific park area based on an evaluation of that area's enabling legislation, resources and values, other visitor uses, and overall management objectives. The proposed rule designating areas where PWC may be used in the Sandy Hook unit of GATE, New York/New Jersey is published elsewhere in today's **Federal Register**.

DATES: Comments must be received by April 25, 2006.

ADDRESSES: You may submit comments, identified by the number RIN 1024–AD41, by any of the following methods:

- Federal rulemaking portal: *http://www.regulations.gov.* Follow the instructions for submitting comments.
- E-mail NPS at *GATE_PWCComments@louisberger.com.*
- Mail or hand deliver to: General Superintendent, Gateway National Recreation Area, 210 New York Avenue, Staten Island, NY 10306.

For additional information see ''Public Participation'' under **SUPPLEMENTARY INFORMATION** below.

FOR FURTHER INFORMATION CONTACT: Jerry Case, Regulations Program Manager, National Park Service, 1849 C Street, NW., Room 7241, Washington, DC 20240. Phone: (202) 208–4206. E-mail: *Jerry_Case@nps.gov.*

SUPPLEMENTARY INFORMATION:

Background

Additional Alternatives

The information contained in this proposed rule for the Jamaica Bay Unit of GATE supports implementation of the preferred alternative from the Environmental Assessment (EA) published April 3, 2003. The public should be aware that three other alternatives were presented in the EA, including a no-PWC alternative, and those alternatives should also be reviewed and considered when making comments on this proposed rule.

Personal Watercraft Regulation

On March 21, 2000, the NPS published a regulation (36 CFR 3.24) on the management of PWC use within all units of the national park system (65 FR 15077). This regulation prohibits PWC use in all national park units unless the NPS determines that this type of water-based recreational activity is appropriate for the specific park unit based on the legislation establishing that park, the park's resources and values, other visitor uses of the area, and overall management objectives. The regulation prohibited PWC use in all park units effective April 20, 2000, except 21

parks, lakeshores, seashores, and recreation areas until individual park units adopted special regulations to manage PWC use. The regulation established a 2-year grace period following the final rule publication to provide these 21 park units time to consider whether PWC use should be permitted to continue.

Description of Gateway National Recreation Area and the Jamaica Bay Unit

Gateway National Recreation Area is located in the heart of the New York City metropolitan area. The park, which extends through three New York City boroughs and into New Jersey, consists of more than 26,000 acres and has been assembled from city parks, military sites, and undeveloped land. Congress established GATE in 1972 as one of the first urban parks in the national park system. Gateway National Recreation Area is composed of three distinct units—Jamaica Bay, Staten Island, and Sandy Hook. These units comprise a seashore ecosystem of wildlife, private communities, and outdoor recreational activities in an urban environment. This proposed rule addresses PWC use in the Jamaica Bay Unit. The proposed rule designating areas where PWC may be used in the Sandy Hook units of GATE, New York/New Jersey is published elsewhere in today's **Federal Register**.

Jamaica Bay is the largest unit of GATE and is located along the southern shore of Brooklyn and Queens. This unit contains a variety of activity areas, including Frank Charles Memorial Park, Canarsie Pier, Bergen Beach, Plumb Beach, Breezy Point, Fort Tilden, Jacob Riis Park, Floyd Bennett Field, and the Jamaica Bay Wildlife Refuge. Some of the activities include biking, birdwatching, exhibits, gardening, group camping, hiking, military history, nature study, picnicking, basketball, golf, paddle tennis, sunbathing, swimming, volleyball, art exhibits, music and theater performances, playgrounds, and fishing.

Gateway National Recreation Area is unique from other national parks in that it has few natural buffer zones and exists in a changing environment. The lands and waters of GATE represent the last remnants of the original shoreline and provide a coastal recreation resource that may serve more visitors than any national park in the system. Visitation has been estimated to be about 8 million annually. In 2001, the Jamaica Bay and Staten Island Units in New York received more than 6 million visitors and the Sandy Hook Unit in New Jersey received over 1 million visitors. Because of its urban setting, proximity to two major airports, and intense visitor use, GATE is less likely than some park units to ever offer substantial opportunities for solitude or quiet contemplative experiences.

Gateway National Recreation Area has come to demonstrate the potential of ecological reclamation in an urban setting. Scientists have noted that the ecological restoration of Jamaica Bay and other GATE areas is proof that we can work with nature and reclaim what has been severely impacted.

Purpose of Gateway National Recreation Area

Congress established GATE in October 27, 1972, as part of an effort to bring the NPS and its ethic of preserving and protecting outstanding resources closer to major urban areas: ''In order to preserve and protect for the use and enjoyment of present and future generations an area possessing outstanding natural and recreational features, the Gateway National Recreational Area * * * is hereby established.'' (16 U.S.C. 460(c)).

Significance of Gateway National Recreation Area

Gateway National Recreation Area's primary significance is provided in its *Strategic Plan* as follows:

Gateway National Recreation Area encompasses the largest collection of natural ecosystems, wildlife habitats, historic resources, and recreational opportunities in the New Jersey/New York metropolitan areas.

Gateway National Recreation Area endeavors to incorporate the NPS conservation ethic into those values, consistent with its highly urbanized setting and visitor use patterns.

Natural and cultural resources and associated values are protected, restored, and maintained in good condition and managed within their broader ecosystem and cultural context to the maximum extent possible.

Visitors safely enjoy and are satisfied with the availability, accessibility, diversity, and quality of park recreational opportunities.

Authority and Jurisdiction

Under the National Park Service's Organic Act of 1916 (Organic Act) (16 U.S.C. 1, *et seq.*) Congress granted the NPS broad authority to regulate the use of the Federal areas known as national parks. In addition, the Organic Act (16 U.S.C. 3) allows the NPS, through the Secretary of the Interior, to ''make and publish such rules and regulations as he may deem necessary or proper for the use and management of the parks * * *''

16 U.S.C. 1a–1 states, ''The authorization of activities shall be conducted in light of the high public value and integrity of the National Park System and shall not be exercised in derogation of the values and purposes for which these various areas have been established * * *''

The NPS's regulatory authority over waters subject to the jurisdiction of the United States, including navigable waters and areas within their ordinary reach, is based upon the Property and, as with the United States Coast Guard, Commerce Clauses of the U.S. Constitution. In regard to the NPS, Congress in 1976 directed the NPS to ''promulgate and enforce regulations concerning boating and other activities on or relating to waters within areas of the National Park System, including waters subject to the jurisdiction of the United States * * *'' (16 U.S.C. 1a–2(h)). In 1996 the NPS published a final rule (61 FR 35136, July 5, 1996) amending 36 CFR 1.2(a)(3) to clarify its original intent and authority to regulate activities within the NPS boundaries occurring on waters subject to the jurisdiction of the United States.

PWC Use at Gateway National Recreation Area and the Jamaica Bay Unit

Water-based recreational activity at GATE, including wading, swimming, fishing, and boating, is a major activity in the park. All three park units are located alongside some of the finest shoreline in the nation, which includes expansive bays, basins, creeks, marshes, and open water. Motorized use of these water resources is primarily by powerboat enthusiasts and secondarily by PWC owners. Motorized watercraft accessing the recreation area typically ranges from 15 to 23 feet in length. Some yachts and fishing boats in the park are 50 to 100 feet in length. Personal watercraft represented 10% to 15% of the motorized watercraft within the recreation area prior to the April 22, 2002 prohibition. Other water activities include sailing, kayaking, canoeing, windsurfing, and kite-skiing.

Personal watercraft use within GATE has probably occurred since PWC were introduced to the public. Personal watercraft use began in the 1980's and grew very rapidly. While the increase in PWC use has recently slowed down somewhat, use still continued slowly to climb before the prohibition. The rise may be attributed to design features which make it possible now for some PWC to carry more than two passengers and even as many as six. Personal watercraft use can be characterized as

intense for approximately six months out of the year.

Specifically in the Jamaica Bay Unit, of the 3,747,044 visitors to the unit in 2001, 43,062 used some form of watercraft. The NPS estimates that approximately 15% of boaters in the Jamaica Bay Unit are PWC users. The heaviest PWC use is during the summer season.

In 2001, the United States Park Police Marine Unit counted 395 PWC docked at waterfront homes of the inlets, basins, and channels leading out to Jamaica Bay. This number did not include PWC berthed at many local marinas or private boat clubs, which abound in the surrounding community. In addition, many PWC are trailered to the area and launched from various designated locations throughout the units. Based upon this activity a more realistic estimate of PWC utilizing the bay may be more that double the above figure.

Before PWC were prohibited on April 22, 2002, the Jamaica Bay Unit managed PWC use the same as other motorized vessels, without specific PWC regulations. Before the prohibition, PWC use and other motorized vessels were allowed within the Jamaica Bay Unit and were not limited to specific areas. In accordance with NPS regulations (36 CFR 3.6) motorized vessels must travel at flat wake speed when within 500 feet of swimming beaches or within 100 feet of a diver's marker, downed water-skier, or swimmer. Also, motorized vessels can only land in designated locations. The Superintendent's Compendium for the Jamaica Bay Unit closes ocean beaches, designated swimming beaches, shorebird-nesting areas, and areas of potential visitor use to landing or launching of all motorized watercraft, including PWC. In the Jamaica Bay Unit most of the PWC users launch from city property located in Brooklyn and Queens or private docks along the inlets to Jamaica Bay. Launching occurs at various points around the bay, including Paerdegat Basin Marina, Shellbank Basin, Sheepshead Bay, and homeowner piers. The Gateway Marina in Floyd Bennett Field prohibits PWC use. Personal watercraft users usually use shore areas, explore coves, circle around the marsh islands, and sometimes venture into the small channels connecting the marshes. However, the majority of PWC users operate primarily within Jamaica Bay, out to Breezy Point, and in open waters facing the ocean.

Of particular concern is the impact to GATE's estuaries in all three units, which include the open salt water, salt marshes, and the fresh water, which empties into these bodies of water. Gateway National Recreation Area has over 3,000 acres of fresh and tidal wetlands. The wetlands provide the habitats for literally hundreds of birds, fish, mammals, reptiles, amphibians, shellfish, and other invertebrates both migratory and indigenous species. Therefore, due to the delicate nature of these areas and other visitor experience issues, the NPS has concluded that PWC use should be limited to navigational channels only to be used for the purpose of providing passage access through park waters.

Resource Protection and Public Use Issues

Gateway National Recreation Area Environmental Assessment

As a companion document to this NPRM, NPS has issued the *Personal Watercraft Use Environmental Assessment for Gateway National Recreation Area*. The EA was published on April 2003. Copies of the EA may be downloaded at *http://www.nps.gov/gate/pphtml/news.html*.

The purpose of the EA is to evaluate a range of alternatives and strategies for the management of PWC use in each of the units at GATE to ensure the protection of park resources and values while offering recreational opportunities as provided for in the National Recreation Area's enabling legislation, purpose, mission, and goals. The assessment assumed alternatives would be implemented beginning in 2002 and considered a 10-year period, from 2002 to 2012. The assessment also compares each alternative to PWC use before April 22, 2002, when the prohibition took effect. In addition, the EA defines such terms as ''negligible'' and ''adverse.'' In this document, these terms are used to describe the environmental impact. Refer to the EA for complete definitions.

The EA evaluates four alternatives addressing the use of PWC at the three park units of GATE—Jamaica Bay, Staten Island, and Sandy Hook. Each unit is assessed separately. The following describes the four alternatives discussed in the EA for Jamaica Bay Unit:

Under alternative A, by using a special regulation, PWC use would be reinstated under the management policies that applied to PWC use before April 22, 2002, as defined in the Jamaica Bay Unit Superintendent's Compendium. Before the prohibition on PWC use, the Jamaica Bay Unit had no specific regulations directed at managing PWC use; rather PWC use was addressed under the category of motorized vessels. The only limitation in addition to State rules was a prohibition on launching or recovery of vessels within the unit.

Under alternative B, PWC use would be managed by imposing geographic restrictions on PWC use at the Jamaica Bay Unit in addition to those restrictions in effect before the April 22, 2002 prohibition. Therefore alternative B would incorporate the pre-prohibition restrictions, which are the same as alternative A, and add additional geographic restrictions. Under alternative B, additional geographic restrictions on PWC use would prohibit the use of PWC in all areas of the unit with the exception of the following navigational channels: North Channel (Island Channel), Beach Channel (South Channel), Grass Hassock Channel, Rockaway Inlet, and Broad Channel to the trestle bridge (the Raunt). Personal watercraft owners living on the adjacent creeks, basins, and waterways would be allowed access through the unit; however, they must stay within the buoyed navigational channels from Gerritsen Creek, Mill Basin, Paerdegat Basin, Shellbank Basin, Hawtree Creek, Breezy Point, and Roxbury. Personal watercraft use would be prohibited from all waters along Breezy Point, and a 150-foot buffer would be implemented around all protected areas within Jamaica Bay. All State and Federal PWC regulations that existed prior to the prohibition would remain in effect and be enforced by the NPS.

Under alternative C, the same restrictions would be in effect as under the previous two alternatives except that Winhole Channel would be open to PWC use, maintaining a circuitous route around Jamaica Bay, eliminating the need for PWC users to turn around in navigational channels, and allowing more area for PWC use in Jamaica Bay. The final alternative is the no-action alternative which assumes a scenario of discontinuing all PWC use at this unit. The NPS would take no further action to promulgate a special regulation to allow PWC use, which would result in a ban on PWC use at the unit.

A preferred alternative was selected that would best fulfill park responsibilities as trustee of the sensitive habitat; ensure safe, healthful, productive, and aesthetically and culturally pleasing surroundings; and attain a wider range of beneficial uses of the environment without degradation, risk of health or safety, or other undesirable and unintended consequences.

Based on the environmental analysis prepared for PWC use at GATE, Jamaica Bay Unit, alternative B is the preferred alternative. Alternative B allows PWC use restricted to navigational channels

under a special regulation with additional geographic restrictions. This document proposes regulations to implement alternative B.

As previously noted the NPS will consider comments received on this proposal, as well as the comments received on the EA. In the final rule, the NPS will implement these alternatives as proposed, or choose a different alternative or combination of alternatives. Therefore, the public should review and consider the other alternatives contained in the EA when making comments on this proposed rule.

The following summarizes the predominant resource protection and public use issues associated with reinstating PWC use at the Jamaica Bay Unit of GATE under the proposed rule which implements alternative B. Each of these issues is analyzed in the *Gateway National Recreation Area, Personal Watercraft Use Environmental Assessment*.

Water Quality

The proposed rule will manage PWC to prevent further degradation of water quality in estuarine and ocean waters, to manage PWC emissions that enter the water in accordance with anti-degradation policies and goals, and to protect plankton and other aquatic organisms from PWC emissions and sediment disturbances so that the viability of dependent species is conserved.

Most research on the effects of PWC on water quality focuses on the impacts of two-stroke engines, and it is assumed that any impacts caused by these engines also apply to the PWC powered by them. There is general agreement that two-stroke engines discharge a gas-oil mixture into the water. Fuel used in PWC engines contains many hydrocarbons, including benzene, toluene, ethylbenzene, and xylene (collectively referred to as BTEX) and polyaromatic hydrocarbons (PAHs). PAH also are released from boat engines, including those in PWC. These compounds are not found appreciably in the unburned fuel mixture, but rather are products of combustion. Discharges of these compounds—BTEX and PAH—have potential adverse effects on water quality.

A typical conventional (i.e., carbureted) two-stroke PWC engine discharges as much as 30% of the unburned fuel mixture directly into the water. At common fuel consumption rates, an average two-hour ride on a PWC may discharge 3 gallons of fuel into the water. According to the California Air Resources Board, an average PWC can discharge between 1.2 and 3.3 gallons of fuel during one hour at full throttle. It is recognized that as time passes fewer of these types of PWCs are used and newer models sold have substantially reduced emissions. Hydrocarbon (HC) discharges to water are expected to decrease substantially over the next 10 years due to mandated improvements in engine technology.

Under this proposed rule PWC use would be restricted in Jamaica Bay to the North Channel (Island Channel), Broad Channel (the Raunt), Beach Channel (South Channel), Plumb Beach Channel, Gerritsen Inlet toward Sheepshead Bay, Coney Island Channel, and Grass Hassock Channel. Personal watercraft use would be prohibited from the Breezy Point waters. For the purpose of evaluating impacts on water quality under this proposed rule, it is assumed that the same number of PWC would be operating in Jamaica Bay as were operated before the prohibition, but would be confined to smaller areas under these new restrictions. Further, it is assumed that PWC users that formerly used the Breezy Point area would no longer use any of the unit's waters.

Under this proposed rule water quality impacts from PWC emissions based on ecotoxicological and human health benchmarks would be negligible for all pollutants in all areas in 2002 and 2012. Closing Breezy Point to PWC use would have a beneficial effect on water quality. Restricting PWC use to the main navigational channels within Jamaica Bay would have beneficial impacts on shoreline areas, but would not reduce the number of PWC or emissions and would result in more localized adverse effects of PWC pollutants. Cumulative water quality impacts from all watercraft under the proposed rule based on ecotoxicological benchmarks would be negligible for all pollutants in all areas in 2002 and 2012. Cumulative water quality impacts from all motorized use based on human health benchmarks are expected to be minor in 2002 and negligible in 2012. Therefore, this proposed regulation would not impair water quality.

Air Quality

The proposed rule intends to manage PWC activity so that PWC air emissions of harmful compounds do not contribute to air quality degradation, and do not adversely affect visitor health and safety.

Personal watercraft emits various compounds that pollute the air. In the two-stroke engines commonly used in PWC, the lubricating oil is used once and is expelled as part of the exhaust; and the combustion process results in emissions of air pollutants such as volatile organic compounds (VOC), nitrogen oxides (NO_X), particulate matter (PM), and carbon monoxide (CO). Personal watercraft also emits fuel components such as benzene that are known to cause adverse health effects. Even though PWC engine exhaust is usually routed below the waterline, a portion of the exhaust gases go into the air. These air pollutants may adversely impact park visitor and employee health, as well as sensitive park resources.

For example, in the presence of sunlight VOC and NO_X emissions combine to form ozone. Ozone causes respiratory problems in humans, including cough, airway irritation, and chest pain during inhalations. Ozone is also toxic to sensitive species of vegetation. It causes visible foliar injury, decreases plant growth, and increases plant susceptibility to insects and disease. Carbon monoxide can affect humans as well. It interferes with the oxygen carrying capacity of blood, resulting in lack of oxygen to tissues. NO_X and PM emissions associated with PWC use can also degrade visibility. NO_X can also contribute to acid deposition effects on plants, water, and soil. However, because emission estimates show that NO_X from PWC are minimal (less than 5 tons per year), acid deposition effects attributable to PWC use are expected to be minimal.

Under this proposed rule, PWC annual emissions in 2002 and 2012 would result in major adverse impacts from CO emissions and negligible adverse impacts from PM emissions in the Jamaica Bay Unit. For ozone precursors, impacts from VOC would be major adverse in 2002, decreasing to moderate adverse in 2012, and impacts from NO_X would be minor adverse in 2002 and 2012. The cumulative impacts from all boating activities under this proposed rule would be major adverse for CO (as defined by the Federal conformity rule) and negligible for PM. The proposed rule would not impair air quality to human health from airborne pollutants related to PWC use since the proposed alternatives will not change or jeopardize existing ambient air quality levels, while they will improve air quality levels when compared to the PWC use under previously existing conditions.

Personal watercraft annual emissions under this proposed rule would result in moderate adverse impacts for ozone in 2002 and 2012. Before April 22, 2002, there were no perceptible qualitative visibility impacts or observed ozone injury on plants. Impacts on visibility from airborne pollutants related to PWC

use would be negligible. Cumulative impacts from all PWC and other marine boating activities would result in moderate adverse ozone impacts and negligible visibility impacts in 2002 and 2012. Based on this analysis, this proposed rule would not impair air quality related values.

Soundscapes

The proposed rule would manage noise from PWC use in affected areas so that visitors' health and safety is not adversely affected and would improve conditions so visitor enjoyment will not be disturbed by PWC use.

The primary soundscape issue relative to PWC use is that other visitors may perceive the sound made by PWC as an intrusion or nuisance, thereby disrupting their experiences. This disruption is generally short term because PWC travel along the shore to outlying areas. However, as PWC use increases and concentrates at beach areas, related noise becomes more of an issue, particularly during certain times of the day.

The biggest difference between noise from PWC and that from motorboats is that the former frequently leave the water, which magnifies noise in two ways. Without the muffling effect of water, the engine noise is typically 15 dBA louder and the smacking of the craft against the water surface results in a loud ''whoop'' or series of them. With the rapid maneuvering and frequent speed changes, the impeller has no constant ''throughput'' and no consistent load on the engine. Consequently, the engine speed rises and falls, resulting in a variable pitch. This constantly changing noise is often perceived as more disturbing than the consistent noise from motorboats.

Personal watercraft users tend to operate close to shore, to operate in confined areas, and to travel in groups, making noise more noticeable to other recreationists. Motorboats traveling back and forth in one area at open throttle or spinning around in small inlets also generate complaints about noise levels; however, most motorboats tend to operate away from shore and to navigate in a straight line, thus being less noticeable to other recreationists.

This proposed rule for Jamaica Bay would prohibit PWC use throughout the unit except at flat wake speed in designated navigational channels. PWC use would be prohibited at Breezy Point. As a result, it is assumed that 35 PWC would use the channels in Jamaica Bay on a peak summer day, and 10 would use Rockaway Inlet. Personal watercraft noise impacts in these areas would be similar to what existed before the prohibition on PWC use, although more localized in the navigational channels. Overall noise would probably be less noticeable to park visitors on the shoreline since PWC traffic would be farther away within the central channels. Personal watercraft related noise impacts would range from negligible to minor adverse over the short and long term in and near navigational channels open to PWC use. Visitors at Breezy Point would experience less noise with the removal of PWC use.

Noise from all motorized watercraft, as well as ambient noise levels occurring outside the unit, would have negligible to moderate adverse impacts on other recreational users within the unit, similar to before the prohibition on PWC use. Noise impacts would be minor to other visitors and minor to moderate compared to the natural soundscape. Therefore, the proposed rule would not impair any soundscape-related values.

Wildlife and Wildlife Habitat

This proposed rule intends to protect a part of the largest collection of natural ecosystems and wildlife habitats in the New York City metropolitan area, to protect birds and other wildlife from the effects of PWC-generated noise, especially during nesting seasons and other critical life stages, to protect fish and wildlife from the adverse effects that result from the bioaccumulation of contaminants, such as PAHs, emitted from PWC and to encourage increasing biodiversity of flora and fauna.

Some research suggests that PWC use affects wildlife by causing interruption of normal activities, alarm or flight, avoidance or degradation of habitat, and effects on reproductive success. This is thought to be a result of a combination of PWC speed, noise and ability to access sensitive areas, especially in shallow-water depths. Waterfowl and nesting birds are the most vulnerable to PWC. Fleeing a disturbance created by PWC may force birds to abandon eggs during crucial embryo development stages, prevent nest defense from predators, and contribute to stress and associated behavior changes. Impacts to sensitive species are documented under ''Threatened, Endangered, or Special Concern Species.''

Under the proposed rule for the Jamaica Bay Unit, in areas that would be open to PWC use, impacts on wildlife and wildlife habitat would be short and long term, minor, and adverse. Effects are expected to be minor because species sensitive to a high level of noise and human activity would probably not regularly use these areas during summer peak periods. Requirements for PWC users to stay within navigational channels, not to access shoreline habitats, and to operate at a flat wake speed would minimize adverse effects associated with rapid approach, collision, and noise to wildlife utilizing the shoreline and nearshore habitats in the Jamaica Bay Unit.

In areas where PWC use would be prohibited, including the areas around the islands bordering Winhole Channel, impacts on shorebirds, waterfowl, and other fish and wildlife species using shallow water habitats and the shorelines would be beneficial. Restricting PWC access to large areas of shallow-water habitat in the unit would also enhance the quality of essential fish habitat in these areas, a beneficial impact.

On a cumulative basis impacts on wildlife species would be adverse and minor to moderate over the short and long term. In areas closed to PWC use (all areas outside of existing navigational channels) impacts would be beneficial; however, impacts associated with use by other motorized watercraft would continue to impact areas throughout the unit. Wildlife in areas closed to PWC use could be adversely affected by uses in the navigational channels as a result of noise and possible water quality impacts; however, considering existing background conditions, these effects are expected to be negligible. In addition, cumulative impacts on aquatic fauna would be moderate over the short and long term. Therefore, the proposed rule would not impair wildlife, wildlife habitat, or aquatic fauna.

Threatened, Endangered, or Special Concern Species

This proposed rule aims to improve the status of the unit's threatened and endangered and protected species and their habitats.

The same issues described for PWC use and general wildlife also pertain to special concern species. Potential impacts from PWC include inducing flight and alarm responses, disrupting normal behaviors and causing stress, degrading habitat quality, and potentially affecting reproductive success. Special status species at the recreation area include Federal or State listed threatened, endangered, or candidate species.

The Endangered Species Act (16 U.S.C 1531 *et seq.*) mandates that all Federal agencies consider the potential effects of their actions on species listed as threatened or endangered. If the NPS determines that an action may adversely affect a federally listed species,

consultation with the U.S. Fish and Wildlife Service is required to ensure that the action will not jeopardize the species' continued existence or result in the destruction or adverse modification of critical habitat.

Federally endangered wildlife species documented in the Jamaica Bay Unit include the roseate tern and Kemp's Ridley sea turtle. The Federally threatened piping plover and loggerhead sea turtle also occur in or near PWC use areas. In addition, the endangered leatherback sea turtle occurs in the waters of New York and New Jersey. State-listed threatened or endangered wildlife species include the State endangered roseate tern and piping plover and the State threatened common tern, least tern, and northern harrier. The State endangered peregrine falcon nests on the Marine Park Bridge, which is outside of the Jamaica Bay Unit, but peregrine falcons utilize the area. Two State species of special concern—the black skimmer and the osprey—also occur within the unit. Federally protected whales that occur seasonally off the coast of New York and New Jersey include the endangered northern right whale, humpback whale, and fin whale.

Personal watercraft use under the proposed rule may affect but is not likely to adversely affect Federal or State threatened or endangered species in the Jamaica Bay Unit. Impacts could occur where species access or forage in channel areas remaining open to PWC use. Closing waters adjacent to Breezy Point would eliminate the potential for PWC-related adverse effects to species foraging in nearshore ocean habitats or resting or foraging along the shoreline. On a cumulative basis, threatened or endangered species may be affected but are not likely to be adversely affected under this proposed rule. The potential for adverse effects would be slightly less than before the ban on PWC use because of restricting PWC use to navigational channels within the bay, but other motorized watercraft uses would continue throughout the bay. Therefore, the proposed rule would not impair any threatened, endangered, or sensitive species.

Shoreline Vegetation

This proposed regulation intends to regulate PWC use to reduce erosion in areas where shoreline vegetation is extremely sensitive, such as the islands in Jamaica Bay, and to manage PWC use to protect sensitive shoreline areas (vegetation/erosion) from PWC activity and access.

For the Jamaica Bay Unit, impacts to shoreline vegetation and wetland habitats from PWC use would be negligible over the short and long term under the proposed rule as a result of restricting use to navigational channels, prohibiting shoreline access, limiting speeds, and establishing buffers around protected areas. Minor, adverse, direct and indirect, cumulative effects are expected. Even though PWC use would be restricted to navigational channels, other watercraft could access shallow water areas outside of the channels, potentially resulting in short- and long-term impacts on shoreline vegetation and wetland habitats. Therefore, this proposed rule would not impair shoreline vegetation or wetland habitats.

Visitor Experience

In proposing this regulation, NPS aims to manage the potential conflicts between PWC use and park visitors and to help ensure that visitors safely enjoy and are satisfied with the quality of park recreational activities.

Impacts on PWC Users

Although PWC users would be restricted to the navigational channels within Jamaica Bay and Rockaway Inlet, they would continue to have access to other areas outside NPS jurisdictional waters. Closing Winhole Channel to use would prevent PWC users from traveling in a circle around the bay and could frustrate some individuals. There would be a negligible adverse impact to PWC users as a consequence of the 150-foot buffer zone around protected areas. Closing ocean waters off Breezy Point and interior areas of Jamaica Bay to PWC use would have negligible to moderate adverse impacts on users because of continued access to other areas via contiguous waters.

Impacts on Other Boaters

Other boaters in the Jamaica Bay Unit would continue to interact with PWC users within the navigational channels of Jamaica Bay and Rockaway Inlet. It is assumed that the same number of PWC users as there were before the prohibition would be present but they would be concentrated in smaller areas, and congestion among PWC users is expected to increase, along with the potential for adverse effects on other boaters. This proposed rule would have minor to moderate adverse effects on the visitor experiences of other boaters now and in the future.

Impacts on Other Visitors

Other visitors to the Jamaica Bay Unit would continue to interact with PWC operators, but on a limited basis. Potential interactions with other visitors, specifically birdwatchers and swimmers, would only occur when PWC users accessed the channels and basins around Jamaica Bay, with negligible adverse effects. Effects on park visitors during the off-season or non-peak hours (weekdays) would continue to be negligible. Visitors to the Jamaica Bay Unit for land-based activities would experience beneficial impacts with the removal of PWC from nearshore habitats.

Therefore, restricting PWC use to navigational channels within the bay (except for Winhole Channel), and closing ocean waters off Breezy Point to PWC use would have negligible to moderate adverse impacts on PWC recreationists. There would be a minor to moderate impact on other boaters to the unit as congestion would increase in the navigational channels. For other visitors PWC use restrictions would result in beneficial impacts on their experiences, depending on the location and seasonal variations in activities. This proposed rule would partially meet the park's strategic goal for improved visitor satisfaction for boaters and other visitors by restricting PWC use to certain navigational channels. Cumulative effects would be negligible and most visitors would continue to be satisfied with their experiences at the unit.

Visitor Conflict and Safety

With this proposed rule, NPS intends to minimize or reduce the potential for PWC user accidents, to minimize or reduce the potential safety conflicts between PWC users and other water recreationists, to decrease visitor accident and incident rates, and to help ensure that visitors safely enjoy and are satisfied with the quality of park recreation activities.

Some research suggests that PWC use is viewed by some segments of the public as a nuisance due to the noise, speed, and overall environmental effects, while others believe that PWC use is no different from other watercraft, and recreationists have a ''right'' to enjoy this sport. Specific complaints have been received from some anglers who have complained during surf casting season in Jamaica Bay because PWC infringe upon their area.

This proposed rule would eliminate the potential for PWC-related accidents within those areas of the Jamaica Bay Unit closed to PWC use, a beneficial impact. Personal watercraft users and other boaters would experience minor to moderate adverse impacts in the North Channel when turning around within the navigational channel at the trestle bridge. Cumulative impacts would be reduced as a result of restricting PWC

use, with negligible to minor impacts depending on the type of activity and its location. Cumulative minor adverse impacts on areas outside unit waters could increase if PWC use in other areas increased.

The Proposed Rule

As established by the April 2000 NPS rule, PWC use is prohibited in all NPS areas unless determined appropriate. The process used to identify appropriate PWC use at each unit of the GATE considered the known and potential effects of PWC on park natural resources, traditional uses, and public health and safety.

NPS proposes to allow limited PWC use at the Jamaica Bay Unit of GATE under a special regulation in § 7.29. Since the NPS is proposing different special rules for each of the three units (Jamaica Bay, Staten Island, and Sandy Hook) within the GATE, three new paragraphs would be added to § 7.29.

Under this proposed rule, NPS proposes to allow PWC use within the Jamaica Bay Unit but only in certain navigational channels and not exceeding a flat wake speed. These channels are: North Channel (Island Channel), Beach Channel (South Channel), Grass Hassock Channel, Plumb Beach Channel, Gerritsen Inlet and Broad Channel to the trestle bridge (the Raunt).

In addition to the limitations in the proposed special regulation, nonconflicting State and Federal regulations regarding PWC use will be enforced by the NPS pursuant to 36 CFR 3.1. For the Jamaica Bay Unit this would mean New York State law.

The applicable New York law includes the following:

1. No operation from sunset to sunrise.

2. Must be 16 years old and have a boating certificate to operate a PWC or be accompanied by a person with a boating certificate.

3. Must have a visual distress flag and an auditory distress signal (horn or whistle).

4. Must have a mandatory personal floatation device. PWC must have at least two ventilators to remove any explosive gases.

5. An engine cut off lanyard (if equipped) must be attached to the operator.

PWC users would be prohibited from launching or landing any vessels within the unit.

Personal watercraft users living on the adjacent creeks, basins, and waterways would be allowed access through the unit if they stay within one of two alternative routes. One allowed route, if present, is a buoyed route. The alternative would be to take the most direct route to access the designated navigational channels from Gerritsen Creek, Mill Basin, Paerdegat Basin, Shellbank Basin, Hawtree Creek, Breezy Point, and Roxbury.

Compliance With Other Laws

Regulatory Planning and Review (Executive Order 12866)

This document is not a significant rule and has not been reviewed by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. This determination is based upon the EA analysis prepared for PWC use at all three units. All preferred alternatives would best fulfill park responsibilities as trustee of the habitat; ensuring safe, healthful, productive, and aesthetically and culturally pleasing surroundings; and attaining a wide range of beneficial uses of the environment without degradation, risk of health or safety, or other undesirable and unintended consequences.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The EA has taken into consideration the following Federal, State and other agency plans and activities:

Federal

a. 1972 Coastal Zone Management Act.

b. 1982 Coastal Barriers Resources Act.

c. Gerritsen Creek Restoration Project (Army Corps of Engineers).

d. Jamaica Bay Ecosystem Restoration Project (National Park Service and Army Corps of Engineers).

e. Jamaica Bay Shoreline Protection Project (National Park Service and Army Corps of Engineers).

f. Jamaica Bay Ecological Research and Restoration Team (National Park Service and Army Corps of Engineers).

State

a. 2000 Non-Point Source Management Program (New York State).

b. New Jersey Coastal Management Plan.

c. New York Coastal Management Program.

d. New Jersey Watershed Management Area 12.

e. 1998 New York Clean Water Action Plan.

f. New Jersey Water Quality Standards.

g. 2000 New Jersey Water Quality Inventory Report.

h. New York Water Quality Standards, New York State.

Implementation Plan

a. New York and New Jersey State Boating Laws.

(3) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

(4) This rule does not raise novel legal or policy issues. This rule is one of the special regulations being issued for managing PWC use in National Park Units. The NPS published general regulations (36 CFR 3.24) in March 2000, requiring individual park areas to adopt special regulations to authorize PWC use. The implementation of the requirement of the general regulation continues to generate interest and discussion from the public concerning the overall effect of authorizing PWC use and NPS policy and park management.

Regulatory Flexibility Act

The Department of the Interior certifies that this rulemaking will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This certification is based on a report entitled ''Economic Analysis of Personal Watercraft Regulations in Gateway National Recreation Area'' (RTI, International, March 2002). This document may be viewed on the park's Web site at: *http://www.nps.gov/ gate/pphtml/ news.html.*

Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local or tribal governments or the private sector. This rule is an agency specific rule and does not impose any other requirements on other agencies, governments, or the private sector.

Takings (Executive Order 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. A taking implication assessment is not required. No taking of personal property will occur as a result of this rule.

Federalism (Executive Order 13132)

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This proposed rule only affects use of NPS administered lands and waters. It has no outside effects on other areas by allowing PWC use in specific areas of the park.

Civil Justice Reform (Executive Order 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

This regulation does not require an information collection from 10 or more parties and a submission under the Paperwork Reduction Act is not required. An OMB Form 83–I is not required.

National Environmental Policy Act

As a companion document to this NPRM, NPS has issued the *Personal Watercraft Use Environmental Assessment for Gateway National Recreation Area.* The EA was open for public review and comment from May 15 to June 15, 2003. Copies of the EA may be downloaded *http://www.nps.gov/gate/ pphtml/news.html.*

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, ''Government to Government Relations with Native American Tribal Governments'' (59 FR 22951) and 512 DM 2, we have evaluated potential effects on Federally recognized Indian tribes and have determined that there are no potential effects. In the EA, the *Sacred Sites/Native American Concerns* section states: This is not an issue at GATE because there are no known sacred sites or Native American concerns at GATE or, more specifically, within the vicinity of existing or potential future landing areas for PWC use areas.

Clarity of Rule

Executive Order 12866 requires each agency to write regulations that are easy to understand. We invite your comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to read if it were divided into more (but shorter) sections? (A ''section'' appears in bold type and is preceded by the symbol ''§ '' and a numbered heading; for example [§ 7.29 Gateway Recreation Area.] (5) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the proposed rule? What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street, NW., Washington, DC 20240. You may also email the comments to this address: *Exsec@ios.doi.gov.*

Drafting Information: The primary authors of this regulation are: Barry T. Sullivan, General Superintendent, José Rosario, Chief, Operations Support, HQ, Liam Strain, Park Ranger, Operations Support, HQ, Gateway NRA; Sarah Bransom, Environmental Quality Division; and Jerry Case, Regulations Program Manager.

Public Participation

You may submit comments, identified by the number RIN 1024–AD41, by any of the following methods:

- Federal rulemaking portal: *http://www. regulations.gov.* Follow the instructions for submitting electronic comments.
- E-mail at *GATE_PWCComments @louisberger.com.*
- Mail or hand deliver to: General Superintendent, Gateway National Recreation Area, 210 New York Avenue, Staten Island, NY 10306.

Our practice is to make comments, including names and addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home address from the rulemaking record, which we will honor to the extent allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials or organizations or businesses, available for public inspection in their entirety.

List of Subjects in 36 CFR Part 7

District of Columbia, National Parks, Reporting and recordkeeping requirements.

In consideration of the foregoing, the National Park Service proposes to amend 36 CFR part 7 as follows:

PART 7—SPECIAL REGULATIONS, AREAS OF THE NATIONAL PARK SYSTEM

1. The authority for part 7 continues to read as follows:

Authority: 16 U.S.C. 1, 3, 9a, 460(q), 462(k); Sec. 7.96 also issued under D.C. Code 8–137 (1981) and D.C. Code 40–721 (1981).

2. Amend § 7.29 by adding paragraph (d) to read as follows:

§ 7.29 Gateway National Recreation Area.

* * * * *

(d) *Personal watercraft (PWC): Jamaica Bay Unit.*

(1) PWC are prohibited from operating within the Jamaica Bay Unit of the Gateway National Recreation Area except in the following designated areas:

(A) North Channel (Island Channel).

(B) Beach Channel (South Channel) to the Gil Hodges Memorial Bridge.

(C) Grass Hassock Channel.

(D) Plumb Beach Channel to the Gil Hodges Memorial Bridge.

(E) Broad Channel to the trestle bridge (the Raunt).

(F) Gerritsen Inlet toward Sheepshead Bay, Coney Island Channel, and open ocean.

(2) PWC use within the Jamaica Bay Unit of the Gateway National Recreation Area is subject to the following:

(i) PWC users may not operate above a flat wake speed.

(ii) PWC users are prohibited from landing or launching within the unit.

(3) The Superintendent may temporarily limit, restrict, or terminate access to the areas designated for PWC use after taking into consideration public health and safety, natural and cultural resource protection, and other management activities and objectives.

Dated: February 13, 2006.

Paul Hoffman,

Deputy Assistant Secretary, Fish and Wildlife and Parks.

[FR Doc. E6–2643 Filed 2–23–06; 8:45 am]

BILLING CODE 4312–52–P

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

36 CFR Part 1200

RIN 3095–AB48

Official Seals and Logos

AGENCY: National Archives and Records Administration (NARA).

ACTION: Proposed rule.

SUMMARY: The National Archives and Records Administration (NARA) is proposing to update its regulations on the use of official NARA seals and logos by the public and other Federal agencies by updating two of the logos that are used. This part applies to the public and other Federal agencies.

DATES: Comments are due by April 25, 2006.

ADDRESSES: NARA invites interested persons to submit comments on this proposed rule. Comments may be submitted by any of the following methods:

Mail: Send comments to: Regulation Comments Desk (NPOL), Room 4100, Policy and Planning Staff, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740–6001.

Fax: Submit comments by facsimile transmission to: 301–837–0319.

E-Mail: Send comments to *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Kim Richardson at telephone number 301–837–2902 or fax number 301–837–0319.

SUPPLEMENTARY INFORMATION: NARA has three official seals, which are primarily used to authenticate records in NARA's custody. NARA also has a number of official logos, which we use to represent our major programs, products, and services. Though the official NARA seals and logos are primarily reserved for NARA use, if certain conditions are met, the public and other Federal agencies may request to use the seals and logos with NARA's permission.

We are proposing to include illustrations of two redesigned logos. The first is our Federal Records Center Program logo and the second is our National Historical Publications and Records Commission logo.

This proposed rule is not a significant regulatory action for the purposes of Executive Order 12866 and has not been reviewed by the Office of Management and Budget. As required by the Regulatory Flexibility Act, I certify that this rule will not have a significant impact on a substantial number of small entities. This regulation does not have any federalism implications.

List of Subjects in 36 CFR Part 1200

Seals and insignia.

For the reasons set forth in the preamble, NARA proposes to amend part 1200 of title 36, Code of Federal Regulations, as follows:

PART 1200—OFFICIAL SEALS

1. The authority citation for part 1200 continues to read as follows:

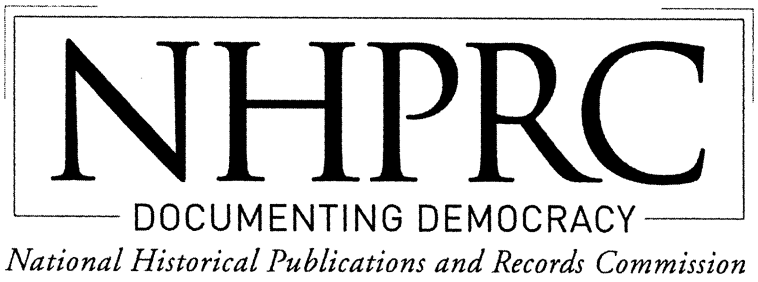
Authority: 18 U.S.C. 506, 701, and 1017; 44 U.S.C. 2104(e), 2116(b), 2302.

2. Revise paragraphs (a)(1) and (a)(2) of § 1200.7 to read as follows:

§ 1200.7 What are NARA logos and how are they used?

(a) * * *

(1) The Federal Records Center Program;



(2) The National Historical Publications and Records Commission;

* * * * *

Dated: February 16, 2006.

Allen Weinstein,

Archivist of the United States.

[FR Doc. 06–1766 Filed 2–23–06; 8:45 am]

BILLING CODE 7515–01–U

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 60

[EPA–OAR–2002–0053, FRL–8025–8]

RIN 2060–AK35

Standards of Performance for Stationary Gas Turbines

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; amendments.

SUMMARY: EPA is proposing to revise certain portions of the standards of performance for stationary gas turbines. We are proposing these revisions to clarify that EPA is not imposing new requirements for turbines constructed after 1977. Owners and operators of existing and new turbines may use monitoring that meets the pre-existing monitoring requirements. In addition, we have described a number of acceptable compliance monitoring options that owners and operators may elect to use for these units.

In the Rules and Regulations section of this **Federal Register**, we are taking direct final action on these proposed revisions because we view these revisions as noncontroversial, and we anticipate no adverse comments. We have explained our reasons for the revisions in the preamble to the direct final rule.

DATES: Comments must be received on or before March 27, 2006, unless a public hearing is requested. If requested by March 13, 2006, a public hearing will be held on March 27, 2006 and the comment period will be extended until April 25, 2006. Inquiries regarding a public hearing should be directed to the contact person listed below.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–OAR–2002–0053 by one of the following methods:

- Federal eRulemaking portal *http://www.regulations.gov*. Follow the on-line instructions for submitting comments;
- E-mail: *a-and-r-docket@epa.gov*
- Fax comments to (202) 566–1741; or
- Mail: Air and Radiation Docket and Information Center, U.S. EPA, Mailcode: 6102T, 1200 Pennsylvania Avenue NW., Washington, DC 20460.
- Hand Delivery: Air and Radiation Docket and Information Center, U.S. EPA, Room B102, 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–OAR–2002–0053. 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 *http://www.regulations.gov* or e-mail. The *http://www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *http://www.regulations.gov*, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket. All documents in the docket are listed in the *http://www.regulations.gov index*. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the Air and Radiation Docket, EPA/DC, EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742. A reasonable fee may be charged for copying docket materials.

FOR FURTHER INFORMATION CONTACT: Mr. Jaime Pagan, Combustion Group, Emission Standards Division (C439–01), U.S. EPA, Research Triangle Park, North Carolina 27711; telephone number (919) 541–5340; facsimile number (919) 541–5450; electronic mail address ''*pagan.jaime@epa.gov*.''

SUPPLEMENTARY INFORMATION:

Comments. If we receive no significant adverse comments, we will take no further action on the proposed amendments. If we receive significant adverse comments, we will withdraw only those provisions on which we received adverse comments, and they will not take effect. We will publish a timely withdrawal in the **Federal Register** indicating which provisions will become effective and which provisions are being withdrawn. If part or all of the direct final rule amendments in the Rules and Regulations section of this **Federal Register** are withdrawn, all comments pertaining to those provisions will be addressed in a subsequent final action based on the proposed amendments. We will not institute a second comment period on the subsequent final action. Any parties interested in commenting must do so at this time.

Regulated Entities. Entities potentially regulated by this action are those that own and operate stationary gas turbines, and are the same as the existing rule in 40 CFR part 60, subpart GG. Regulated categories and entities include:

Category	NAICS	SIC	Examples of regulated entities
Any industry using a stationary combustion turbine as defined in 40 CFR 60.331(a)	2211	4911	Electric services.
	486210	4922	Natural gas transmission.
	211111	1311	Crude petroleum and natural gas.

Category	NAICS	SIC	Examples of regulated entities
	211112 221	1321 4931	Natural gas liquids. Electric and other services, combined.

This table is not intended to be exhaustive, but rather provides a guide for readers regarding entities likely to be regulated by this action. If you have questions regarding the applicability of this action to a particular entity, consult the contact person listed in the preceding **FOR FURTHER INFORMATION CONTACT** section.

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

Public Hearing. If a public hearing is held, it will be held at 10 a.m. at the EPA Facility Complex in Research Triangle Park, NC, or at an alternate site nearby. Persons interested in presenting oral testimony or inquiring as to whether a hearing is to be held should contact Ms. Pamela Garrett, EPA, Office of Air Quality Planning and Standards, Emission Standards Division, Combustion Group (C439–01), Research Triangle Park, NC 27711, telephone number (919) 541–7966, e-mail address: *garrett.pamela@epa.gov*, at least 2 days in advance of the potential date of the public hearing. Persons interested in attending the public hearing must also call Ms. Garrett to verify the time, date, and location of the hearing. The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning these proposed emission standards.

Worldwide Web (WWW). In addition to being available in the docket, an electronic copy of today's proposal will also be available through the WWW. Following the Administrator's signature, a copy of this action will be posted on EPA's Technology Transfer Network (TNN) policy and guidance page for newly proposed or promulgated rules at *http://www.epa.gov/ttn/oarpg/*. The TTN at EPA's Web site provides information and technology exchange in various areas of air pollution control.

Statutory and Executive Order Reviews

For a complete discussion of all of the administrative requirements applicable to this action, see the direct final rule in the Rules and Regulations sections of today's **Federal Register**.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedure Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of the proposed rule on small entities, small entity is defined as: (1) A small business whose parent company has fewer than 100 or 1,000 employees, or fewer than 4 billion kilowatt-hour per year of electricity usage, depending on the size definition for the affected North American Industry Classification System (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; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field. It should be noted that small entities in six NAICS codes may be affected by the proposed rule amendments, and the small business definition applied to each industry by NAICS code is that listed in the Small Business Administration size standards (13 CFR part 121).

After considering the economic impacts of the proposed rule amendments on small entities, I certify that today's action will not have a significant economic impact on a substantial number of small entities. This conclusion is based on the fact that today's action does not impose any new requirements in the 40 CFR part 60, subpart GG regulations. Furthermore, the stringency of the emission standards is not affected by this action. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

List of Subjects in 40 CFR Part 60

Environmental protection, Administrative practice and procedure, Air pollution control, Intergovernmental relations, Nitrogen dioxide, Reporting and recordkeeping requirements.

Dated: January 20, 2006.

Stephen L. Johnson,

Administrator.

[FR Doc. 06–1742 Filed 2–23–06; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

42 CFR Parts 412 and 413

[CMS–1306–CN]

RIN 0938–AN82

Medicare Program; Inpatient Psychiatric Facilities Prospective Payment System Payment Update for Rate Year Beginning July 1, 2006 (RY 2007); Correction and Extension of Comment Period

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

ACTION: Proposed rule; correction and extension of comment period.

SUMMARY: This document corrects technical errors that appeared in the proposed rule entitled ''Medicare Program; Inpatient Psychiatric Facilities Prospective Payment System Payment Update for Rate Year Beginning July 1, 2006 (RY 2007).'' This correction notice also extends the public comment period for an additional 60 days, to allow the public an opportunity to comment on the correct Electroconvulsive Therapy (ECT) payment policy.

DATES: The comment period for the ECT payment policy is extended to 5 p.m. on April 25, 2006.

FOR FURTHER INFORMATION CONTACT: Matthew Quarrick, (410) 786–9867.

SUPPLEMENTARY INFORMATION:

I. Background

In FR. Doc. 06–488 of January 23, 2006 (71 FR 3616), there were several technical errors that we identify in the ''Summary of Errors'' section and correct in the ''Correction of Errors'' section below.

On February 2, 2006, immediately after discovering the error in the ECT payment policy, we released a message on the Inpatient Psychiatric Facilities (IPF) Prospective Payment System (PPS) listserv. In addition, on February 6, 2006, we posted a message on our IPF PPS Web site indicating the error (*http://www.cms.hhs.gov/InpatientPsychFacilPPS*).

The comment period for the proposed rule closes on March 14, 2006. However, we are extending the comment period for the ECT payment policy in order to give the public an opportunity to comment on the correct policy. The comment period for the ECT policy will close on April 7, 2006.

II. Summary of Errors

In the January 23, 2006 proposed rule, on page 3616, we inadvertently omitted the ''Regulations Identification Number (RIN), which is used to identify and track regulations. On page 3632, Table 11 includes the adjustment factors for comorbidity categories. We incorrectly identified the ''Tracheostomy comorbidity'' category as the ''Tracheotomy category.'' In the same table, we also published an incorrect adjustment factor of ''1.11'' for ''Severe Musculoskeletal and Connective Tissue Diseases.'' The correct factor is ''1.09,'' as published in the Comorbidity Adjustments table in Addendum A, on page 3656. We note that in Addendum A, the correct comorbidity name for ''Musculoskeletal & Connective Tissue Diseases'' is ''Severe Musculoskeletal and Connective Tissue Diseases.''

We also stated on pages 3644 and 3645, that we apply the standardization factor and the wage index budget neutrality factor to the calendar year (CY) 2006 Outpatient Prospective Payment System (OPPS) median cost for ECT. We inadvertently omitted the adjustments for behavioral offset, stop-loss, and outliers when we calculated the ECT base rate. These adjustments were applied to the median cost for ECT in the implementation year, and we intended to be consistent with our methodology from last year. Because of these omissions, for rate year (RY) 2007, we published a proposed ECT rate of $268.21 instead of $254.86. As previously stated, immediately after discovering this error, we posted the correction on the CMS Web site at *http://www.cms.hhs.gov/InpatientPsychFacilPPS/* and issued a message on our IPF PPS listserv.

On page 3648 of the regulatory impact analysis, we incorrectly stated that ''we estimate the expenditures from the IPF PPS implementation year to the 2007 IPF PPS RY will be increased by $180 million.'' The number we meant to include as the total estimated increase in expenditures from the implementation year to RY 2007 was $170 million. However, on page 3648 of the impact analysis, our estimate of the changes attributable to the policy changes in the proposed rule, primarily the market basket update and the standardization factor is correctly presented as approximately $180 million for the IPF PPS RY 2007.

In Addendum A, on page 3655, under the Variable Per Diem Adjustments table, for Day 1 (on both lines), we indicate an adjustment factor for a facility with or without a 24/7 Full-service Emergency Department (ED). In order to be consistent with our definition of an ED, and to be consistent with the November 15, 2004 IPF PPS correction notice (70 FR 16724), we are deleting the references to ''24/7 Full-service ED'' and replacing it with ''Qualifying ED.''

In Addendum B, on page 3663, we are correcting the 2006 MSA-based wage index values for the Social Security Administration (SSA) State County Codes where the numerical numbers were transposed.

Also, in Addendum B, on page 3702, at the end of the Wage Index Table, we inadvertently included a sentence that refers to the ''transition wage index value.'' Since we are not proposing a blended transition from Metropolitan Statistical Area (MSA)-based labor market definitions to Core-Based Statistical Areas-based labor market definitions, we are removing this sentence.

In addition, we are correcting cross-references and typographical errors.

III. Correction of Errors

A. Preamble Corrections

In the January 23, 2006 proposed rule (71 FR 3616), make the following corrections:

1. On page 3616, in column 1, insert ''RIN–0938–AN82,'' above the title of the document.

2. On page 3628, in column 2, in the third full paragraph, in line 2, the cross-reference ''IV.C.5'' is corrected to read ''IV.C.4''.

3. On page 3632, in Table 11, in column 1—

A. In the third entry, ''Tracheotomy'' is corrected to read ''Tracheostomy''.

B. In column 3, in the second entry from the bottom, the figure ''1.11'' is corrected to read ''1.09''.

4. On page 3633, in column 2, in line 24, the cross-reference ''IV.C.5.'' is corrected to read ''IV.C.4.''

5. On page 3641—

A. In column 2, in line 24, the reference to ''§ 412.424(d)(1)(V)(A)'' is corrected to read ''§ 412.424(d)(1)(v)(A)''.

B. In column 3, in line 29, the reference to ''§ 412.424(d)(1)(V)(B)'' is corrected to read ''§ 412.424(d)(1)(v)(B)''.

6. On page 3644, in column 3, in the fifth full paragraph, in line 6, the words ''After applying the standardization factor and the wage index budget neutrality factor'' are replaced with the words ''After applying the standardization factor, behavior offset, stop-loss adjustment, outlier adjustment, and the wage index budget neutrality factor.''

7. On page 3645—

A. In column 1, in line 1, the cross-reference ''III.C.1.f.'' is corrected to read ''IV.C.1.f''.

B. In column 1, in line 3, the figure ''$268.21'' is corrected to read ''$254.86''.

C. In column 3, in line 7, the reference to ''Chapter 2, §§ 20.1ff.)'' is corrected to read ''Chapter 2, § 20.1)''.

8. On page 3647, in column 3, in the fifth full paragraph—

A. In line 5, the reference to ''§ 424.424(c)'' is corrected to read ''§ 412.424(c)''.

B. In line 7, the reference to ''§ 424.424(d)'' is corrected to read ''§ 412.424(d)''.

9. On page 3648, in column 2, in line 12, the figure ''$180'' is corrected to read ''$170.''

B. Corrections of Addenda

Addendum A

1. On page 3654, in the Patient Adjustments table, the ECT—Per Treatment rate is corrected to read ''$254.86''.

2. On page 3655, in the Variable Per Diem Adjustments table—

A. In line 1, the words ''Facility Without a 24/7 Full-service Emergency Department'' are corrected to read ''Facility Without a Qualifying Emergency Department.''

B. In line 2, the words ''Facility With a 24/7 Full-service Emergency Department'' are corrected to read ''Facility With a Qualifying Emergency Department.''

3. On page 3656, in the Comorbidity Adjustments table, in line 13, the words

''Musculoskeletal & Connective Tissue Diseases'' is corrected to read ''Severe Musculoskeletal and Connective Tissue Diseases.''

Addendum B

1. On pages 3663 and 3664, in the fifth column, for the SSA State County Codes 11760 through 11980, correct the wage index values to follow the format of the table.

The 2006 MSA-Based WI should read as follows:

SSA State/county code	2006 MSA-based WI
11760	0.8166
11770	0.8166
11771	0.8166
11772	0.8166
11780	0.8560
11790	0.9793
11800	0.9855
11801	0.8166
11810	0.9793
11811	0.9277
11812	0.9793
11820	0.8166
11821	0.8166
11830	0.8166
11831	0.8166
11832	0.8166
11833	0.8166
11834	0.8166
11835	0.8166
11840	0.9808
11841	0.9793
11842	0.8166
11850	0.8166
11851	0.8166
11860	0.9793
11861	0.8166
11862	0.8166
11870	0.8166
11880	0.8166
11881	0.8166
11882	0.8166
11883	0.8166
11884	0.8166
11885	0.8166
11890	0.8166
11900	0.8166
11901	0.8166
11902	0.8166
11903	0.8166
11910	0.8166
11911	0.8166
11912	0.9277
11913	0.8166
11920	0.8166
11921	0.9088
11930	0.9793
11940	0.8166
11941	0.8166
11950	0.8166
11960	0.8166
11961	0.8166
11962	0.8166
11963	0.8166
11970	0.8166
11971	0.8166
11972	0.8166
11973	0.8166
11980	0.8166

2. On page 3702 in the footnote, remove the sentence ''*Transition wage index value should be used with the CBSA urban/rural designation for rate calculation purposes.''

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

Dated: February 17, 2006.

Ann C. Agnew,

Executive Secretary to the Department.

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 635

[Docket No. 060216041-6041-01; I.D. 020206C]

RIN 0648–AT72

Atlantic Highly Migratory Species; Atlantic Bluefin Tuna Quota Specifications and Effort Controls

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

ACTION: Proposed rule; request for comments; notice of public hearings.

SUMMARY: NMFS proposes initial 2006 fishing year specifications for the Atlantic bluefin tuna (BFT) fishery to set BFT quotas for each of the established domestic fishing categories and to set effort controls for the General category and Angling category. This action is necessary to implement recommendations of the International Commission for the Conservation of Atlantic Tunas (ICCAT), as required by the Atlantic Tunas Convention Act (ATCA), and to achieve domestic management objectives under the Magnuson-Stevens Fishery Conservation and Management Act (Magnuson-Stevens Act). NMFS will hold public hearings to receive comments on these proposed actions.

DATES: Written comments must be received on or before Tuesday, April 11, 2006.

The public hearings dates and locations are:

1. March 17, 2006, 3 p.m. to 5:30 p.m. in Gloucester, MA.

2. March 22, 2006, 6 p.m. to 8:30 p.m. in West Islip, NY.

3. March 24, 2006, 6:30 p.m. to 9 p.m., in Berlin MD.

4. March 27, 2006, 6 p.m. to 8:30 p.m., in Morehead City, NC.

ADDRESSES: Comments may be submitted through any of the following methods:

- Email: *06BFTSPECS@noaa.gov*.
- Federal e-Rulemaking Portal: *http://www.regulations.gov*.
- Mail: Dianne Stephan, Highly Migratory Species Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, One Blackburn Dr., Gloucester, MA 01930.
- Fax: 978–281–9340.

Public hearing locations include:

1. March 17, 2006 - NMFS, One Blackburn Drive, Gloucester, MA 01930.

2. March 22, 2006 - West Islip Public Library, 3 Higbie Lane, West Islip, NY 11795.

3. March 24, 2006 - Worcester County Public Library, Ocean Pines Branch, 11107 Cathell Road, Berlin MD 21811.

4. March 27, 2006 - Crystal Coast Civic Center, 3505 Arendell Street, Morehead City, NC 28557.

Supporting documents including the environmental assessment, initial Regulatory Flexibility Act analysis, and regulatory impact review are available by sending your request to Dianne Stephan, Highly Migratory Species Management Division, Office of Sustainable Fisheries (F/SF1), NMFS, One Blackburn Dr., Gloucester, MA 01930; Fax: 978–281–9340.

FOR FURTHER INFORMATION CONTACT: Dianne Stephan at (978) 281–9260.

SUPPLEMENTARY INFORMATION: Atlantic tunas are managed under the dual authority of the Magnuson-Stevens Act and the ATCA. The ATCA authorizes the Secretary of Commerce (Secretary) to promulgate regulations, as may be necessary and appropriate, to implement ICCAT recommendations. The authority to issue regulations under the Magnuson-Stevens Act and the ATCA has been delegated from the Secretary to the Assistant Administrator for Fisheries, NOAA (AA).

Background

On May 28, 1998, NMFS published in the **Federal Register** (64 FR 29090) final regulations, effective July 1, 1999, implementing the Fishery Management Plan for Atlantic Tunas, Swordfish, and Sharks (1999 FMP).

In November 2002, ICCAT recommended a Total Allowable Catch (TAC) of BFT for the United States in the western Atlantic management area of 1,489.6 metric tons (mt), effective beginning in 2003 and continuing in subsequent fishing years until revised by ICCAT. (ICCAT is scheduled to assess BFT stocks during 2006 which

could result in a subsequent re-evaluation of the quota). Also in the 2002 recommendation, ICCAT allocated 25 mt annually to account for incidental catch of BFT by pelagic longline fisheries directed on other species ''in the vicinity of the management boundary area.'' This area was defined in the 2003 BFT annual specification rulemaking process as the Northeast Distant statistical area (NED) (68 FR 56783, October 2, 2003). The TAC of 1,489.6 mt is inclusive of the annual 25 mt pelagic longline set-aside in the NED. The 2002 ICCAT recommendation also includes an annual eight percent tolerance limit calculated as a four-year average. The initial specifications within this proposed rule are published in accordance with the 1999 FMP and are necessary to implement the 2002 ICCAT quota recommendation, as required by the ATCA, and to achieve domestic management objectives under the Magnuson-Stevens Act.

This proposed rule would: (1) establish initial quota specifications consistent with the BFT rebuilding program as set forth in the 1999 FMP by allocating the 2002 ICCAT-recommended quota for the 2006 fishing year (June 1, 2006 - May 31, 2007); (2) establish General category effort controls, including time-period subquotas, restricted fishing days (RFDs), and the initial retention limit; and (3) establish Angling category retention limits for the 2006 fishing season.

After consideration of public comment, NMFS will issue a final rule setting the initial quota specifications and effort controls and publish them in the **Federal Register**, along with NMFS's response to those comments. The specifications and effort controls may subsequently be adjusted during the course of the fishing year, consistent with the provisions of the 1999 FMP, and, as appropriate, would be published in the **Federal Register**.

A number of other issues regarding the domestic management of BFT have been discussed during recent years. For instance, adjustment of domestic quota allocation percentages and General category time-period subquotas were raised as issues in a Petition for Rulemaking submitted by the North Carolina Division of Marine Fisheries (see Notice of Receipt of Petition, 67 FR 69502, November 18, 2002). This issue was addressed in part in the final rule which extended the General category season from December 31 to January 31 (68 FR 74504, December 24, 2003). The issue is further addressed in the draft consolidated HMS FMP (70 FR 48804, August 19, 2005), which considers several aspects of the changing BFT fishery and has proposed modifications to time period subquotas and authorized gear for use in BFT fisheries, among other things.

Other issues include the changing nature of BFT fisheries and BFT distribution. These issues are in part characterized by the growth of a late season General category fishery, increased numbers of recreational participants and fishing effort for smaller size BFT, and ongoing under-harvested quota for several commercial categories. ICCAT will be undertaking a stock assessment for BFT during the first half of 2006. The information provided by this stock assessment and international deliberations in fall 2006 will provide insight into management options to address the above issues which could result in future regulatory or FMP amendments.

NMFS has prepared a draft Environmental Assessment (EA), Regulatory Impact Review (RIR), and an Initial Regulatory Flexibility Analysis (IRFA) which present and analyze anticipated environmental, social, and economic impacts of several alternatives for each of the major issues contained in this proposed rule. The complete list of alternatives and their analysis is provided in the draft EA/RIR/IRFA, and is not repeated here in its entirety. A copy of the draft EA/RIR/IRFA prepared for this proposed rule is available from NMFS (see **ADDRESSES**).

Domestic Quota Allocation

The 1999 FMP and its implementing regulations established baseline percentage quota shares for the domestic fishing categories. These percentage shares were based on allocation procedures that NMFS developed over several years. The baseline percentage quota shares established in the 1999 FMP for fishing years beginning June 1, 1999, to the present are as follows: General category — 47.1 percent; Harpoon category — 3.9 percent; Purse Seine category — 18.6 percent; Angling category — 19.7 percent; Longline category — 8.1 percent; Trap category — 0.1 percent; and Reserve category— 2.5 percent. The 2002 ICCAT-recommended U.S. BFT quota of 1,464.6 mt, not including the annual 25 mt set-aside for pelagic longline vessels, would be allocated in accordance with these percentages. However, in addition to the 2002 ICCAT quota recommendation, quota allocations are adjusted based on overharvest or underharvest from prior fishing year's activity and on U.S. data on dead discards as they relate to the ICCAT dead discard allowance.

In addition, the 2002 ICCAT recommendation includes a provision designed to limit mortality of school BFT to an average of eight percent of overall quota allocation, calculated on a four-year basis. Estimates of recreational harvest showed that the eight percent tolerance limit had been exceeded in years one and two (2003 and 2004) of the 4-year balance period. In March 2005, NMFS consulted with the HMS Advisory Panel (AP) to identify alternatives for the 2005 school BFT fishery. Since NMFS was reviewing methodology for measuring BFT in the Large Pelagics Survey (LPS), which could result in a re-estimation and was expected to result in a decrease in previous school BFT harvest estimates, some members of the AP recommended that all of the available school quota be provided for the 2005 fishing year, even though such an approach could severely reduce the amount of quota available for the 2006 fishing year. Estimates of the 2005 school harvest show that landings are at, or near, the 4-year eight percent tolerance limit after only 3 years. The reviews of LPS methodologies have not yet been completed, thus no school subquota can be provided for the 2006 fishing year.

Each of these adjustments is discussed below and then applied to the results of the above percentage shares to determine the 2006 fishing year proposed initial quota specifications.

The 2005 Underharvest/Overharvest

The current ICCAT BFT quota recommendation allows, and U.S. regulations require, the addition or subtraction, as appropriate, of any underharvest or overharvest in a fishing year to the following fishing year, provided that the total of the adjusted category quotas does not result in overharvest of the total annual BFT quota and remains consistent with all applicable ICCAT recommendations, including restrictions on landings of school BFT. Therefore, NMFS proposes to adjust the 2006 fishing year quota specifications for the BFT fishery to account for underharvest or overharvest in the 2005 fishing year.

Overall U.S. landings figures for the 2005 fishing year are still preliminary and may be updated before these 2006 fishing year specifications are finalized. Should adjustments to the final initial 2006 BFT quota specifications be required based on final 2005 BFT landing figures, NMFS will publish the adjustments in the **Federal Register**. For the 2005 fishing year, NMFS has preliminarily determined that General category landings were lower than the adjusted General category quota by

approximately 493.0 mt; that Harpoon category landings were less than the adjusted Harpoon category quota by approximately 66.9 mt; that Longline category landings were less than the adjusted Longline category quota by approximately 145.3 mt; that Angling category landing estimates were less than the adjusted Angling category quota by approximately 50.6 mt; that Trap category landings were less than the adjusted Trap category quota by 3.8 mt; and that Purse Seine category landings were less than the adjusted Purse Seine category quota by approximately 351.7 mt. Regulations at 50 CFR 635.27(a)(9)(i) require that Purse Seine category underharvests or overharvests be subtracted from or added to each individual vessel's quota allocation, as appropriate. Based on the estimated amount of Reserve that NMFS maintains for the landing of BFT taken during ongoing scientific research projects and/or potential overharvests in certain categories, NMFS estimates that 245.7 mt of Reserve remains from the 2005 fishing year. Since all categories experienced underharvests from the 2005 fishing year, these initial specifications will add the underharvest to the same quota category for the 2006 fishing year.

Dead Discards

As part of the BFT rebuilding program, ICCAT recommends an allowance for dead discards. The U.S. dead discard allowance is 68 mt. Dead discard estimates for 2005 are not yet available, so the estimate for the 2004 calendar year is used as a proxy to calculate the amount to be added to, or subtracted from, the U.S. BFT landings quota for 2006. The 2004 calendar year preliminary estimate of U.S. dead discards, as reported per the longline discards calculated from logbook tallies, adjusted as warranted when observer counts in quarterly/geographic stratum exceeded logbook reports, totaled 71.8 mt. Estimates of dead discards from other gear types and fishing sectors that do not use the pelagic longline vessel logbook are not collected, and thus, are not included in this calculation. As U.S. fishing activity is estimated to have resulted in more dead discards than its allowance, the ICCAT recommendation and U.S. regulations state that the United States must subtract the difference between the amount of dead discards and the allowance (i.e., 71.8 - 68.0 mt = 3.8 mt) from its total allowed landings for the following fishing year, from individual fishing categories, or from the Reserve category. NMFS proposes to subtract the 3.8 mt from each Longline category regional subquota based on the percentage of total longline landings that occurred in each geographic region.

2006 Proposed Initial Quota Specifications

In accordance with the 2002 ICCAT quota recommendation, the ICCAT recommendation regarding the dead discard allowance, the HMS FMP percentage shares for each of the domestic categories, and regulations regarding annual adjustments at § 635.27(a)(9)(ii), NMFS proposes initial quota specifications for the 2006 fishing year as follows: General category – 1,182.8 mt; Harpoon category – 124.0 mt; Purse Seine category – 624.1 mt; Angling category – 339.2 mt; Longline category – 285.1 mt; and Trap category – 5.3 mt. Additionally, 282.3 mt would be allocated to the Reserve category for inseason adjustments, including potentially providing for a late season General category fishery, or allocated to cover scientific research collection and potential overharvest in any category except the Purse Seine category.

As discussed above, under the ICCAT 2002 recommendation regarding school landings, these specifications do not provide for a school fishery during the 2006 fishing year to be consistent with the ICCAT recommendation and FMP. Based on the above proposed initial specifications and considerations regarding the school fishery, the Angling category quota of 339.2 mt would be further subdivided as follows: School BFT – 5.7 mt, with 0.0 mt to the northern area (north of 39E18' N. latitude), 0.0 mt to the southern area (south of 39E18' N. latitude), plus 5.7 mt held in reserve; large school/small medium BFT – 325.8 mt, with 153.8 mt to the northern area and 172.0 mt to the southern area; and large medium/giant BFT – 7.7 mt, with 2.5 mt to the northern area and 5.2 mt to the southern area.

The 2002 ICCAT recommendation includes an annual 25 mt set-aside quota to account for bycatch of BFT related to directed longline fisheries in the vicinity of the management area boundary and referred to as the NED hereafter. This set-aside quota is in addition to the overall incidental longline quota to be subdivided in accordance with the North/South allocation percentages mentioned below. Thus, the proposed Longline category quota of 285.1 mt would be subdivided as follows: 82.3 mt to pelagic longline vessels landing BFT north of 31E N. latitude and 123.2 mt to pelagic longline vessels landing BFT south of 31E N. latitude, and 79.6 mt (54.6 mt from 2005 + 25.0 mt for 2006) to account for bycatch of BFT related to directed pelagic longline fisheries in the NED. The bycatch allocation by ICCAT for pelagic longline vessels in the NED would be allocated to a special subcategory of the Longline north category. Accounting for landings under this additional quota would be maintained separately from other landings under the Longline north subcategory. Finally, regulations regarding BFT target catch requirements for pelagic longline vessels within the NED do not apply until the landings equal the available set-aside quota (50 C.F.R. 635.23(f)(3)) of 25 mt. After the available quota has been landed, target catch requirements at 50 C.F.R. 635.23(f)(1) will then apply.

General Category Effort Controls

For the last several years, NMFS has implemented General category time-period subquotas to increase the likelihood that fishing would continue throughout the entire General category season. The subquotas are consistent with the objectives of the 1999 FMP and are designed to address concerns regarding the allocation of fishing opportunities, to assist with distribution and achievement of optimum yield, to allow for a late season fishery, and to improve market conditions and scientific monitoring.

The regulations implementing the 1999 FMP divide the annual General category quota into three time-period subquotas as follows: 60 percent for June-August, 30 percent for September, and 10 percent for October-January. These percentages would be applied to the adjusted 2006 coastwide quota for the General category of 1,182.8 mt, minus 10.0 mt reserved for the New York Bight set-aside fishery. Therefore, of the available 1172.8 mt coastwide quota, 709.7 mt would be available in the period beginning June 1 and ending August 31, 2006; 344.8 mt would be available in the period beginning September 1 and ending September 30, 2006; and 118.3 mt would be available in the period beginning October 1, 2006, and ending January 31, 2007.

In addition to time-period subquotas, NMFS also has implemented General category RFDs to extend the General category fishing season. The RFDs are designed to address the same issues addressed by time-period subquotas and provide additional fine scale inseason flexibility. For the 2006 fishing year, NMFS proposes a series of solid blocks of RFDs to extend the General category for as long as possible through the October through January time-period.

Therefore, NMFS proposes that persons aboard vessels permitted in the

General category would be prohibited from fishing, including catch-and-release and tag-and-release, for BFT of all sizes on the following days: all Saturdays and Sundays from November 18, 2006, through January 31, 2007, and November 23, 2006, and December 25, 2006, inclusive, while the fishery is open. These proposed RFDs would improve distribution of fishing opportunities during the late season without increasing BFT mortality.

Finally, NMFS proposes to adjust the General category retention limit to three BFT (73 inches (185.4 centimeters (cm)) or greater per vessel per day/trip). This retention limit would go into effect on the effective date of the final rule and would remain in place until the end of the first General category subperiod on August 31, 2006, or until adjusted before that with an inseason action, if necessary. Although NMFS usually adjusts retention limits with an inseason action, the adjustment is included in this proposed rule to provide an opportunity for public comment. NMFS may consider further retention limit adjustments after August 31, 2006.

Angling Category Effort Controls

NMFS proposes to adjust Angling category retention limits to three BFT (47 inches (119.4 cm) to less than 73 inches (185.4 cm)) per vessel per day/trip. Although NMFS usually adjusts Angling category retention limits with an inseason action, the adjustment is included in this proposed rule to provide an opportunity for public comment. NMFS is especially interested in comments on how to minimize the impacts of the retention prohibition of school size class BFT (27 inches (68.6 cm) to less than 47 inches (119.4 cm)), particularly in those regions which extensively fish for school size BFT.

Classification

This proposed rule is published under the authority of the Magnuson-Stevens Act and the ATCA. The AA has preliminarily determined that the regulations contained in this proposed rule are necessary to implement the recommendations of ICCAT and to manage the domestic Atlantic HMS fisheries.

The purpose of this proposed action is to: (1) implement the 2002 ICCAT recommendation regarding the BFT quota, by proposing 2006 specifications for the BFT fishery that allocates the quota among domestic fishing categories, including 25 mt of BFT quota to the Longline category and the four-year eight percent tolerance limit on landings of school BFT, (2) implement General category effort controls, and (3) implement Angling category effort controls.

NMFS has prepared this IRFA to analyze the impacts on small entities of the alternatives for establishing 2006 fishing year BFT quotas for all domestic fishing categories and General and Angling category effort controls.

The analysis for the IRFA assesses the impacts of the various alternatives on the vessels that participate in the BFT fisheries, all of which are considered small entities. In order to do this, NMFS has estimated the average impact that the alternatives to establish the 2006 BFT quota for all domestic fishing categories would have on individual categories and the vessels within those categories. As mentioned above, the 2002 ICCAT recommendation increased the BFT quota allocation to 1,489.6 mt, to be distributed to the domestic fishing categories based on the allocation percentages established in the 1999 FMP. This quota allocation includes a set-aside quota of 25 mt to account for incidental catch of BFT related to directed longline swordfish and non-BFT tuna fisheries in the NED. Both these quota modifications were established in the 2003, 2004 and 2005 specifications.

In 2005, the annual gross revenues from the commercial BFT fishery were approximately $3.4 million. There are approximately 8,511 vessels that are permitted to land and sell BFT under four commercial BFT quota categories (including charter/headboat vessels). The commercial categories and their 2005 gross revenues are General ($2.2 million), Harpoon ($218,017), Purse seine ($906,946), and Longline ($163,665). The analysis for the IRFA approximates that each vessel within a category will have similar catch and gross revenues to show the relative impact of the various preferred alternatives on vessels. Data on net revenues of individual fishermen are lacking, so the economic impact of the alternatives is averaged across each category. This is considered a reasonable approach for BFT fisheries. More specifically, available landings data (weight and ex-vessel value of the fish in price/pound) allow NMFS to calculate the gross revenue earned by a fishery participant on a successful trip. The available data do not, however, allow NMFS to calculate the effort and cost associated with each successful trip (i.e., number of trips expended that led to the successful trip and the associated cost of gas, bait, ice, etc.) so net revenue for each participant cannot be calculated. So NMFS cannot determine whether net revenue varies among individual fishery participants within each category, and therefore whether the economic impact of a regulation would have a varying impact among individual participants. As a result, NMFS analyzes the average impact of the proposed alternatives among all participants in each category.

For the allocation of BFT quota among domestic fishing categories, NMFS analyzed a no action alternative and alternative two (preferred alternative) which would implement the 2002 ICCAT recommendation. NMFS considered a third alternative that would have allocated the 2002 ICCAT recommendation in a manner other than that designated in the 1999 FMP that was meant to address issues regarding the changing nature of the BFT fisheries, including providing specific set-asides and allocations for fishing groups which are not currently considered in the 1999 FMP. However, since the third alternative could have resulted in a defacto sub-period quota reallocation, an FMP amendment would be necessary for its implementation, and it was not further analyzed. In a concurrent rulemaking, changes to BFT subquota allocations, among other things, have been proposed in the consolidated HMS FMP (70 FR 48804, August 19, 2005).

As noted above, alternative two would implement the 2002 ICCAT recommendation in accordance with the 1999 FMP and consistent with the ATCA in the same way it was implemented in 2003–2005. Under the ATCA, the United States is obligated to implement ICCAT-approved quota recommendations. The preferred alternative would apply this quota and have positive impacts for fishermen. The no action alternative would keep the quota at pre–2002 ICCAT recommendation levels (i.e. 77.6 mt less) and would not be consistent with the purpose and need for this action and the 1999 FMP. It would maintain economic impacts to the United States and to local economies at a distribution and scale similar to 2002 or recent prior years, but would deny fishermen additional fishing opportunities as recommended by the 2002 ICCAT recommendation and as mandated by the ATCA.

The preferred alternative would also implement the provision of the 2002 ICCAT recommendation that limits tolerance for school BFT landings to eight percent of the domestic quota, calculated on a four-year average. Because of high landings in the previous 3 years, resulting in near full utilization of the 4-year tolerance limit, a prohibition on school landings is proposed. The prohibition could have negative economic impacts to fishermen

who fish for school BFT, particularly those who rely exclusively on the school size class for BFT harvest. In some regions, access to large school and small medium BFT will mitigate these impacts. In areas where school size BFT are primarily available, fishermen may be able to shift their efforts to other pelagic species (e.g. striped bass or bluefish) to mitigate impacts. The degree to which shifting effort for either of these user groups would mitigate negative economic impacts is unknown.

Two alternatives were considered for effort control using restricted fishing days in the General category. The no action alternative would not implement any RFDs with publication of the initial specifications but rather would use inseason management authority established in the 1999 FMP to implement RFDs during the season, should catch rates warrant taking this approach. This alternative could be most beneficial during a season of low catch rates and could have positive economic consequences if slow catch rates were to persist during the late season fishery. During a slow season, the season could regulate itself and fishermen could choose when to fish or not based on their own preferences. However, it is impossible to predict in advance whether the season will have low or high catch rates.

The preferred alternative would designate RFDs according to a schedule published in the initial BFT specifications. In the past, when catch rates have been high, the use of RFDs (preferred alternative) has had positive economic consequences by avoiding oversupplying the market and extending the season as late as possible. In addition, establishing RFDs at the season onset provides better planning opportunities than implementing RFDs during the season, since charter/headboat businesses could book trips and recreational and commercial fishermen could make plans ahead of time rather than waiting until the last minute to see if an RFD is going to be implemented. However, implementing RFDs to extend the late season may have some negative economic impacts to northern area fishermen who choose to travel to the southern area during the late season fishery. Travel and lodging costs may be greater if the season were extended over a greater period of time as proposed under the preferred alternative. Those additional costs could be mitigated if the ex-vessel price of BFT stays high, as is intended under this alternative. Without RFDs, travel costs may be less because of a shorter season; however, the market could be oversupplied and ex-vessel prices could fall. Overall, extending the season as late as possible and establishing formalized RFDs at the season onset would enhance the likelihood of increasing participation by southern area fishermen, increase access to the fishery over a greater range of the fish migration, provide a reliable mechanism for slowing a fishery that has an ability to generate extremely high catch rates, and is expected to provide better than average ex-vessel prices with an overall increase in gross revenues.

A three fish retention limit (73 inches (185.4 cm) or above) is the preferred alternative for the opening retention limit for the General category, which would be in effect through August 31, 2006. This alternative is expected to result in the most positive socio-economic impacts by providing the best opportunity to harvest the quota while avoiding oversupplying the market, thus maximizing gross revenues. Other considered alternatives were the no action alternative (one BFT 73 inches (185.4 cm) or above per vessel per day/trip) and a retention limit of two BFT (73 inches (185.4 cm) or above per vessel per day/trip). Both these alternatives are expected to be too restrictive given the large amount of quota available for the General category during the 2006 fishing year and could result in the negative economic impact of lower gross revenues. Although early season landings seldom occur at a rate that could oversupply the market, NMFS will monitor landings closely to assure that the increased retention limit does not contribute to an oversupply.

Six alternatives were considered for Angling category retention limits for the 2006 fishing year. The no action alternative was rejected since it would allow landing of school size class BFT, which is contrary to the 1999 FMP, 2002 ICCAT recommendation and the ATCA, given the status of school landings over the first 3 years of the 4-year balance period. The preferred alternative is a three BFT (from 47 inches (119.4 cm) to less than 73 inches (185.4 cm) per vessel per day/trip) retention limit for all sectors of the Angling category for the entire 2006 fishing year.

In addition to the preferred alternative, two other alternatives were considered that would provide the same retention limits for both private recreational and charter/headboats. One alternative (one BFT from 47 inches (119.4 cm) to less than 73 inches (185.4 cm) per vessel per day/trip) was not preferred because it could unnecessarily restrict the amount of Angling category landings which could result in an underharvest of the quota and a negative economic impact. The other alternative would allow one BFT per person up to a maximum of six per vessel (from 47 inches (119.4 cm) to less than 73 inches (185.4 cm)) per day/trip and is the alternative most likely to result in an overharvest of the quota with negative economic consequences.

Two other alternatives were considered which provided differential retention limits between the Angling category sectors, all for BFT from 47 inches (119.4 cm) to less than 73 inches (185.4 cm). The first would provide a private vessel retention limit of two fish per vessel per day/trip and a charter/headboat limit of one fish per person with a maximum of six per vessel per day/trip. The second alternative would provide one fish for each vessel per day/trip for the season, with an increase to three fish per vessel for charter/headboats during June 15, 2006 through July 31, 2006 and the month of September 2006. The second alternative was considered to be unnecessarily restrictive with a greater potential for negative economic impacts associated with not harvesting the entire quota. The first alternative was not preferred since it could result in perceived inequities between the two sectors of the Angling category fishery.

The preferred alternative would provide a three-fish (47 inches to less than 73 inches) retention limit for both charter/headboats and private recreational vessels for the entire season. The preferred alternative was selected to balance the intent of landing the Angling category quota without overharvesting, providing sufficient retention limits to offset costs, reducing any perceived inequities between the charter/headboat and private recreational vessel sectors of the Angling category fishery, and providing economic benefits to all regional sectors of the fishery.

None of the proposed alternatives in this document would result in additional reporting, recordkeeping, compliance, or monitoring requirements for the public. This proposed rule has also been determined not to duplicate, overlap, or conflict with any other Federal rules.

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

On September 7, 2000, NMFS reinitiated formal consultation for all HMS commercial fisheries under section 7 of the ESA. A Biological Opinion (BiOp), issued June 14, 2001, concluded that continued operation of the Atlantic pelagic longline fishery is likely to jeopardize the continued existence of endangered and threatened

sea turtle species under NMFS jurisdiction. This BiOp also concluded that the continued operation of the purse seine and handgear fisheries, which are the primary gears for directed BFT harvest, may adversely affect, but is not likely to jeopardize, the continued existence of any endangered or threatened species under NMFS jurisdiction. NMFS has implemented the reasonable and prudent alternative (RPA) required by this BiOp.

Subsequently, a new BiOp on the Atlantic pelagic longline fishery was issued on June 1, 2004. The 2004 BiOp found that the continued operation of the fishery was not likely to jeopardize the continued existence of loggerhead, green, hawksbill, Kemp's ridley, or olive ridley sea turtles, but was likely to jeopardize the continued existence of leatherback sea turtles. The 2004 BiOp identified RPAs necessary to avoid jeopardizing leatherbacks, and listed the Reasonable and Prudent Measures (RPMs) and terms and conditions necessary to authorize continued take as part of the revised incidental take statement. On July 6, 2004, NMFS published a final rule (69 FR 40734) implementing additional sea turtle bycatch and bycatch mortality mitigation measures for all Atlantic vessels with pelagic longline gear onboard. NMFS is implementing the other RPMs in compliance with the 2004 BiOp. On August 12, 2004, NMFS published an advance notice of proposed rulemaking (69 FR 49858) to request comments on potential regulatory changes to further reduce bycatch and bycatch mortality of sea turtles, as well as comments on the feasibility of framework mechanisms to address unanticipated increases in sea turtle interactions and mortalities, should they occur. NMFS will undertake additional rulemaking and non-regulatory actions, as required, to implement any management measures that are required under the 2004 BiOp.

The measures proposed in this action are not expected to have adverse impacts on protected species, or have any further impacts on protected species than those considered in the 2001 and 2004 BiOps. The 2002 ICCAT recommendation increased the BFT quota slightly (77.6 mt), which may have resulted in a slight increase in effort in BFT fisheries after its initial implementation in 2003. NMFS does not expect that this slight increase has altered fishing patterns or effort compared to pre–2003 levels because the amount of additional quota is so small that it would likely not have been an incentive for other fishermen to join the open access BFT fisheries, or for either open or limited access BFT fishermen to substantially increase fishing effort. The options to control effort in the General and Angling categories are not expected to adversely impact protected species or have any further impacts on protected species than those previously analyzed, since they would not result in a change in fishing patterns or an increase in effort, in part because they are designed to moderate fishing effort without such changes. In addition, these measures are within the limits of effort controls allowed under the HMS regulations at 50 CFR 635.23 which were covered by the previous BiOps. The specific action to allocate additional BFT quota to the Longline category would not alter current impacts on threatened or endangered species. Since BFT are only allowed to be retained incidentally in this fishery, the additional quota would not provide an incentive to target BFT, or modify fishing behavior or expand fishing effort. Thus, overall, the proposed action would not be expected to change previously analyzed endangered species or marine mammal interaction rates or magnitudes, or substantially alter current fishing practices or bycatch mortality rates.

Authority: 16 U.S.C. 971 *et seq.*; 16 U.S.C. 1801 *et seq.*

Dated: February 17, 2006.

William T. Hogarth

Assistant Administrator for Fisheries, National Marine Fisheries Service.

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Notices

Federal Register
Vol. 71, No. 37
Friday, February 24, 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.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Public Information Collections Being Reviewed by the U.S. Agency for International Development; Comments Requested

SUMMARY: U.S. Agency for International Development (USAID) invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act for 1995. Comments are requested concerning: (a) Whether the proposed or continuing collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Submit comments on or before April 25, 2006.

FOR FURTHER INFORMATION CONTACT: Beverly Johnson, Bureau for Management, Office of Administrative Services, Information and Records Division, U.S. Agency for International Development, Room 2.07–106, RRB, Washington, DC 20523, (202) 712–1365 or via e-mail *bjohnson@usaid.gov.*

SUPPLEMENTARY INFORMATION:

OMB No: OMB 0412–0555.
Form No.: N/A.
Title: Monthly Commodity Status Report/Monthly Recipient Status Report.
Type of Review: Renewal of Information Collection.
Purpose: The Monthly Commodity Status Report/Monthly Recipient Status Report (MCSR/MRSR) allows the Office of Food for Peace (FFP) to track exactly how commodities are distributed. The Cooperating Sponsor submits an Annual Estimate of Requirements (AER) each year. The AER is an estimate of how much food is needed for a specified number of beneficiaries in a particular country. The MCSR/MRSR allows FFP to track the commodities from the amount requested on the AER to what is actually distributed. The MCSR tracks the commodities for each program and the MRSR tracks the number of recipients or beneficiaries reached each month under each FFP program.
Annual Reporting Burden:
Respondents: 20.
Total annual responses: 240.
Total annual hours requested: 24.

Dated: February 15, 2006.

Joanne Paskar,

Chief, Information and Records Division, Office of Administrative Services, Bureau for Management.

[FR Doc. 06–1723 Filed 2–23–06; 8:45 am]

BILLING CODE 6116–01–M

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Public Information Collections Being Reviewed by the U.S. Agency for International Development; Comments Requested

SUMMARY: U.S. Agency for International Development (USAID) is making efforts to reduce the paperwork burden. USAID invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by the Paperwork Reduction Act for 1995. Comments are requested concerning: (a) Whether the proposed or continuing collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Submit comments on or before April 25, 2006.

FOR FURTHER INFORMATION CONTACT: Beverly Johnson, Bureau for Management, Office of Administrative Services, Information and Records Division, U.S. Agency for International Development, Room 2.07–106, RRB, Washington, DC 20523, (202) 712–1365 or via e-mail *bjohnson@usaid.gov.*

SUPPLEMENTARY INFORMATION:

OMB No.: OMB 0412–0557.
Form No.: N/A.
Title: Annual Results Report.
Type of Review: Renewal of Information Collection.
Purpose: The Annual Results Report provides meaningful results-oriented information to assist Cooperating Sponsors, USAID Missions and USAID's Office of Food for Peace to demonstrate the impact of food aid on food security. The report serves as an important information source during preparation of Fiscal Year Annual updates prepared by Cooperating Sponsors, new development activity proposals, Agency Results, Review and Resource Requests, and USAID's annual report to Congress. The Annual Results Report focuses on performance indicators for food aid activity and progress toward achievement of results. The report also includes a summary of anticipated resource requests for the next Fiscal Year.
Annual Reporting Burden:
Respondents: 20.
Total annual responses: 20.
Total annual hours requested: 480.

Dated: February 15, 2006.

Joanne Paskar,

Chief, Information and Records Division, Office of Administrative Services, Bureau of Management.

[FR Doc. 06–1724 Filed 2–23–06; 8:45 am]

BILLING CODE 6116–01–M

AGENCY FOR INTERNATIONAL DEVELOPMENT

Notice of Public Information Collections Being Reviewed by the U.S. Agency for International Development; Comments Requested

SUMMARY: U.S. Agency for International Development (USAID) is making efforts to reduce the paperwork burden. USAID invites the general public and other Federal agencies to take this opportunity to comment on the following proposed and/or continuing information collections, as required by

the Paperwork Reduction Act for 1995. Comments are requested concerning: (a) Whether the proposed or continuing collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Submit comments on or before April 25, 2006.

FOR FURTHER INFORMATION CONTACT: Beverly Johnson, Bureau for Management, Office of Administrative Services, Information and Records Division, U.S. Agency for International Development, Room 2.07–106, RRB, Washington, DC 20523, (202) 712–1365 or via e-mail *bjohnson@usaid.gov.*

SUPPLEMENTARY INFORMATION:

OMB No.: OMB 0412–0556.

Form No.: N/A.

Title: Monetization Report.

Type of Review: Renewal of Information Collection.

Purpose: The Monetization Report is used to help the U.S. Agency for International Development (USAID) Missions determine the status of the commodities monetized by the Cooperating Sponsors under the Public Law 480 title II program. The Monetization Profile provides USAID Missions with a checklist of important questions about the Cooperating Sponsors' monetization transactions. The Cooperating Sponsors verify the Free Alongside Ship (FAS) price quotation that has been provided by USAID's Office of Food for Peace, the foreign flag estimate or rate, the sales price obtained, and the method for which the commodities have been sold. All of this information is necessary for USAID Missions to collect verifiable information and to determine that Cooperating Sponsors are meeting USAID's cost recovery benchmark.

Annual Reporting Burden:

Respondents: 20.

Total annual responses: 20.

Total annual hours requested: 240.

Dated: February 15, 2006.

Joanne Paskar,

Chief, Information and Records Division, Office of Administrative Services, Bureau for Management.

[FR Doc. 06–1726 Filed 2–23–06; 8:45 am]

BILLING CODE 6116–01–M

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket Number FV–06–306]

United States Standards for Grades of Peppers (Other Than Sweet Peppers)

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice.

SUMMARY: The Agricultural Marketing Service (AMS), prior to undertaking research and other work associated with official grade standards, is soliciting comments on the possible development of the United States Standards for Grades of Peppers (Other Than Sweet Peppers). At a meeting with the Fruit and Vegetable Industry Advisory Committee, AMS was asked to identify commodities that may be better served if grade standards are developed. The standards would provide industry with a common language and uniform basis for trading, thus promoting the orderly and efficient marketing of peppers that are not of the sweet pepper type.

DATES: Comments must be received by April 25, 2006.

ADDRESSES: Interested persons are invited to submit written comments to the Standardization Section, Fresh Products Branch, Fruit and Vegetable Programs, Agricultural Marketing Service, U.S. Department of Agriculture, 1400 Independence Ave., SW., Room 1661 South Building, Stop 0240, Washington, DC 20250–0240; Fax (202) 720–8871, E-mail *FPB.DocketClerk@usda.gov.* Comments should make reference to the dates and page number of this issue of the **Federal Register** and will be made available for public inspection in the above office during regular business hours.

FOR FURTHER INFORMATION CONTACT: Cheri L. Emery, at the above address or call (202) 720–2185; E-mail *Cheri.Emery@usda.gov.*

SUPPLEMENTARY INFORMATION: Section 203(c) of the Agricultural Marketing Act of 1946 (7 U.S.C. 1621–1627), as amended, directs and authorizes the Secretary of Agriculture ''To develop and improve standards of quality, condition, quantity, grade, and packaging, and recommend and demonstrate such standards in order to encourage uniformity and consistency in commercial practices.'' AMS is committed to carrying out this authority in a manner that facilitates the marketing of agricultural commodities and makes copies of official standards available upon request. The United States Standards for Grades of Fruits and Vegetables that are not requirements of Federal Marketing Orders or U.S. Import Requirements, no longer appear in the Code of Federal Regulations, but are maintained by USDA, AMS, Fruit and Vegetable Programs.

AMS is proposing to establish voluntary United States Standards for Grades of Peppers (Other Than Sweet Peppers) using the procedures that appear in part 36, Title 7 of the Code of Federal Regulations (7 CFR part 36).

Background

At a meeting of the Fruit and Vegetable Industry Advisory Committee, AMS was asked to identify fresh fruit and vegetables that may be better served if grade standards are developed. AMS identified certain pepper varieties/types as possibly in need of official grade standards, because they are not included in the current United States Standards for Grades of Sweet Peppers. These varieties/types include all peppers other than sweet peppers. U.S. standards are used by the fresh produce industry to describe the product they are trading, thus facilitating the marketing of the product. The new standards could contain sections pertaining to grades, size classifications, color requirements, tolerances, application of tolerances, pack requirements, definitions, and other relevant and necessary provisions.

Prior to undertaking detailed work to develop standards, AMS is soliciting comments on the possible development of the United States Standards for Grades of Peppers (Other Than Sweet Peppers).

This notice provides for a 60-day comment period for interested parties to comment on the possible development of standards. Should AMS conclude that there is a need for the standards, the proposed standards will be published in the **Federal Register** with a request for comments in accordance with 7 CFR part 36.

Authority: 7 U.S.C. 1621–1627.

Dated: February 17, 2006.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. E6–2652 Filed 2–23–06; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Black Hills National Forest, Bearlodge Ranger District, Wyoming, Dean Project Area Proposal and Analysis

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare a supplemental environmental impact statement.

SUMMARY: The Forest Service will prepare a supplemental environmental impact statement on a proposal to implement multiple resource management actions within the Dean Area as directed by the Black Hills National Forest Land and Resource Management Plan. The Dean Project Area covers about 12,468 acres of National Forest System land and about 2,256 acres of interspersed private land within the Redwater Creek watershed directly north of Sundance, Wyoming. Proposed actions would modify the structure of forest stands across the planning area to reduce fuel loads, potential for uncharacteristically intense wildfire behavior, and risk of insect outbreaks; provide for diverse wildlife habitat and restore hardwoods; and provide a mix of motorized and nonmotorized use opportunities. A previous decision on this project was reversed on appeal. A supplemental EIS will be prepared with the aim to issue another project decision.

DATES: Scoping was conducted as described in the Notice of Intent of November 24, 2004 (69 FR 68303). The original Draft EIS was issued in March 2005 (70 FR 12211), and the comment period was extended once (70 FR 19951). Comments were accepted through May 2, 2005. The Notice of Availability of the Final environmental impact statement was issued June 3, 2005 (70 FR 32610). The project decision was appealed, and reversed in a written appeal decision on September 1, 2005. The Forest Service expects to issue the Supplemental Draft EIS for this project in February 2006, and the Supplemental FEIS and decision in about May 2006.

FOR FURTHER INFORMATION CONTACT: Janis Bouma, Project Coordinator, Black Hills National Forest, Bearlodge Ranger District, 121 S. 21st Street, Sundance, Wyoming 82729, phone (307) 283–1361.

SUPPLEMENTARY INFORMATION: The actions are proposed in direct response to management direction provided by the Black Hills National Forest Land and Resource Management Plan (Forest Plan), as amended by the Phase II Forest Plan amendment. The site-specific actions are based on Forest Plan Standards and Guidelines to promote existing resource conditions in the Dean Project Area toward meeting Forest Plan Goals and Objectives. The project area lies in the Bear Lodge Mountains in the Black Hills National Forest, directly north of Sundance, Wyoming. Issues considered include: Fire and fuel hazard reduction; impacts of vegetation treatment and multiple forest uses on wildlife and fish habitat; and travel management and recreation.

Purpose of and Need for Action

There is a need to reduce the potential for uncharacteristically intense wildfire behavior and insect infestation, provide diverse wildlife habitat, and manage motorized recreation in the Dean Project Area. This project will address Forest Plan Goals 1 (protect basic soil, air, water and cave resources); 2 (provide for biologically diverse ecosystems); 3 (provide for sustained commodity uses); 4 (provide for scenic quality and recreation opportunities, and protect heritage resources); 7 (cooperate with outside parties); and 10 (establish and maintain a mosaic of vegetation conditions to reduce the occurrences of large-scale fire and insect/disease events), consistent with Forest Plan standards and guidelines.

Proposed Action

Actions proposed in the Dean Project Area include:

- Modifying stand structure across the planning area to reduce potential for uncharacteristically intense wildlife behavior and benefit wildlife. This action includes thinning the forest, removing conifers from stands of hardwoods such as aspen, bur oak, and birch, and expanding and/or creating meadows.
- Reducing fuel loads by decreasing the volume and arrangement of both existing fuels and those resulting from other vegetation treatment activities. Treatment could include lopping, chipping, crushing, piling and burning, and prescribed burning on up to 2,971 acres.
- Reducing the density of pine stands on up to 4,840 acres to decrease the potential for spreading crown fires, increase tree growth and vigor, and lessen the risk of insect infestation and disease. This may be done by using commercial timber harvest to thin out merchantable trees and using other methods to thin small, unmerchantable trees. These actions would provide wood fiber to local industry and would require construction of up to 5.7 miles of new specified roads.
- Modifying the Forest Plan through a non-significant amendment to change management area (MA) designation in part of the project area to better reflect actual conditions. The entire project is currently in MA 5.4 (Big Game Winter Range Emphasis). The lower elevations and south aspects on the east side of the project area currently provide appropriate and important winter range for deer and elk and are utilized as such. However, the remainder of the project area is heavily used by deer and elk only during the spring, summer, and fall, including calving and fawning periods. Therefore, the Forest proposes to change the Management Area designation in a portion of the project area to MA 5.6 (Forest Products, Recreation, and Big Game Emphasis) to better reflect the actual utilization, better manage the project area to benefit a variety of wildlife, including big game species, and better reflect existing non-motorized recreation opportunities.
- Providing a mix of motorized and non-motorized opportunities and protecting wildlife in the area by closing the project area to off-road motorized travel and restricting ATV use to designated routes. Main system routes currently open to motorized travel would remain open. Approximately 23.5 miles of roads would also be decommissioned.

Alternatives Considered

Four alternatives will be analyzed in the Supplemental Draft EIS. These alternatives are:

- Alternative A, No Action—Proposed actions would be deferred at this time.
- Alternative B—Promote late succession habitat and increase diversity while reducing fuels and insect infestation risk.
- Alternative C—Proposed Action—Aggressively treat forest vegetation to reduce fire and fuels hazard; prohibit off-road motorized travel in the project area; amend the Forest Plan to allow for a change in management area designation.
- Alternative D—Focus treatments near private lands and in other strategic locations; de-emphasize the use of commercial timber harvest and feature broadcast burning and fuel breaks.

Responsible Official

Craig Bobzien, Forest Supervisor, Black Hills National Forest, is the responsible official. The address is Black Hills National Forest, 1019 N. 5th Street, Custer, South Dakota 57730. The telephone is (605) 673–9200.

Nature of Decision To Be Made

The decisions to be made are whether to implement the proposed action or alternatives at this time; and whether to amend the Revised Forest Plan to allow a change in management area designation for part of the project area.

Dated: February 16, 2006.

Craig Bobzien,

Forest Supervisor.

[FR Doc. 06–1692 Filed 2–23–06; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Glenn/Colusa County Resource Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of Meeting.

SUMMARY: The Glenn/Colusa County Resource Advisory Committee (RAC) will meet in Willows, California. Agenda items to be covered include: (1) Introductions, (2) Approval of Minutes, (3) Public Comment, (4) Web site Update, (5) Project Proposals/Possible Action, (6) Update on Noxious Weed Project, (7) General Discussion, (8) Next Agenda.

DATES: The meeting will be held on February 27, 2006, from 1:30 p.m. and end at approximately 4:30 p.m.

ADDRESSES: The meeting will be held at the Mendocino National Forest Supervisor's Office, 825 N. Humboldt Ave., Willows, CA 95988. Individuals wishing to speak or propose agenda items must send their names and proposals to Jim Giachino, DFO, 825 N. Humboldt Ave., Willows, CA 95988.

FOR FURTHER INFORMATION CONTACT: Bobbin Gaddini, Committee Coordinator, USDA, Mendocino National Forest, Grindstone Ranger District, 825 N. Humboldt Ave., Willows, CA 96939. (530) 935–1268; e-mail *ggaddini@fs.fed.us.*

SUPPLEMENTARY INFORMATION: The meeting is open to the public. Committee discussion is limited to Forest Service staff and Committee members. However, persons who wish to bring matters to the attention of the Committee may file written statements with the Committee staff before or after the meeting. Public input sessions will be provided and individuals who made written requests by February 24, 2006 will have the opportunity to address the committee at those sessions.

Dated: February 16, 2006.

Janet Flanagan,

Acting Designated Federal Official.

[FR Doc. 06–1735 Filed 2–23–06; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Rural Business-Cooperative Service

Announcement of Value-Added Producer Grant Application Deadline; Correction

AGENCY: Rural Business-Cooperative Service, USDA.

ACTION: Notice; correction.

SUMMARY: This document corrects a notice that was published on December 21, 2005 (70 FR 75780–75790), which contained errors that may prove misleading and is in need of clarification. All applications must still be submitted by the deadline date of March 31, 2006.

Accordingly, the notice that was published on December 21, 2005 (70 FR 75780–75790) is corrected as follows:

On page 75781 in the second column, under the definition for ''Bioenergy Project'', remove the words ''other than an anaerobic digester.''

On page 75787 in the second column, paragraph vii, in the second sentence, revise the number ''$300,000'' to read ''$100,000''.

On page 75788 in the second column, paragraph vii, revise the second sentence to read as follows:

''The allocation of points for this criterion shall be as follows: $1–$25,000 equals 2 points, $25,001–$50,000 equals 1 point, $50,001–$300,000 equals 0 points.''

Dated: February 17, 2006.

Thomas Dorr,

Under Secretary, Rural Development.

[FR Doc. E6–2659 Filed 2–23–06; 8:45 am]

BILLING CODE 3410–XY–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed Additions to and Deletions from Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List a product and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete products and a service previously furnished by such agencies.

Comments Must Be Received on or Before: March 26, 2006.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Sheryl D. Kennerly, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *SKennerly@jwod.gov*.

SUPPLEMENTARY INFORMATION: This notice is published pursuant to 41 U.S.C. 47(a)(2) and 41 CFR 51–2.3. Its purpose is to provide interested persons an opportunity to submit comments on the proposed actions.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice for each product or service will be required to procure the product and services listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the product and services to the Government.

2. If approved, the action will result in authorizing small entities to furnish the product 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 product and services proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following products and services are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Product

Product/NSNs: Remanufactured Ink Cartridges (USDA, Farm Service Agency, Kansas City, Missouri Only).
NSN: 7510–00–NSH–0114—Black.
NPA: Thresholds Rehabilitation Inc., Chicago, Illinois.
Contracting Activity: USDA, Farm Service Agency, Washington, DC.

Services

Service Type/Location: Custodial Services/ Bureau of Reclamation, 6150 West Thunderbird Road, Glendale, Arizona.
NPA: Goodwill Community Services, Inc., Phoenix, Arizona.
Contracting Activity: Bureau of Reclamation, Phoenix, Arizona.

Service Type/Location: Grounds Maintenance, Gerald R. Ford Federal Building & U.S. Courthouse, 110 Michigan Street, Grand Rapids, Michigan.
NPA: Hope Network Services Corporation, Grand Rapids, Michigan.
Contracting Activity: GSA, Public Buildings Service, Region 5, Chicago, Illinois.

Service Type/Location: Grounds Maintenance & Snow Removal, Hart-Dole-Inouye Federal Center, 74 North Washington Avenue, Battle Creek, Michigan.
NPA: Navigations, Inc., Battle Creek, Michigan.
Contracting Activity: GSA, Public Buildings Service, Region 5, Chicago, Illinois.

Service Type/Location: Multi-Function Support Services,Naval & Marine Corps Reserve Center, 6400 Bloomington Road, Fort Snelling, St. Paul, Minnesota. Naval Air Reserve Center, 5905 34th Avenue S., Minneapolis, Minnesota.
NPA: AccessAbility, Inc., Minneapolis, Minnesota.
Contracting Activity: Naval Facilities Engineering Field Activity Midwest, Great Lakes, Illinois.

Deletions

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action may result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. If approved, the action may result in authorizing small entities to furnish the products and service to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and service proposed for deletion from the Procurement List.

End of Certification

The following products and service are proposed for deletion from the Procurement List:

Products

Product/NSNs: Light, Desk.
NSN: 6230–00–682–3423—Light, Desk.
NSN: 6230–00–299–7771—Light, Desk.
NPA: None Currently Authorized.
Contracting Activity: GSA, Southwest Supply Center, Fort Worth, Texas.

Service

Service Type/Location: Duplication and Copy Machine Operation, GSA, 10 Causeway Street, 9th Floor Region 1, Boston, Massachusetts.
NPA: Morgan Memorial Goodwill Industries, Boston, Massachusetts.
Contracting Activity: GSA, Region 1, Boston, Massachusetts.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. E6–2637 Filed 2–23–06; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Addition And Deletion

AGENCY: Committee for Purchase from People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletions from Procurement List.

SUMMARY: This action adds to the Procurement List products to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List a service previously furnished by such agencies.

DATES: Effective March 26, 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 email *SKennerly@jwod.gov.*

SUPPLEMENTARY INFORMATION:

Additions

On December 23, 2005, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (70 FR 76233) 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 impact of the additions on the current or most recent contractors, the Committee has determined that the products 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 to the government.

2. The action will result in authorizing small entities to furnish the products 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 proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products are added to the Procurement List:

Products

Product/NSNS: Ergo Nylon Ladle.
NSN: M.R. 861—Ergo Nylon Ladle.
Product/NSNS: Ergo Nylon Spaghetti Server.
NSN: M.R. 857—Ergo Nylon Spaghetti Server.
NPA: Cincinnati Association for the Blind, Cincinnati, Ohio.
Contracting Activity: Defense Commissary Agency (DeCA), Fort Lee, Virginia.

Deletion

On December 23, 2005, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (70 FR 76233) of proposed deletions to the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the service listed below is no longer suitable for procurement by the Federal government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action may result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the service to the government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the service deleted from the Procurement List.

End of Certification

Accordingly, the following service is deleted from the Procurement List:

Service

Service Type/Location: Janitorial/Custodial, U.S. Federal Building and Post Office, 522 North Central Avenue, Phoenix, Arizona.
NPA: Goodwill Community Services, Inc., Phoenix, Arizona.
Contracting Activity: General Services Administration.

Sheryl D. Kennerly,

Director, Information Management.

[FR Doc. E6–2638 Filed 2–23–06; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Establishment of new effective date.

In the document appearing on page 3259, FR Doc E6–640, in the issue of January 20, 2006 in the second column, the Committee published a notice suspending the effective date of a service that was originally published on page 76234, FR Doc 05–7764, in the issue of December 23, 2005, in the first and second columns. The Committee is establishing a new effective date of February 24, 2006 for addition of the following service:

Service Type/Location: Basewide Custodial Services, U.S. Naval Academy Complex, Annapolis, Maryland.
NPA: Melwood Horticultural Training Center, Upper Marlboro, Maryland.
Contracting Activity: Naval Facilities Engineering Command, Chesapeake, Washington, DC.

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. E6–2671 Filed 2–23–06; 8:45 am]

BILLING CODE 6353–01–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Docket 5–2006]

Foreign-Trade Zone 9—Honolulu, Hawaii Application for Expansion

An application has been submitted to the Foreign-Trade Zones (FTZ) Board (the Board) by the State of Hawaii, grantee of FTZ 9, requesting authority to expand FTZ 9 to include a site in Kailua-Kona on the Island of Hawaii. The application was submitted pursuant to the provisions of the Foreign-Trade Zones Act, as amended, (19 U.S.C. 81a–81u), and the regulations of the Board (15 CFR part 400). It was formally filed on February 15, 2006.

FTZ 9 was approved on February 15, 1965 (Board Order 65, 30 FR 2377, 2/20/65), and currently consists of eight sites (1,294 acres): *Site 1*—(17 acres) at Pier 2 in Honolulu Harbor (Oahu); *Site 2*—(1,033 acres) at the James Campbell Industrial Park, Ewa (Oahu); *Site 3*—(109 acres) at the Mililani Technology Park, Kihei (Maui); *Site 4*—(60 acres) at the Maui Research and Technology Park, Kihei (Maui); *Site 5*—(31 acres) at the Hilo Industrial Park, Hilo (Hawaii); *Site 6*—(27 acres) aviation fueling facilities at Honolulu International Airport, including tanker terminal at Pier 51 (Sand Island) and Pier 52, the bulk storage area for fuel storage tank facilities at Sand Island Access Road and Mokauea Street, the airport fuel storage facility at 3181 & 3201 Aolele Street, airport fueling stations and pipelines connecting the facilities (Oahu); *Site 7*—(7 acres) at Unicold Corporation's public cold-storage distribution facilities in the Airport Industrial complex at 3140 Ualena Street, Honolulu (Oahu); and *Site 8*—(10 acres) Hawaii Convention Center located at Kalakaua Avenue and Kapiolani Boulevard, Honolulu (Oahu).

The applicant is now requesting authority to expand the zone to include an additional site on the Island of Hawaii. The proposed site consists of 870 acres at the Natural Energy Laboratory of Hawaii Authority site located at 73–4460 Queen Kaahumanu Highway, #101, Kailua-Kona, Hawaii.

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

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

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

2. Submissions Via the U.S. Postal Service: Foreign-Trade Zones Board, U.S. Department of Commerce, FCB—Suite 4100W, 1401 Constitution Ave., NW., Washington, DC 20230. The closing period for their receipt is April 25, 2006. Rebuttal comments in response to material submitted during the foregoing period may be submitted during the subsequent 15-day period (to May 10, 2006).

A copy of the application and accompanying exhibits will be available for public inspection at the Office of the Foreign-Trade Zones Board's Executive Secretary at the first address listed above, and at the U.S. Department of Commerce Export Assistance Center, 521 Ala Moana Blvd, Room 214, Honolulu, HI 96813.

Dated: February 15, 2006.

Dennis Puccinelli,

Executive Secretary.

[FR Doc. E6–2672 Filed 2–23–06; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1436]

Termination of Foreign-Trade Subzone 133A (Maytag Corporation) Galesburg, IL

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign-Trade Zones Board Regulations (15 CFR Part 400), the Foreign-Trade Zones Board has adopted the following order:

Whereas, on November 1, 1989 the Foreign-Trade Zones Board issued a grant of authority to the Quad-City Foreign-Trade Zone, Inc. (Quad-City) authorizing the establishment of Foreign-Trade Subzone 133A at the Maytag Corporation facility, Galesburg, Illinois (Board Order 448, 54 FR 47246, 11/13/89);

Whereas, Quad-City advised the Board on May 17, 2005 (FTZ Docket 33–

2005), that zone procedures were no longer needed at the facility and requested voluntary termination of Subzone 133A;

Whereas, the request has been reviewed by the FTZ Staff and Customs officials, and approval has been recommended;

Now, therefore, the Foreign-Trade Zones Board terminates the subzone status of Subzone 133A, effective this date.

Signed at Washington, DC, this 10th day of February 2006.

David M. Spooner,

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

Attest:

Dennis Puccinelli,

Executive Secretary.

[FR Doc. E6–2670 Filed 2–23–06; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

Foreign-Trade Zones Board

[Order No. 1435]

Termination of Foreign-Trade Subzone 61F Guayama, Puerto Rico

Pursuant to the authority granted in the Foreign-Trade Zones Act of June 18, 1934, as amended (19 U.S.C. 81a–81u), and the Foreign-Trade Zones Board Regulations (15 CFR part 400), the Foreign-Trade Zones Board has adopted the following order:

Whereas, on November 28, 1995 the Foreign-Trade Zones Board issued a grant of authority to the Puerto Rico Trade and Export Company (PRTEC) authorizing the establishment of Foreign-Trade Subzone 61F at the IPR Pharmaceuticals, Inc. facility, Guayama, Puerto Rico (Board Order 787, 60 FR 63499, 12/11/95);

Whereas, PRTEC advised the Board on June 21, 2005 (FTZ Docket 32–2005), that zone procedures were no longer needed at the facility and requested voluntary termination of Subzone 61F;

Whereas, the request has been reviewed by the FTZ Staff and Customs officials, and approval has been recommended;

Now, therefore, the Foreign-Trade Zones Board terminates the subzone status of Subzone 61F, effective this date.

Signed at Washington, DC, this 10th day of February, 2006.

David M. Spooner,

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

Attest:

Dennis Puccinelli,

Executive Secretary.

[FR Doc. E6–2669 Filed 2–23–06; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Initiation of Antidumping and Countervailing Duty Administrative Reviews

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

ACTION: Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews.

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

EFFECTIVE DATE: February 24, 2006.

FOR FURTHER INFORMATION CONTACT: Sheila E. Forbes, Office of 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) 482–4697.

SUPPLEMENTARY INFORMATION:

Background

The Department has received timely requests, in accordance with 19 CFR 351.213(b)(2004), for administrative reviews of various antidumping and countervailing duty orders and findings with January anniversary dates. With respect to the antidumping duty order on Wooden Bedroom Furniture from the People's Republic of China, the initiation of the antidumping duty administrative review for that case is being published in a separate initiation notice.

Initiation of Reviews

In accordance with section 19 CFR 351.221(c)(1)(i), we are initiating administrative reviews of the following antidumping and countervailing duty orders and findings. We intend to issue the final results of these reviews not later than January 31, 2007.

Antidumping duty proceedings	Period to be reviewed
Thailand: Prestressed Concrete Steel Wire Strand A–549–820	1/1/05–12/31/05
Siam Industrial Wire Co., Ltd.	
The People's Republic of China: Hand Trucks and Parts Thereof [1] A–570–891	12/1/04—11/30/05
The People's Republic of China: Wooden Bedroom Furniture [2] A–570–890	6/24/04—12/31/05
Countervailing Duty Proceedings	
None	
Suspension Agreements	
None	

[1] In the initiation notice that published on February 1, 2006 (71 FR 5241), thereview period for the above referenced case was incorrect. The period listed above is the correct period of review for this case.

[2] The administrative review for the above referenced case will be published in a separate initiation notice.

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

2002), as appropriate, whether antidumping duties have been absorbed by an exporter or producer subject to the review if the subject merchandise is sold in the United States through an importer that is affiliated with such exporter or producer. The request must include the name(s) of the exporter or producer for which the inquiry is requested.

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

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

Dated: February 21, 2006.

Thomas F. Futtner,

Acting Office Director, AD/CVD Operations, Office 4 for Import Administration.

[FR Doc. E6–2676 Filed 2–23–06; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–823–812]

Final Results of Inquiry Into Ukraine's Status as a Non–Market Economy Country.

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

ACTION: Final Results

SUMMARY: Ukraine has implemented economic and institutional reforms since gaining independence in 1991. The government of Ukraine (''GOU'') has undertaken substantial reforms relating to the factors examined by the Department of Commerce (''the Department'') under section 771(18)(B) of the Tariff Act of 1930, as amended (''the Act''). See memorandum to David Spooner from Lawrence Norton, Shauna Lee–Alaia, and Anthony Hill, *Decision Memorandum Regarding Ukraine's Status as a Non–Market Economy Country for Purposes of the Antidumping Duty Law Under a Changed Circumstances Review of the Antidumping Duty Order on Carbon and Certain Alloy Steel Wire Rod from Ukraine* (February 16, 2006) (''Decision Memorandum'').

Based on the preponderance of evidence on reforms in Ukraine to date, analyzed as required under section 771(18)(B) of the Act, the Department determines that (1) revocation of Ukraine's non–market economy (''NME'') status under section 771(18)(B) of the Act is warranted, and (2) the effective date of this decision is February 1, 2006. Accordingly, Ukrainian producers and exporters will be subject, to the antidumping rules applicable to market economy countries with respect to the analysis of transactions occurring on or after February 1, 2006.

EFFECTIVE DATE: February 1, 2006.

FOR FURTHER INFORMATION CONTACT: Lawrence Norton or Shauna Lee–Alaia, Office of Policy, Import Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington DC, 20230; telephone: 202–482–1579 or 202–482–2793, respectively.

SUPPLEMENTARY INFORMATION:

Background

The Department has treated Ukraine as an NME country in all past antidumping duty investigations and administrative reviews. *See*, *e.g.*, *Final Determination of Sales at Less Than Fair Value: Carbon and Certain Alloy Steel Wire Rod from Ukraine*, 67 FR 55785 (August 30, 2002); *Final Determination of Sales at Less Than Fair Value: Certain Hot–Rolled Carbon Steel Flat Products from Ukraine*, 66 FR 50401 (October 3, 2001); and Final Determination of Sales at Less Than Fair Value: Steel Concrete Reinforcing Bars from Ukraine, 66 FR 1857 (April 11, 2001). A designation as a NME remains in effect until it is revoked by the Department. *See* section 771(18)(C)(i) of the Act.

On April 2, 2005, the GOU's Ministry of Economy and European Integration requested that the Department conduct a review of Ukraine's status as a NME country within the context of a changed circumstances review of the antidumping duty order on carbon and certain alloy steel wire rod from Ukraine. In response to this request, the Department initiated a changed circumstances review in order to determine whether Ukraine should continue to be treated as a NME country for purposes of the antidumping law, pursuant to sections 751(b) and 771(18)(C)(ii) of the Act. *See Initiation of a Changed Circumstances Review of the Antidumping Duty Order on Carbon and Certain Alloy Steel Wire Rod from Ukraine*, 70 FR 21396 (April 26, 2005).

In its notice of initiation, the Department invited public comment on Ukraine's ongoing economic reforms. Extensive initial and rebuttal comments were received on July 11, and August 31, 2005, respectively. On January 12, 2006, the Department requested further comment on Ukraine's reforms and extended the deadline for completion of the proceeding to February 16, 2006. *See Changed Circumstances Review of the Antidumping Duty Order on Carbon and Certain Alloy Steel Wire Rod from Ukraine: Opportunity to Comment on the Status of Ukraine as a Non–Market Economy Country and Extension of Final Results* 71 FR 2904 (January 18, 2006). These comments have been made available to the public on the Import Administration Web site at the following address: *http://ia.ita.doc.gov/*. In addition, the Department has compiled and analyzed information regarding Ukrainian economic reforms from independent third–party sources such as the International Monetary Fund, the World Bank, and the European Bank for Reconstruction and Development.

Ukraine's currency, the *hryvnia*, is freely convertible on the current account and is subject to market forces. Employees and management may freely negotiate wages, and workers have the right to unionize and engage in collective bargaining. Foreign direct investment is encouraged by the GOU in almost all sectors of the economy, and the law afford foreign and domestic investors equal treatment. Ukraine's efforts toward privatizing the economy have been substantial. At least 65 percent of Ukraine's gross domestic product is in the hands of the private sector, and there are relatively few large state–owned enterprises remaining. Land, including land for agricultural use, is privately held, and foreign investors may own the land on which their investments are located. The GOU has withdrawn from its previous role as the primary resource allocator in the economy by privatizing virtually the entire banking sector and eliminating most price controls. Additionally, Ukraine is in the process of joining the World Trade Organization.

Notwithstanding Ukraine's substantial progress, several aspects of Ukraine's economy require additional reform. Foreign direct investment, while increasing, has been very low. Ukraine should enhance the mechanisms for trade in land, particularly agricultural land. Ukraine continues to have a very difficult business environment, due to excessive government regulation, outdated legislation and corruption. In particular, small and medium–size enterprise growth and increases in foreign investment are hampered by Ukraine's difficult business environment.

Overall, though, given the significant reforms discussed above and in the Decision Memorandum, Ukraine warrants designation as a market–

economy country, effective February 1, 2006.

Dated: February 16, 2006.

Joseph A. Spetrini,

Acting Assistant Secretary for Import Administration.

[FR Doc. E6–2673 Filed 2–23–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–601]

Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Amended Final Results of Administrative Review

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

SUMMARY: On January 17, 2006, the Department of Commerce (the ''Department'') published *Tapered Roller Bearings and Parts Thereof, Finished and Unfinished, from the People's Republic of China: Final Results of 2003–2004 Administrative Review and Partial Rescission of Review*, 71 FR 2517 (January 17, 2006) (''*Final Results*''), covering the period of review (''POR'') June 1, 2003, through May 31, 2004. We are amending the *Final Results* to correct ministerial errors made in the calculation of the dumping margins for Luoyang Bearing Corporation (Group) (''LYC''), pursuant to section 751(h) of the Tariff Act of 1930, as amended (''the Act'').

EFFECTIVE DATE: February 24, 2006.

FOR FURTHER INFORMATION CONTACT: Laurel LaCivita, Eugene Degnan or Robert Bolling, 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) 482–4243, (202) 482–0414 or (202) 482–3434, respectively.

SUPPLEMENTARY INFORMATION:

Scope of Order

Merchandise covered by this order is tapered roller bearings (''TRBs'') from the People's Republic of China (''PRC''); flange, take up cartridge, and hanger 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.

Background

On January 17, 2006, the Department published the *Final Results* in the **Federal Register**. On January 17, 2006, and January 18, 2006, we received ministerial error allegations from Yantai Timken Co., Ltd. (''Yantai Timken'') and The Timken Company (Petitioner), respectively. A ministerial error is defined in section 751(h) of the Act and further clarified in 19 CFR 351.224(f) as ''an error in addition, subtraction, or other arithmetic function, ministerial error resulting from inaccurate copying, duplication, or the like, and any other similar type of unintentional error which the Secretary considers ministerial.'' After analyzing the comments by interested parties, we have determined, in accordance with 19 CFR 351.224(e), that a ministerial error existed in the calculations for the *Final Results* with respect to LYC. Additionally, we disagree that the issue raised by Yantai Timken constitutes a ministerial error. For a detailed explanation of this issue, *see* the memorandum to the file from Laurel LaCivita, Senior Case Analyst, through Robert Bolling, Program Manager, ''Analysis for the Amended Final Results of the 2003–2004 Administrative Review of Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from the People's Republic of China: Yantai Company, Ltd,'' dated February 16, 2006. For a detailed discussion and analysis of the ministerial error raised by Petitioner with respect to LYC and the correction the Department has applied, see the memorandum to the file from Eugene Degnan, Case Analyst, through Robert Bolling, Program Manager, ''Analysis for the Amended Final Results of the 2003–2004 Administrative Review of Tapered Roller Bearings and Parts Thereof, Finished or Unfinished, from the People's Republic of China: Luoyang Bearing Corporation (Group),'' dated February 16, 2006. Both memoranda are on file in the Central Records Unit, room B–099 in the main building of the Department of Commerce.

Therefore, in accordance with section 751(h) of the Act and 19 CFR 351.224(e), we are amending the *Final Results* of the administrative review of TRBs from the PRC for LYC.

In addition, our *Final Results* inadvertently failed to include the Department's determination with respect to three companies: Shanghai United Bearing Co., Ltd. (''Shanghai United''), Zhejiang Changshan Bearing (Group) Co., Ltd. (''Changshan Bearing''), and Zhejiang Changshan Change Bearing Co. (''ZCCBC''). In our preliminary results of review, we determined that Shanghai United, Changshan Bearing, and ZCCBC had failed to demonstrate their eligibility for separate rate status. Therefore, we preliminarily determined that they were part of the PRC–wide entity. *See 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*, 70 FR 39744, 39751 (July 11, 2005) (''*Preliminary Results*''). Because the PRC–wide entity failed to cooperate in this review, we preliminarily determined that the application of total adverse facts available (''AFA'') was warranted and applied the rate of 60.95 percent to the PRC–wide entity. *See* 70 FR 39744, at 39751 and 39755. Since the *Preliminary Results*, no information has been placed on the record with respect to these companies. Therefore, we have not reconsidered our decision from the *Preliminary Results*. Consequently, for the amended final results of review, we shall continue to apply a total AFA rate of 60.95 percent to the PRC–wide entity (including Shanghai United, Changshan Bearing, and ZCCBC).

The revised weighted–average dumping margin for LYC is detailed in the chart below.

Manufacturer/Exporter	Weighted–Average Margin (Percent)
LYC	0.44*

* This rate is *de minimis*.

The Department shall determine, and U.S. Customs and Border Protection shall assess, antidumping duties on all appropriate entries based on the amended final results. For details on the assessment of antidumping duties on all appropriate entries, *see Final Results*, 71 FR 2517, 2523.

These amended final results are published in accordance with sections 751(h) and 777(i)(1) of the Act.

Dated: February 16, 2006.

Joseph A. Spetrini,

Acting Assistant Secretaryfor Import Administration.

[FR Doc. E6–2674 Filed 2–23–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–821–802]

Extension of Time Limit for Sunset Review of the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation

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

EFFECTIVE DATE: February 24, 2006.

FOR FURTHER INFORMATION CONTACT: Sally C. Gannon or Aishe Allen, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW, Washington, DC 20230; (202) 482–0162 or (202) 482–0172, respectively.

SUPPLEMENTARY INFORMATION:

Extension of Time Limit for Sunset Review:

On November 10, 2005, the Department of Commerce (''the Department'') extended the time limit for the sunset review of the agreement suspending the antidumping investigation on uranium from the Russian Federation in accordance with section 751(c)(5)(B) of the Tariff Act of 1930, as amended (''the Act''). *See, Extension of Time Limit for Sunset Review of the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation*, 70 FR 68397 (November 10, 2005) (''*Notice of Extension*''). On January 17, 2006, the Department determined to conduct a full sunset review of this suspended investigation. *See*, Memorandum from Sally C. Gannon to Ronald K. Lorentzen; ''Sunset Review of Uranium from the Russian Federation: Adequacy of Domestic and Respondent Interested Party Responses to the Notice of Initiation and Decision to Conduct Full Sunset Review,'' dated January 17, 2006. On January 24, 2006, the Department determined to provide an additional extension of the time limit for the preliminary results of this sunset review until February 17, 2006. *See, Extension of Time Limit for Sunset Review of the Agreement Suspending the Antidumping Investigation on Uranium from the Russian Federation*, 71 FR 3824 (January 24, 2006).

Pursuant to section 351.218(f) of the Department's regulations, the Department normally will issue its preliminary results in a full sunset review not later that 110 days after the date of publication in the **Federal Register** of the notice of initiation. However, as determined in the *Notice of Extension*, the sunset review of the agreement suspending the antidumping investigation on uranium from the Russian Federation is extraordinarily complicated and requires additional time for the Department to complete its analysis. Therefore, the Department is extending the deadline for the preliminary results in this proceeding by an additional 35 days and, as a result, intends to issue the preliminary results of the full sunset review no later than March 24, 2006. The Department will issue its final results of the full sunset review on May 30, 2006, as specified in the *Notice of Extension*.

This notice is issued in accordance with sections 751(c)(5)(B) and (C)(v) of the Act.

Dated: February 17, 2006.

Carole Showers,

Acting Director Office of Policy.

[FR Doc. E6–2677 Filed 2–23–06; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021506E]

Western Pacific Fishery Management Council; Public Meetings

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

ACTION: Notice of public meetings and hearings.

SUMMARY: The Western Pacific Fishery Management Council (Council) will hold several public hearings in Hawaii to seek input on measures to end bottomfish overfishing in Hawaii and options for fishing regulations for bottomfish and pelagics in the Northwestern Hawaiian Islands (NWHI). Further, the Council will hold its 131st meeting and convene a meeting of its Advisory Panel to consider and take actions on fishery management issues in the Western Pacific Region.

DATES: The 131st Council meeting and Advisory Panel meetings will be held on March 13 – 16, 2006. The public hearings on the Hawaii bottomfish overfishing options and NWHI Fishing regulations will be held in March 2006. See **SUPPLEMENTARY INFORMATION** for specific times and times of these public hearings.

ADDRESSES: The 131st Council meeting and Advisory Panel meetings and public hearings will be held at the Ala Moana Hotel, 410 Atkinson Drive, Honolulu, HI; telephone: (808) 955–4811. See **SUPPLEMENTARY INFORMATION** for specific locations of the public hearings on the bottomfish overfishing options and NWHI Fishing regulations.

FOR FURTHER INFORMATION CONTACT: Kitty M. Simonds, Executive Director; telephone: (808) 522–8220.

SUPPLEMENTARY INFORMATION:

The location, dates, and times for the public hearings on bottomfish overfishing options and NWHI fishing regulations are listed below:

1. Kahului, Maui, Hawaii—Thursday, March 2, 2006, from 6 p.m. to 9 p.m,. at the Maui Beach Hotel, 170 Kaahumanu Ave., Kahului, HI 96732;

2. Hana, Maui, Hawaii—Friday, March 3, 2006, from 6 p.m. to 9 p.m., at the Helene Social Hall, Hana Bay Rd., Hana, HI 96713;

3. Hilo, Hawaii—Monday, March 6, 2006, from 6 p.m. to 9 p.m., at the University of Hawaii, Hilo Campus Center, 200 W. Kawili St., Hilo, HI 96720;

4. Naalehu, Hawaii—Tuesday, March 7, 2006, from 6 p.m. to 9 p.m., at the Naalehu Elementary School, 95545 Mamalahoa Hwy, Naalehu, HI 96772;

5. Kohala, Hawaii—Wednesday, March 8, 2006, from 6 p.m. to 9 p.m., at the Kohala High School, 54–3611 Akoni Pule Hwy, Kapaau, HI 96755;

6. Kaunakakai, Molokai, Hawaii—Thursday, March 9, 2006, from 6 p.m. to 9 p.m., at the Mitchell Pauole Center Conference Room, 90 Ainoa St., Kaunakakai, HI 96748;

7. Kapaa, Kauai, Hawaii—Friday, March 10, 2006, from 6 p.m. to 9 p.m., at the Kapaa High School, 4695 Mailihuna Rd., Kapaa, HI;

8. Oahu, Hawaii—Tuesday, March 14, 2006, from 6 to 9 p.m., at the Ala Moana Hotel, 410 Atkinson Dr., Honolulu, HI 96815;

9. Oahu, Hawaii—Wednesday, March 15, 2006, from 8:30 a.m. to 5 p.m., at the Ala Moana Hotel, 410 Atkinson Dr., Honolulu, HI 96815;

10. Oahu, Hawaii Thursday, March 16, 2006, from 8:30 a.m. to 5 p.m., at the Ala Moana Hotel, 410 Atkinson Dr., Honolulu, HI 96815;

For more information on public hearing items, see **BACKGROUND INFORMATION**.

The schedule and agenda for the Council Advisory Panel meeting will include the items listed here.

8 a.m. – 5:30 p.m., Monday, March 13, 2006

A. Introduction and overview
B. Council Action Items
1. Pelagics Management
a. Bigeye and Other Tuna Conservation
b. American Samoa Limited Entry Program Update
2. Bottomfish Management
a. MHI Bottomfish Overfishing
3. Ecosystems and Habitat Management
a. NWHI Fishing Regulations
b. Fishery Ecosystem Plans
4. Fishery Rights of Indigenous People
a. Communities Program
b. Marine Conservation Plans
5. Other Issues
C. Discussion in Island Area Groups
1. American Samoa
2. Guam
3. CNMI
4. Hawai
D. Discussion by Advisory Panel Sub-panels
1. Commercial Panel
2. Recreational Panel
3. Subsistence Panel
4. Ecosystems & Habitat Panel

8 a.m. – 1 p.m., Tuesday, March 14, 2006

E. Sub-Panel Chairman Reports
1. Commercial Advisory Panel Report and Recommendations
2. Recreational Advisory Panel Report and Recommendations
3. Ecosystem and Habitat Advisory Panel Report and Recommendations
4. Indigenous and Subsistence Advisory Panel Report and Recommendations
5. Discussion
6. Other issues
7. Full Panel Discussion and Recommendations
8. Other Business

In addition to the agenda items listed here, the Council will hear recommendations from other Council advisory groups. Public comment periods will be provided throughout the agenda. The order in which agenda items are addressed may change. The Council will meet as late as necessary to complete scheduled business.

The schedule for Council Standing Committee meetings is listed here.

Monday, March 13, 2006

Standing Committee

1. *7:30 a.m. – 9 a.m.*, Enforcement/Vessel Monitoring System (VMS) Standing Committee
2. *9 a.m. – 11 a.m.*, Ecosystems & Habitat Standing Committee
3. *10 a.m. – 12 noon*, Pelagics & International Standing Commmittee
4. *1 p.m. – 3 p.m.*, Bottomfish Standing Committee
5. *3 p.m. – 5 p.m.*, Program Planning, Executive, and Budget Standing Committee

The agenda during the full Council meeting will include the items listed here.

Schedule and Agenda for Council Meeting

8:30 a.m. – 5 p.m., Tuesday, March 14, 2006

1. Introductions
2. Approval of agenda
3. Approval of 129th and 130th meeting minutes
4. Island reports and Island Enforcement Agency Reports
A. American Samoa
B. Guam
C. Hawaii
D. CNMI
5. Reports from fishery agencies and organizations
A. Department of Commerce
a. NMFS
i. Pacific Islands Regional Office
ii. Pacific Islands Fisheries Science Center
B. The Department of the Interior
a. The U.S. Fish and Wildlife Service (USFWS)
C. NOAA General Counsel Southwest Region/Pacific Islands Region
D. Department of State
6. Enforcement/vessel monitoring systems
A. U.S. Coast Guard activities
B. NOAA Office of Law Enforcement (OLE) Activities
C. Status of Violations
D. Standing Committee Recommendations
7. Fishery Rights of Indigenous People
A. Communities Program
B. CDPP Update
C. Advisory Panel Recommendations
8. Precious Coral Fisheries
A. Black Coral Management and Research
a. Black Coral Amendment Update
b. Black Coral Workshop Plan
B. SSC Recommendations

8:30 a.m. – 5 p.m., Wednesday, March 15, 2006

9. Bottomfish Fisheries
A. Bottomfish Management
a. PIFSC Report on Hawaii Bottomfish
b. MHI Bottomfish Overfishing Measures
c. Assessment of existing and designation of new State of Hawaii bottomfish Restricted Fishing Areas (RFA)
B. Plan Team Recommendations
C. Advisory Panel Recommendations
D. SSC Recommendations
E. Standing Committee Recommendations

8:30 a.m. – 5 p.m., Thursday, March 16, 2006

10. Pelagic/International Fisheries
A. International Fisheries Management
a. WCPFC 2nd Meeting Resolutions
i. BET/YFT Conservation
ii. Northern & Southern Albacore
iii. Bycatch (turtles, seabirds, sharks non-target fish)
b. NMFS International Division Activities Report
i. Purse Seine Report
ii. Other International Activities
B. Hawaii Shortline/Handline Fishery Report
C. American Samoa & Hawaii Longline 2005 Fishery Reports
D. Advisory Panel Recommendations
E. SSC Recommendations
F. Standing Committee Recommendations
11. Protected Species Issues
A. Turtle Conservation Program Update
B. Observer Data and Science
a. NMFS-Pacific Islands Fishery Science Center
b. NMFS-Pacific Islands Regional Office Protected Species Report
C. SSC Recommendations
D. Standing Committee Recommendations
12. Ecosystems and Habitat
A. NWHI Sanctuary Fishing Regulations
B. Western Pacific Fishery Ecosystem Plans Update
C. NMSP/Council Fishing Regulation Protocol
D. NMFS Essential Fish Habitat Update
E. Ecosystem Social Science Workshop Report
F. Shark Viewing Update
G. SSC Recommendations
H. Standing Committee Recommendations
I. Advisory Panel Recommendations
13. Program Planning
A. Update on Legislation
B. Magnuson Act Reauthorization
C. Status of Fishery Management Actions
D. Education and Outreach Report
E. Report on State Disaster Relief Program
F. FDCC Report
G. Report on National Aquaculture
H. Standing Committee Recommendations
14. Administrative Matters and Budget
A. Financial Reports
B. Administrative Reports
C. Meetings and Workshops

D. SOPP Changes
E. Advisory Group Changes
F. Standing Committee Recommendations
G. Public Comment
H. Council Discussion and Action
15. Other Business
A. Next Meeting

BACKGROUND INFORMATION:

1. Hawaii Bottomfish Overfishing Options (ACTION ITEM)

On the basis of fishery information analyzed by NMFS Pacific Islands Fisheries Science Center (PIFSC), NMFS's Pacific Islands Regional Office (PIRO) has determined that overfishing of the bottomfish species complex is occurring within the Hawaii Archipelago. The Regional Administrator for PIRO notified the Council of this overfishing determination on May 27, 2005. The Magnuson-Stevens Act requires that the Council take action to amend the Bottomfish FMP to end bottomfish overfishing within 1 year following NMFS' notification of the bottomfish overfishing.

The Council has been preparing an amendment to the Bottomfish FMP, as well as a Draft Supplemental Environmental Impact Statement (DSEIS) to address the ''overfishing'' of Hawaii's bottomfish stocks. Contained in the FMP amendment and DSEIS are management measures to end bottomfish overfishing in the Hawaii Archipelago.

Hawaii's bottomfish are managed as a single archipelagic-wide multi-species stock complex, however, bottomfish fisheries in the Hawaii Archipelago occur in two broad management areas, the Northwestern Hawaiian Islands and the Main Hawaiian Islands (MHI). NMFS has determined that the bottomfish overfishing problem is primarily occurring in the MHI and, therefore, reducing fishing mortality (effort) there would be the most effective means to end the overfishing in the Hawaii Archipelago. The management measures considered in the amendment and DSEIS (except for the no action alternative) target a 15 percent or greater reduction in bottomfish fishing mortality in the MHI which has been determined by PIFSC to be the appropriate level of reduction to end overfishing.

The Alternatives considered include: (1) No Action; (2a) Closure of Federal waters around Penguin and Middle Banks; (2b) Closure of 15 large area across the main Hawaiian Islands; (3) Annual seasonal closure from May to August; (4a) Total annual quota; 4b) Individual fishing quotas; (5a) Annual seasonal closure from May to September except for a limited number of fishermen who fish under individual fishing quotas; and (5b)Annual seasonal closure from June to August and a partial closure of the southwestern portion of Penguin Bank.

The Council will consider these alternatives and will take final action on measures to end overfishing in the Hawaii bottomfish stock.

2. Northwestern Hawaiian Islands Fishing Regulations (ACTION ITEM)

On January 18, 2006, the Council was informed by the Under Secretary of Commerce for Oceans and Atmosphere, that NOAA is developing alternatives in the Draft Environmental Impact Statement for the proposed Northwestern Hawaiian Islands National Marine Sanctuary that would enable the Council to continue to recommend management measures to limit bottomfish and pelagic fisheries through regulations under the Magnuson-Stevens Fishery Conservation and Management Act, consistent with the goals and objectives of the proposed sanctuary.

The Council was also informed that if, by May 1, 2006, it transmits for Secretarial review, an amendment to the Bottomfish and Pelagics FMPs and corresponding proposed regulations implementing limits to bottomfish and pelagic fishing, NOAA may review those Magnuson-Stevens Fishery Conservation and Management Act regulations as potential mechanisms to implement NOAA's preferred alternative for the proposed sanctuary, rather than implementing the alternative via the National Marine Sanctuaries Act.

The Council will conduct public hearings on options to limit bottomfish and pelagic fishing in the NWHI.

Although non-emergency issues not contained in this agenda may come before this group for discussion, those issues may not be the subject of formal action during this meeting. Action will be restricted to those issues specifically identified in this notice and any issues arising after publication of this notice that require emergency action under section 305(c) of the Magnuson-Stevens Fishery Conservation and Management Act, provided the public has been notified of the Council's intent to take final action to address the emergency.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Kitty M. Simonds, 808–522–8220 (voice) or (808)522–8226 (fax), at least 5 days prior to the meeting date.

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

Dated: February 17, 2006.

Tracey L. Thompson,

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

[FR Doc. E6–2720 Filed 2–23–06; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 021606C]

Endangered Species; File No. 1556

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that the Commonwealth of the Northern Mariana Islands, USA (CNMI), Division of Fish and Wildlife [Paul Hamilton, responsible official], P.O. Box 10007, Saipan, Mariana Islands 96950, has applied in due form for a permit to take green (*Chelonia mydas*), and hawksbill (*Eretmochelys imbricata*) sea turtles for purposes of scientific research.

DATES: Written, telefaxed, or e-mail comments must be received on or before March 27, 2006.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following offices:

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301) 713–2289; fax (301) 427–2521; and

Pacific Islands Region, NMFS, 1601 Kapiolani Blvd., Rm 1110, Honolulu, HI 96814–4700; phone (808) 973–2935; fax (808) 973–2941.

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301) 427–2521, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing email comments is *NMFS.Pr1Comments@noaa.gov.* Include in the subject line of the e-mail comment the following document identifier: File No. 1556.

FOR FURTHER INFORMATION CONTACT: Kate Swails or Patrick Opay, (301) 713–2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*) and the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226).

The CNMI Division of Fish and Wildlife proposes to perform sea turtle surveys in the waters of the Mariana Islands, USA. The project would consist of shoreline/cliff line assessments, in-water tow dive assessments, and the hand capture of sea turtles. Turtles would be handled, measured, tissue-sampled, flipper tagged, passive integrated transponder tagged, and released. The applicant would capture 100 green and 40 hawksbill sea turtles annually. A subset of the turtles would be outfitted with a satellite tag. The permit would be issued for five years.

Dated: February 17, 2006.

Stephen L. Leathery,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E6–2675 Filed 2–23–06; 8:45 am]

BILLING CODE 3510–22–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Information Collection; Submission for OMB Review, Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation''), has submitted a public information collection request (ICR) entitled AmeriCorps Application Instructions: State Competitive, State Education Award Program, National Direct, National Direct Education Award Program, National Professional Corps, Indian Tribes, States and Territories without Commissions, and National Planning, to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995, Public Law 104–13, (44 U.S.C. Chapter 35). A copy of this ICR, with applicable supporting documentation, may be obtained by contacting the Corporation for National and Community Service, AmeriCorps, Amy Borgstrom, Associate Director of Policy, (202) 606–6930, or by e-mail at *ABorgstrom@cns.gov.* Individuals who use a telecommunications device for the deaf (TTY–TDD) may call (202) 606–3472 between 8:30 a.m. and 5 p.m. eastern time, Monday through Friday.

ADDRESSES: Comments may be submitted, identified by the title of the information collection activity, to Office of Information and Regulatory Affairs, Attn: Ms. Rachel Potter, OMB Desk Officer for the Corporation for National and Community Service, by any of the following two methods within 30 days from the date of publication in this **Federal Register**:

(a) By fax to: (202) 395–6974, Attention: Ms. Rachel Potter, OMB Desk Officer for the Corporation for National and Community Service; and

(b) Electronically by e-mail to: *Rachel_F._Potter@omb.eop.gov.*

SUPPLEMENTARY INFORMATION: The OMB is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, 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;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose 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, *e.g.*, permitting electronic submissions of responses.

Current Action

Description: The Corporation for National and Community Service (the ''Corporation'') has amended the regulations that apply to the AmeriCorps national service program to clarify the Corporation's requirements for program sustainability, performance measures and evaluation, capacity-building activities by AmeriCorps members, qualifications for tutors, and other requirements. The implementation of these changes through the rulemaking process includes ensuring the Corporation's information collection instruments accurately reflect these issues. In an effort to be compliant while maintaining functions essential to the operations of each State Commission and AmeriCorps program, we are submitting the enclosed request to OMB for approval of information collection activities. This submission includes application instructions for AmeriCorps State Competitive, State Education Award, National Direct, National Direct Education Award Program, National Professional Corps, Indian Tribes, States and Territories without Commissions, and National Planning programs.

Type of Review: Renewal; previously granted emergency approval by OMB.

Agency: Corporation for National and Community Service.

Title: AmeriCorps Application Instructions: State Competitive, State Education Award Program, National Direct, National Direct Education Award Program, National Professional Corps, Indian Tribes, States and Territories without Commissions, and National Planning.

OMB Number: 3045–0047.

Agency Number: None.

Affected Public: Nonprofit organizations, State, Local and Tribal.

Total Respondents: 2,000.

Frequency: Annually.

Average Time Per Response: 16 hours.

Estimated Total Burden Hours: 32,000 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Dated: February 16, 2006.

Elizabeth D. Seale,

Interim Director, AmeriCorps State and National COO, Corporation for National and Community Service.

[FR Doc. E6–2593 Filed 2–23–06; 8:45 am]

BILLING CODE 6050–$$–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation''), 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. Sec. 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 requirement on respondents can be properly assessed.

Currently, the Corporation is soliciting comments on the proposed survey for the AmeriCorps Tutoring Evaluation. The survey will be completed by selected AmeriCorps State and National programs that provide tutoring services and that may be subject to the proposed AmeriCorps standards for tutors and tutoring programs. Many of these programs receive all or part of their funding from the Corporation.

Copies of the information collection requests can be obtained by contacting the office listed in the address section of this notice.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by April 25, 2006.

ADDRESSES: You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) By mail sent to: Corporation for National and Community Service, Attention: Lillian Dote, Program Officer, Office of Research and Policy Development, Room 10901A; 1201 New York Avenue, NW., Washington, DC, 20525.

(2) By hand delivery or by courier to the Corporation's mailroom at Room 8102C, at the street address given in paragraph (1) above, between 9 a.m. and 4 p.m. Monday through Friday, except Federal holidays.

(3) By fax to: (202) 606–3464, Attention: Lillian Dote, Program Officer, Office of Research and Policy Development.

(4) Electronically through the Corporation's e-mail address system: *ldote@cns.gov*.

FOR FURTHER INFORMATION CONTACT: Lillian Dote, (202) 606–6984, or by e-mail at *ldote@cns.gov.*

SUPPLEMENTARY INFORMATION: The Corporation is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, 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;
- Propose ways to enhance the quality, utility, and clarity of the information to be collected; and
- Propose ways to minimize the burden of the collection of information on those who are expected 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 submissions of responses).

Background

The Corporation is interested in learning about tutoring programs supported by its AmeriCorps State and National programs. The study will provide basic information on the characteristics of AmeriCorps State and National tutoring programs, and will assist the Corporation in providing technical assistance to programs subject to proposed standards for tutors and tutoring programs. The study will also enable the Corporation to determine the feasibility of conducting evaluations of such programs.

Current Action

This is an application for a new data collection.

Type of Review: New.

Agency: Corporation for National and Community Service.

Title: AmeriCorps Tutoring Evaluation.

OMB Number: None.

Agency Number: None.

Affected Public: Tutoring programs receiving funding from AmeriCorps State and National.

Total Respondents: 100.

Frequency: On occasion.

Average Time Per Response: 1 hour.

Estimated Total Burden Hours: 100 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

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 will also become a matter of public record.

Dated: February 17, 2006.

Robert Grimm,

Director, Office of Research and Policy Development.

[FR Doc. E6–2656 Filed 2–23–06; 8:45 am]

BILLING CODE 6050–$$–P

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Senior Corps; Schedule of Income Eligibility Levels

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: This Notice revises the schedules of income eligibility levels for participation in the Foster Grandparent Program (FGP) and the Senior Companion Program (SCP) of the Corporation for National and Community Service, published in 70 FR 17981–17983, April 8, 2005.

DATES: These guidelines are effective as of March 1, 2006.

FOR FURTHER INFORMATION CONTACT: Corporation for National and Community Service, Peter L. Boynton, Senior Program Officer, Senior Corps, 1201 New York Avenue, NW., Washington, DC 20525, by telephone at (202) 606–6825, or e-mail: *seniorfeedback@cns.gov.*

SUPPLEMENTARY INFORMATION: The revised schedules are based on changes in the Poverty Guidelines issued by the Department of Health and Human Services (DHHS), published in 71 FR 3848–3849, January 24, 2006. In accordance with program regulations, the income eligibility level for each State, Puerto Rico, the Virgin Islands and the District of Columbia is 125 percent of the DHHS Poverty Guidelines, except in those areas determined by the Corporation to be of higher cost of living. In such instances, the guidelines shall be 135 percent of the DHHS Poverty levels (See attached list of High Cost Areas). The level of eligibility is rounded to the next higher multiple of $5.00.

In determining income eligibility, consideration should be given to the following, as set forth in 45 CFR 2551–2553 dated October 1, 1999, as amended per the **Federal Register,** Vol. 67, No. 188, Friday, September 27, 2002, Vol. 69, No. 72, Wednesday, April 14, 2004, and Vol. 69, No. 75, Monday, April 19, 2004.

—Allowable medical expenses are annual out-of-pocket expenses for health insurance premiums, health care services, and medications provided to the applicant, enrollee, or spouse and were not and will not be paid for by Medicare, Medicaid, other insurance, or by any other third party, and must not exceed 50 percent of the applicable Corporation income guideline.

—Annual income is counted for the past 12 months, for serving SCP and FGP

volunteers, and is projected for the subsequent 12 months, for applicants to become SCP and FGP volunteers, and includes: The applicant or enrollee's income and the applicant or enrollee's spouse's income, if the spouse lives in the same residence. Sponsors must count the value of shelter, food, and clothing, if provided at no cost to the applicant, enrollee or spouse.

—Any person whose income is not more than 100 percent of the DHHS Poverty Guideline for her/his specific family unit shall be given special consideration for participation in the Foster Grandparent and Senior Companion Programs:

2006 FGP/SCP INCOME ELIGIBILITY LEVELS

[Based on 125 percent of DHHS poverty guidelines]

States	Family units of			
	One	Two	Three	Four
All, except High Cost Areas, Alaska and Hawaii	$12,250	$16,500	$20,750	$25,000

For family units with more than four members, add $4,250 for each additional member in all States except designated High Cost Areas, Alaska and Hawaii.

2006 FGP/SCP INCOME ELIGIBILITY LEVELS FOR HIGH COST AREAS

[Based on 135 percent of DHHS poverty guidelines]

States	Family units of			
	One	Two	Three	Four
All, except Alaska and Hawaii	$13,230	$17,820	$22,410	$27,000
Alaska	16,540	22,275	28,015	33,750
Hawaii	15,215	20,495	25,775	31,050

For family units with more than four members, add: $4,590 for all areas, $5,740 for Alaska, and $5,280 for Hawaii, for each additional member.

The income eligibility levels specified above are based on 135 percent of the DHHS poverty guidelines and are applicable to the following high cost metropolitan statistical areas and primary metropolitan statistical areas:

High Cost Areas

(Including all Counties/Locations Included in that Area as Defined by the Office of Management and Budget).

Alaska

(All Locations).

California

Inyo Mono County.
Los Angeles/Compton/San Gabriel/Long Beach/Hawthorne (Los Angeles County).
Santa Barbara/Santa Maria/Lompoc (Santa Barbara County).
Santa Cruz/Watsonville (Santa Cruz County).
Santa Rosa/Petaluma (Sonoma County).
San Diego/El Cajon (San Diego County).
San Jose/Los Gatos (Santa Clara County).
San Francisco/San Rafael (Marin County).
San Francisco/Redwood City (San Mateo County).
San Francisco (San Francisco County).
Oakland/Berkeley (Alameda County).
Oakland/Martinez (Contra Costa County).
Anaheim/Santa Ana (Orange County).
Oxnard/Ventura (Ventura County).

Connecticut

Stamford (Fairfield).

District of Columbia/Maryland/Virginia

District of Columbia and surrounding Counties in Maryland and Virginia.
MD Counties: Anne Arundel, Calvert, Charles, Cecil, Frederick, Howard, Montgomery, Prince George's, and Queen Anne's Counties.
VA Counties: Arlington, Fairfax, Loudoun, Prince William, Stafford, Alexandria City, Fairfax City, Falls Church City, Manassas City, and Manassas Park City.

Hawaii

(All Locations).

Illinois

Chicago/Des Plaines/Oak Park/Wheaton/Woodstock (Cook, DuPage and McHenry Counties).
Lake County.

Massachusetts

Barnstable (Barnstable).
Edgartown (Dukes).
Boston/Malden (Essex, Norfolk, Plymouth, Middlesex and Suffolk Counties).
Worcester (Worcester City).
Brockton/Wellesley/Braintree/Boston (Norfolk County).
Dorchester/Boston (Suffolk County).
Worcester (City) (Worcester County).

New Jersey

Bergen/Passaic/Patterson (Bergen and Passaic Counties).
Jersey City (Hudson).
Middlesex/Somerset/Hunterdon (Hunterdon, Middlesex and Somerset Counties).
Monmouth/Ocean/Spring Lake (Monmouth and Ocean Counties).
Newark/East Orange (Essex, Morris, Sussex and Union Counties).
Trenton (Mercer County).

New York

Nassau/Suffolk/Long Beach/Huntington (Suffolk and Nassau Counties).
New York/Bronx/Brooklyn (Bronx, King, New York, Putnam, Queens, Richmond and Rockland Counties).
Westchester/White Plains/Yonkers/Valhalla (Westchester County).

Ohio

Medina/Lorain/Elyria (Medina/Lorain County).

Pennsylvania

Philadelphia/Doylestown/West Chester/Media/Norristown (Bucks, Chester, Delaware, Montgomery and Philadelphia Counties).

Washington

Seattle (King County).

Wyoming

(All Locations).

The revised income eligibility levels presented here are calculated from the base DHHS Poverty Guidelines now in effect as follows:

2005 DHHS POVERTY GUIDELINES FOR ALL STATES

States	Family Units of			
	One	Two	Three	Four
All, except Alaska and Hawaii	$9,800	$13,200	$16,600	$20,000
Alaska	12,250	16,500	20,750	25,000
Hawaii	11,010	14,760	18,510	22,260

For family units with more than four members, add: $3,400 for all areas, $4,250 for Alaska, and $3,910 for Hawaii, for each additional member.

Authority: These programs are authorized pursuant to 42 U.S.C. 5011 and 5013 of the Domestic Volunteer Service Act of 1973, as amended. The income eligibility levels are determined by the current guidelines published by DHHS pursuant to sections 652 and 673(2) of the Omnibus Budget Reconciliation Act of 1981 which requires poverty guidelines to be adjusted for Consumer Price Index changes.

Dated: February 17, 2006.

Tess Scannell,

Director, Senior Corps.

[FR Doc. E6–2595 Filed 2–23–06; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

Department of the Air Force

Intent To Grant An Exclusive License

AGENCY: Department of the Air Force.

ACTION: Notice.

SUMMARY: Pursuant to the provisions of part 404 of Title 37, Code of Federal Regulations, which implements Public Law 96–517, the Department of the Air Force announces its intention to grant Conceptual MindWorks, Inc., a corporation of the State of Texas, an exclusive license under the following patents: U.S. Patent No. 5,856,108, issued 5 Jan 1999 to Kiel *et al.*, Biosynthesis of Diazomelanin and Diazoluminomelanin. U.S. Patent No. 5,902,728, issued 11 May 1999 to Parker *et al.*, Diazodenitrification in the Manufacture of Recombinant Bacterial Biosensors. The license described above will be granted unless an objection thereto, together with a request for an opportunity to be heard, if desired, is received in writing by the addressee set forth below, within fifteen (15) days from the date of publication of this Notice.

FOR FURTHER INFORMATION CONTACT: Paul D. Heydon, Patent Attorney, Commercial Law Division, Office of the Staff Judge Advocate, 311th Human Systems Wing, Air Force Materiel Command, 8010 Chennault Path, Brooks City-Base, TX 78235, (210) 536–5359.

Bao-Anh Trinh,

Air Force Federal Register Liaison Officer.

[FR Doc. E6–2650 Filed 2–23–06; 8:45 am]

BILLING CODE 5001–05–P

DEPARTMENT OF DEFENSE

Department of the Army

Final Environmental Impact Statement for the Transformation of the Pennsylvania Army National Guard 56th Brigade Into a Stryker Brigade Combat Team at the National Guard Training Center—Fort Indiantown Gap, PA

AGENCY: Department of the Army, DoD.

ACTION: Notice of availability.

SUMMARY: The Department of the Army (DA) and National Guard Bureau have proposed to transform the Pennsylvania Army National Guard (PAARNG) 56th Brigade into a Stryker Brigade Combat Team (SBCT). This Environmental Impact Statement (EIS) discusses in-depth three alternatives: The Preferred Alternative, the Train Using Existing Army Facilities Alternative, and the No-Action Alternative, Under the Preferred Alternative, the PAARNG proposes construction of new training and support facilities at the National Guard Training Center—Fort Indiantown Gap (NGTC–FTIG); at Fort Pickett, VA; and at local PAARNG facilities across the State of Pennsylvania, as well as conducting Annual Training (AT) at Fort A.P. Hill, VA, in order to accomplish requisite training. Under the Train Using Existing Army Facilities Alternative, no construction at NGTC–FTIG, Pennsylvania or Fort Pickett, VA would occur; the statewide facilities improvements would occur. Required SBCT Inactive Duty Training (IDT) and AT would be conducted at select regional Army training installations, using existing facilities. Other alternatives considered but eliminated from detailed study are also addressed in the EIS.

ADDRESSES: Written comments or material should be forwarded to LTC Christopher Cleaver, NGTC–FTIG Public Affairs Officer (PAO), PADMVA Headquarters, Building 0–47, Annville, PA 17003–502 or Ms. Patricia Rickard, NGTC–FTIG EIS Project Officer, NGTC–FTIG, Environmental Section, 1119 Utility Road, Annville, PA 17003–5002.

FOR FURTHER INFORMATION CONTACT: LTC Christopher Cleaver at (717) 861–8468 or Ms. Patricia Rickard at (717) 861–2580.

SUPPLEMENTARY INFORMATION: Significant impacts would be anticipated from both Action alternatives, although the Preferred Alternative would result in greater impacts. The Train at Existing Army Facilities Alternative would result in fewer impacts, but would not achieve the purpose of and need for the Proposed Action as effectively and efficiently as the Preferred Alternative. Studies concluded that implementation of the Preferred Alternative would result in some significant but unmitigable impacts to air quality, geology and soils, and biological resources, and would result in significant but mitigable impacts to land use, water resources, and cultural resources. The Preferred Alternative would also result in beneficial impacts to socioeconomics and to minority and low-income populations. The Train Using Existing Army Facilities Alternative would result in significant unmitigable impacts to air quality (i.e., via fugitive dust during training episodes), and would negate the beneficial socioeconomic impacts of the Preferred Alternative in the vicinities of NGTC–FTIG and Fort Pickett; the statewide (Pennsylvania) socioeconomic benefits would still occur. The No-Action Alternative would result in no significant impacts, but would not

achieve the established purpose of and need for the Proposed Action.

Clyde A. Vaughn,

Lieutenant General, GS, Director, Army National Guard.

[FR Doc. 06–1697 Filed 2–23–06; 8:45 am]

BILLING CODE 3710–08–M

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement for the Everglades National Park Seepage Management Project, Miami-Dade County, FL

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: The U.S. Army Corps of Engineers (Corps), Jacksonville District, intends to prepare an integrated Project Implementation Report/Draft Environmental Impact Statement (PIR/DEIS) for the Everglades National Park (ENP) Seepage Management Project. The study is a cooperative effort between the Corps and the South Florida Water Management District (SFWMD), which is also a cooperating agency for this DEIS. The project seeks to reduce eastward water seepage from the Everglades system for the benefit of wetland communities within ENP. The ENP Seepage Management Project is comprised of three components that were recommended as a part of the Central and Southern Florida (C&SF) Project Comprehensive Review Study Feasibility Report and Integrated Environmental Impact Statement (EIS) dated April 1999 (Restudy), and is part of the Comprehensive Everglades Restoration Plan (CERP). The project includes an aboveground recharge area, a wetland buffer area, relocation and enhancement of levee L–31N, a sheetflow delivery system, and other features located adjacent to ENP in Miami-Dade County.

FOR FURTHER INFORMATION CONTACT: U.S. Army Corps of Engineers, Planning Division, Environmental Branch, P.O. Box 4970, Jacksonville, FL, 32232–0019; Attn: Mr. Ernest Clarke or by telephone at 904–232–1199 or e-mail at *ernest.clarke@saj02.usace.army.mil.*

SUPPLEMENTARY INFORMATION:

a. *Authorization:* The authority for this project is contained within the Water Resources Development Act (WRDA) 2000.

b. *Study Area:* The study area is along a portion of the L–30 and L–31N canals located north of structure G–211, south of structure S–335, and west of structure S–380 in Miami-Dade County.

c. *Project Scope:* The scope includes conducting a watershed assessment of the study area and developing alternative plans for reducing seepage from ENP. The assessment will refine project components developed in the Restudy. The evaluation of the alternatives and selection of a recommended plan will be documented in the PIR/EIS. The alternative plans will be reviewed under provisions of appropriate laws and regulations, including the Endangered Species Act, Fish and Wildlife Coordination Act, Clean Water Act, and Farmland Protection Policy Act.

d. *Preliminary Alternatives:* The ENP Seepage Management Project includes three components of the C&SF Restudy: (1) S–356 Structures, (2) L–31N Improvements for Seepage Management, and (3) Bird Drive Recharge Area. The project described in the Restudy includes an aboveground recharge area, a wetland buffer area, relocation and enhancement of levee-canal L–31N, a sheetflow delivery system, and other features located adjacent to ENP in Miami-Dade County. Further formulation will determine the locations, sizes, configurations, and operations of facilities.

e. *Issues:* The EIS will address the following issues: the relation between this project and related projects including Modified Water Deliveries to ENP; impacts to Miami-Dade West Wellfield and Biscayne Bay, impacts to aquatic and wetland habitats; water flows; hazardous and toxic waste; water quality; flood protection; the impacts of land acquisition on the tax base; aesthetics and recreation; fish and wildlife resources, including protected species; cultural resources; and other impacts identified through scoping, public involvement and interagency coordination.

f. *Scoping:* A scoping letter and multiple public workshops will be used to invite comments on alternatives and issues from Federal, State, and local agencies, affected Indian tribes, and other interested private organizations and individuals. Additionally, a scoping meeting will be held on March 14, 2006 in Miami-Dade Fire Rescue Auditorium, 9300 NW., 41st Street, Miami, FL 33178. Additional public meetings are anticipated during the study. The exact location, dates, and times of future meetings will be announced in public notices and local newspapers.

g. *DEIS Preparation:* The integrated PIR, including a DEIS, is currently estimated for publication in September 2008.

Dated: February 10, 2006.

Marie G. Burns

Chief, Environmental Branch.

[FR Doc. 06–1727 Filed 2–23–06; 8:45 am]

BILLING CODE 3710–AJ–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. IC06–585–000; FERC–585]

Commission Information Collection Activities, Proposed Collection; Comment Request; Extension

February 14, 2006.

AGENCY: Federal Energy Regulatory Commission.

ACTION: Notice.

SUMMARY: In compliance with the requirements of section 3506(c)(2)(a) of the Paperwork Reduction Act of 1995 (Pub. L. 104–13), the Federal Energy Regulatory Commission (Commission) is soliciting public comment on the specific aspects of the information collection described below.

DATES: Comments on the collection of information are due April 21, 2006.

ADDRESSES: Copies of sample filings of the proposed collection of information can be obtained from the Commission's Web site (*http://www.ferc.gov/docs-filings/elibrary.asp*) or from the Federal Energy Regulatory Commission, Attn: Michael Miller, Office of the Executive Director, ED–34, 888 First Street NE., Washington, DC 20426. Comments may be filed either in paper format or electronically. Those parties filing electronically do not need to make a paper filing. For paper filing, the original and 14 copies of such comments should be submitted to the Secretary of the Commission, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426 and refer to Docket No. IC06–585–000.

Documents filed electronically via the Internet must be prepared in WordPerfect, MS Word, Portable Document Format, or ASCII format. To file the document, access the Commission's Web site at *http://www.ferc.gov* and click on ''Make an E-filing'', and then follow the instructions for each screen. First time users will have to establish a user name and password. The Commission will send an automatic acknowledgement to the sender's e-mail address upon receipt of comments.

All comments may be viewed, printed or downloaded remotely via the Internet through FERC's homepage using the eLibrary link. For user assistance, contact *FERCOlineSupport@ferc.gov* or toll-free at (866) 208–3676. or for TTY, contact (202) 502–8659.

FOR FURTHER INFORMATION CONTACT: Michael Miller may be reached by telephone at (202) 502–8415, by fax at (202) 273–0873, and by e-mail at *michael.miller@ferc.gov.*

SUPPLEMENTARY INFORMATION: The information collected under the requirements of FERC–585 ''Reporting of Electric Energy Shortages and Contingency Plans under PURPA'' (OMB No. 1902–0138) is used by the Commission to implement the statutory provisions of section 206 of the Public Utility Regulatory Policies Act of 1979 (PURPA) Pub. L. 95–617, 92 Stat. 3117. Section 206 of PURPA amended the Federal Power Act (FPA) by adding a new subsection (g) to section 202, under which the Commission by rule, was to require each public utility to (1) report to the Commission and appropriate state regulatory authorities of any anticipated shortages of electric energy or capacity which would affect the utility's capability to serve its wholesale customers; and (2) report to the Commission and any appropriate state regulatory authority contingency plan that would outline what circumstances might give rise to for such occurrences.

In FERC Order No. 575 (60 FR 4859, January 25, 1995) the Commission modified the reporting requirements in 18 CFR 294.101(b) to provide that if a public utility includes in its rates schedule provisions that: (a) during electric energy and capacity shortages it will treat firm power wholesale customers without undue discrimination or preference; and (b) it will report any modifications to its contingency plan for accommodating shortages within 15 days to the appropriate state regulatory agency and to the affected wholesale customers, then the utility need not file with the Commission an additional statement of contingency plan for accommodating such shortages. This revision merely changed the reporting mechanism; the public utility's contingency plan would be located in its filed rate rather than in a separate document.

The Commission uses the information to evaluate and formulate appropriate an option for action in the event an unanticipated shortage is reported and/or materializes. Without this information, the Commission and State agencies would be unable to: (1) Examine and approve or modify utility actions, (2) prepare a response to anticipated disruptions in electric energy and (3) ensure equitable treatment of all public utility customers under the shortage situations. The Commission implements these filing requirements in the Code of Federal Regulations (CFR) under 18 CFR part 294.

Action: The Commission is requesting a three-year extension of the current expiration date, with no changes to the existing collection of data.

Burden Statement: Public reporting burden for this collection is estimated as:

Number of respondents annually (1)	Number of responses per respondent (2)	Average burden hours per response (3)	Total annual burden hours (1)×(2)×(3)
7	1	73	511 hours

Estimated cost burden to respondents is $27,704. (511 hours/2080 hours per year times $112,767 per year average per employee = $ 27,704). The cost per respondent is $3,958.

The reporting burden includes the total time, effort, or financial resources expended to generate, maintain, retain, disclose, or provide the information including: (1) Reviewing instructions; (2) developing, acquiring, installing, and utilizing technology and systems for the purposes of collecting, validating, verifying, processing, maintaining, disclosing and providing information; (3) adjusting the existing ways to comply with any previously applicable instructions and requirements; (4) training personnel to respond to a collection of information; (5) searching data sources; (6) completing and reviewing the collection of information; and (7) transmitting, or otherwise disclosing the information.

The estimate of cost for respondents is based upon salaries for professional and clerical support, as well as direct and indirect overhead costs. Direct costs include all costs directly attributable to providing this information, such as administrative costs and the cost for information technology. Indirect or overhead costs are costs incurred by an organization in support of its mission. These costs apply to activities which benefit the whole organization rather than any one particular function or activity.

Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) 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 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.

Magalie R. Salas,

Secretary.

[FR Doc. E6–2624 Filed 2–23–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PH06–3–000]

AGL Resources Inc.; Notice of Petition for Exemption From the Requirements of the Public Utility Holding Company Act of 2005

February 14, 2006.

Take notice that on February 8, 2006, AGL Resources Inc. filed a petition seeking, pursuant to 18 CFR 366.4(b)(1), exemption from the requirements of the Public Utility Holding Company Act of 2005 pursuant to 18 CFR 366.3(a) or 18 CFR 366.3(b).

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, pursuant to 18 CFR

385.214. 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 March 1, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–2625 Filed 2–23–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL06–33–000]

City of Banning, California; Notice of Filing

February 16, 2006.

Take notice that on January 5, 2006, the City of Banning, California tendered for filing revisions to its third annual Transmission Revenue Balancing Account Adjustment filing on December 16, 2005.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible 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 February 27, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–2616 Filed 2–23–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER02–2001–005, ER03–622–000, ER02–2338–000, ER04–683–000, ER03–101–000, ER02–1499–000, ER02–1595–000]

Before Commissioners: Joseph T. Kelliher, Chairman; Nora Mead Brownell, and Suedeen G. Kelly; Electric Quarterly Reports; Capital Power, Inc.; Energy Investments Management, Inc.; New Light Energy, LLC; Premier Energy Marketing, LLC; Sprague Energy Corp.; TME Energy Services; Order on Intent To Revoke Market-Based Rate Authority

Issued February 17, 2006.

1. Section 205 of the Federal Power Act (FPA), 16 U.S.C. 824d (2000), and 18 CFR part 35 (2005), require, among other things, that all rates, terms, and conditions of jurisdictional services be filed with the Commission. In Order No. 2001, the Commission revised its public utility filing requirements and established a requirement for public utilities, including power marketers, to file Electric Quarterly Reports summarizing the contractual terms and conditions in their agreements for all jurisdictional services (including market-based power sales, cost-based power sales, and transmission service) and providing transaction information (including rates) for short-term and long-term power sales during the most recent calendar quarter.[1]

2. Commission staff review of the Electric Quarterly Report submittals has revealed that a number of public utilities with authority to sell electric power at market-based rates have failed to file their Electric Quarterly Reports through the third quarter of 2005. Thus, this order notifies these public utilities that their market-based rate authorizations will be revoked unless they comply with the Commission's requirements within 15 days of the date of issuance of this order.

3. In Order No. 2001, the Commission stated that, [i]f a public utility fails to file a[n] Electric Quarterly Report (without an appropriate request for extension), or fails to report an agreement in a report, that public utility may forfeit its market-based rate authority and may be required to file a new application for market-based rate authority if it wishes to resume making sales at market-based rates.[2]

4. The Commission further stated that, [o]nce this rule becomes effective, the requirement to comply with this rule will supersede the conditions in public utilities' market-based rate authorizations, and failure to comply with the requirements of this rule will subject public utilities to the same consequences they would face for not satisfying the conditions in their rate authorizations, including possible revocation of their authority to make wholesale power sales at market-based rates.[3]

5. Pursuant to these requirements, the Commission has revoked or withdrawn the market-based rate tariffs of several market-based rate sellers that failed to submit their Electric Quarterly Reports.[4] Further, the Commission has instituted proceedings under section 206 of the

[1] *Revised Public Utility Filing Requirements*, Order No. 2001, 67 Fed. Reg. 31043, FERC Stats. & Regs. ¶ 31,127 (April 25, 2002), *reh'g denied*, Order No. 2001–A, 100 FERC ¶ 61,074, *reconsideration and clarification denied*, Order No. 2001–B, 100 FERC ¶ 61,342, *order directing filings*, Order No. 2001–C, 101 FERC ¶ 61,314 (2002).

[2] Order No. 2001 at P 222.

[3] *Id.* at P 223.

[4] *See Electric Quarterly Reports*, 107 FERC ¶ 61,310 (2004); *Electric Quarterly Reports*, 69 FR 57,679 (September 27, 2004); *Electric Quarterly Reports*, 105 FERC ¶ 61,219 (2003); and *Electric Quarterly Reports*, 104 FERC ¶ 61,139 (2003).

Federal Power Act against companies that failed to file.[5]

6. Commission staff review of the Electric Quarterly Report submittals has identified a number of public utilities that previously had been granted authority to sell power at market-based rates that have failed to file Electric Quarterly Reports through the third quarter of 2005. Commission staff has contacted all non-filing utilities via e-mail to remind them of their regulatory obligations. None of the public utilities listed in the caption of this order has met those obligations.[6]

Respondent/Last quarter filed

Capital Power, Inc.—2005 Quarter 1

Energy Investments Management, Inc.—2005 Quarter 1

New Light Energy, LLC—2005 Quarter 1

TME Energy Services—2005 Quarter 1

Premier Energy Marketing, LLC—2005 Quarter 2

Sprague Energy Corp.—2005 Quarter 2

7. Accordingly, this order notifies these public utilities that their market-based rate authorizations will be revoked unless they comply with the Commission's requirements within 15 days of the issuance of this order.

8. In addition, the above-captioned companies' failure to comply with their Electric Quarterly Report filing requirements provides a basis for the Commission to institute proceedings under section 206 of the FPA. These proceedings will determine appropriate refunds in the event these companies continue to make wholesale power sales at market-based rates. In cases where, as here, the Commission institutes a section 206 investigation on its own motion, section 206(b) of the FPA, as recently amended by section 1285 of the Energy Policy Act of 2005,[7] requires the Commission to establish a refund effective date that is no earlier than the date of publication of notice of its initiation of the investigation, but no later than five months subsequent to that date. Thus, we will set the refund effective date as the date of publication of this order in the **Federal Register**.

9. In the event that any of the above-captioned market-based rate sellers has already filed its required Electric Quarterly Reports in compliance with the Commission's requirements, its inclusion herein is inadvertent. Any such market-based rate seller is directed, within 15 days of the date of issuance of this order, to make a filing with the Commission identifying itself and providing details about its prior filings that establish that it complied with the Commission's Electric Quarterly Report filing requirements.

10. If any of the above-captioned market-based rate sellers does not wish to continue having market-based rate authority and does not foresee entering into any contracts to sell power at market-based rates, it may file a notice of cancellation with the Commission pursuant to section 205 of the FPA to cancel its market-based rate tariff and end its obligation to submit further Electric Quarterly Reports.

The Commission orders:

(A) Within 15 days of the date of issuance of this order, each public utility listed in the caption of this order shall file with the Commission all delinquent Electric Quarterly Reports. If a public utility fails to make this filing, the Commission will revoke that public utility's authority to sell power at market-based rates and terminate its electric market-based rate tariff. The Secretary is hereby directed, upon expiration of the filing deadline in this order, to promptly issue a notice, effective on the date of issuance, listing the public utilities whose tariffs have been revoked for failure to comply with the requirements of this order and the Commission's Electric Quarterly Report filing requirements.

(B) Pursuant to the authority contained in and subject to the jurisdiction conferred upon the Federal Energy Regulatory Commission by section 402(a) of the Department of Energy Organization Act and by the Federal Power Act, particularly section 206 thereof, and pursuant to the Commission's Rules of Practice and Procedure and the regulations under the Federal Power Act (18 CFR chapter I), the Commission hereby institutes proceedings to determine the appropriate refunds if the above-captioned companies continue to make wholesale power sales at market-based rates.

(C) The Secretary is hereby directed to publish this order in the **Federal Register.**

By the Commission.

Magalie R. Salas,

Secretary.

[FR Doc. E6–2654 Filed 2–23–06; 8:45 am]

BILLING CODE 6717–01–P

[5] *See Electric Quarterly Reports*, 113 FERC ¶ 61,305 (2005).

[6] According to the Commission's records, the companies subject to this order last filed their Electric Quarterly Reports in the quarters and years shown below:

[7] Energy Policy Act of 2005, § 1285, Pub. L. No. 109–58, 119 Stat. 980 (2005).

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–60–000]

Enbridge Pipelines (Midla) L.L.C.; Notice of Application

February 16, 2006.

Take notice that on February 6, 2006, Enbridge Pipelines (Midla) L.L.C., 1100 Louisiana, Suite 3300, Houston, Texas 77002, filed in Docket No. CP06–60–000 an application pursuant to section 7(b) of the Natural Gas Act (NGA) for permission and approval to abandon 22.4 miles of inactive mainline pipeline ranging in diameter from 10.75 to 22 inches and related surface appurtenances in Richland and Ouachita Parishes, Louisiana, all as more fully set forth in the application which is on file with the Commission and open to public inspection. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link, select ''Docket #'' and follow the instructions (call 202–502–8222 or for TTY, 202–502–8659).

Midla proposes to abandon in place or by removal approximately the 22.4 miles of inactive mainline extending from Milepost 0.0 at its Desiard compressor station in Ouachita Parish and ending at Milepost 22.4 on the T–1 Mainline in Richland Parish. Midla states that this segment of 80-year old pipeline has been shut-in since a September 2001 rupture occurred. Midla also states that the U.S. Department of Transportation (DOT) ordered Midla to shut in the failed pipeline segment and to take certain corrective action. Midla further states that it took all DOT-required corrective action, except for hydrostatically testing the line. None of Midla's existing customers would lose natural gas service following abandonment, because Midla has and will continue to provide service via its parallel Loop line.

Any questions regarding this application should be directed to Cynthia A. Corcoran, FERC Chief Compliance Officer & Senior Counsel Specialist, Enbridge Pipelines (Midla) L.L.C., 1100 Louisiana, Suite 3300, Houston, Texas 77002 at (713) 821–2265.

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 with the Commission and must mail a copy to the applicant and to every other party in the proceeding. Only parties to the proceeding can ask for court review of Commission orders in the proceeding.

However, a person does not have to intervene in order to have comments considered. The second way to participate is by filing with the Secretary of the Commission, as soon as possible, an original and two copies of comments in support of or in opposition to this project. The Commission will consider these comments in determining the appropriate action to be taken, but the filing of a comment alone will not serve to make the filer a party to the proceeding. The Commission's rules require that persons filing comments in opposition to the project provide copies of their protests only to the party or parties directly involved in the protest.

Persons who wish to comment only on the environmental review of this project should submit an original and two copies of their comments to the Secretary of the Commission. Environmental 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.

Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a) (1) (iii) and the instructions on the Commission's web site under the ''e-Filing'' link.

Comment Date: March 9, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–2619 Filed 2–23–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER06–550–001]

Pacific Gas and Electric Company; Notice of Filing

February 16, 2006.

Take notice that on February 9, 2006, Pacific Gas and Electric Company tendered for filing revisions to its Transmission Owner Tariff, Grim Management Charge Pass-Through Tariff, and Scheduling Coordinator Services Tariff for the Western Area Power Administration.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant and all the parties in this proceeding.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible 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 February 24, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–2617 Filed 2–23–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project Nos. 2145–071 and 943–094]

Public Utility District No. 1 of Chelan County, Washington; Notice of Application for Approval of Contract for the Sale of Power for a Period Extending Beyond the Term of the License

February 16, 2006.

Take notice that on February 9, 2006, Public Utility District No. 1 of Chelan County, Washington (Chelan PUD) filed with the Commission an application for approval of a contract for the sale of power from its licensed Rocky Reach Project No. 2145 and Rock Island Project No. 943, for a period from the expiration of its existing licenses for those Projects on June 30, 2006, and December 31, 2028, respectively, through October 31, 2031. The Projects are located on the Columbia River in Washington.

Section 22 of the Federal Power Act, 16 U.S.C. 815, provides that contracts for the sale and delivery of power for periods extending beyond the termination date of a license may be entered into upon the joint approval of the Commission and the appropriate state public service commission or other similar authority in the state in which the sale or delivery of power is made. Chelan PUD asserts that approval of the submitted contract is in the public interest.

Comments on the request for approval of the power sales contract or motions to intervene may be filed with the Commission no later than March 9, 2006, and replies to comments no later than March 20, 2006. 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.

All documents (an original and eight copies) must be filed with: Magalie R. Salas, Secretary, Federal Energy

Regulatory Commission, 888 First Street, NE., Washington, DC 20426. Please put the names ''Rocky Reach Project No. 2145–071'' and ''Rock Island Project No. 943–094'' on the first page of all documents.

Comments may be filed electronically via the Internet in lieu of paper. The Commission strongly encourages electronic filings. *See* 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site *http://www.ferc.gov* under the ''e-Filing'' link.

A copy of the application is available for review in the Commission's Public Reference Room or may be viewed on the Commission's Web site *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.

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 these projects or other pending projects. For assistance, contact FERC Online Support.

Magalie R. Salas,

Secretary.

[FR Doc. E6–2618 Filed 2–23–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–33–002]

Southern Natural Gas Company; Notice of Compliance Filing

February 14, 2006.

Take notice that on February 9, 2006, Southern Natural Gas Company (Southern) submitted a compliance filing pursuant to the Commission Order issued February 1, 2006.

Southern states that copies of the filing were served on parties on the official service list.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive email notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on March 7, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–2621 Filed 2–23–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP06–219–000]

Tennessee Gas Pipeline Company; Notice of Tariff Filing

February 16, 2006.

Take notice that on February 10, 2006, Tennessee Gas Pipeline Company (Tennessee) tendered for filing as part of its FERC Gas Tariff, Fifth Revised Volume No. 1, the following tariff sheets, with an effective date of March 13, 2006:

Sixth Revised Sheet No. 526
Fifth Revised Sheet No. 527
Fourth Revised Sheet No. 532
Second Revised Sheet No. 533
Third Revised Sheet No. 540
First Revised Sheet No. 541
Third Revised Sheet No. 560I
First Revised Sheet No. 560J
First Revised Sheet No. 560R
First Revised Sheet No. 560S
First Revised Sheet No. 681
First Revised Sheet No. 682

Tennessee states that it is tendering the revised tariff sheets to modify the section of its standard form of service agreements that lists types of discounts Tennessee may offer without those discounts being considered material deviations from Tennessee's pro forma form of service agreements.

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. E6–2615 Filed 2–23–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–33–001]

Tennessee Gas Pipeline Company; Notice of Compliance Filing

February 14, 2006.

Take notice that on February 9, 2006, Tennessee Gas Pipeline Company

(Tennessee) tendered for filing as part of its FERC Gas Tariff, Original Volume No. 2, First Revised Sheet No.1650, to become effective February 1, 2006.

Tennessee states that the attached tariff sheet is submitted in compliance with the Commission's Order Approving Abandonment issued February 1, 2006 in Docket No. CP06–33–000.

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 March 7, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–2627 Filed 2–23–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL06–51–000]

The United Illuminating Company; Notice of Filing

February 14, 2006.

Take notice that on February 3, 2006, The United Illuminating Company submitted a petition for declaratory order requesting that the Federal Energy Regulatory Commission approve and give deference to its transmission/distribution reclassification, as formerly approved by the Connecticut Department of Utility Control.

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 Applicant. On or before the comment date, it is not necessary to 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 email *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on February 24, 2006.

Magalie R. Salas,

Secretary.

[FR Doc. E6–2623 Filed 2–23–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. RM01–10–000; EY06–7–000; TS06–2–000]

Standards of Conduct for Transmission Providers; Venice Gathering System, L.L.C.; Notice Granting Extension of the Waiver of Posting and Recordkeeping Requirements

February 15, 2006.

On January 31, 2006, Venice Gathering System, L.L.C. (Venice Gathering) filed a third request seeking an extension of the emergency waiver of section 358.4(a)(2) of the Commission's regulations, 18 CFR 358.4(a)(2) (2005). Venice Gathering requests an extension of that waiver as it relates to section 358.4(a)(2) of the Commission's regulations until the end of the gas day on March 31, 2006 or the date on which the Venice Gathering system has returned to full pre-hurricane operation. Venice Gathering also is seeking an extension of the waiver of section 358.4(b)(3)(iv) of the Commission's regulations, 18 CFR 358.4(b)(3)(iv) (2005), with respect to the deadline for updating the information contained in its posted employee organizational charts and its posted job descriptions until the end of the gas day on February 15, 2006.

Venice owns and operates a FERC-jurisdictional natural gas gathering and transmission system consisting of (1) A twenty-six inch mainline, extending from the South Timbalier Block 151 compressor platform in the Gulf of Mexico to the Venice Plant, (2) a twenty-four inch mainline extending from the South Timbaliler Block 151 compressor platform to the West Delta Block 79A platform, and (3) a twenty-two inch mainline extending from the West Delta Block 79A platform to the Venice Plant located near Venice, Louisiana. In its initial request for exemption, Venice stated that Hurricane Katrina caused extensive damage to processing plants and offshore pipelines located along the Louisiana Gulf Coast, including the Venice Plant and the Venice Gathering system.

Venice states that these extensions are needed to permit all employees within its parent company who have expertise and availability to assist in the restoration efforts to engage in detailed communications about the status of the restoration efforts and to coordinate joint operations and repair work, without regard to their designations under Order No. 2004 and without the

requirement to log each individual deviation from the Standards of Conduct.

Venice Gathering states that, in order to enable it to take all appropriate steps within its control to restore its system to full, pre-hurricane operations, it is necessary that the waiver of the recording and posting requirements of section 358.4(a)(2) of the Commission's regulations be extended. Venice Gathering states, further, that due to the significant Targa resources devoted to the restoration project, it is left with limited resources to carry out revisions to its Web site postings related to its recent change in control after the Targa acquisition.

The Commission granted a temporary emergency waiver of sections 358.4(a)(2) and 358.4(b)(3)(iv) of the Commission's regulations in notices issued on November 28, 2005 and on January 25, 2006 in order to allow Venice Gathering to proceed with the restoration work on its pipeline facilities and on the Venice Gathering Processing Plant necessitated by Hurricane Katrina. In the January 25, 2006 notice, the Commission extended the waiver until the earlier of the end of the gas day on January 31, 2006, or the date on which the Venice Gathering system returned to full pre-hurricane operation, without prejudice to Venice Gathering requesting a further extension, if necessary.

The Commission grants Venice a third extension of the waiver for sections 358.4(a)(2) and 358.4(b)(3)(iv) until the end of the gas day on February 28, 2006. This is the final extension that will be granted to Venice.

The Commission directs Venice Gathering to ensure that the employees affected by this waiver observe the no-conduit prohibition in the Standards of Conduct, 18 CFR 358.5(b)(7) (2005).

Magalie R. Salas,

Secretary.

[FR Doc. E6–2626 Filed 2–23–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings #1

February 14, 2006.

Take notice that the Commission received the following electric rate filings:

Docket Numbers: ER03–295–002.

Applicants: SESCO Enterprises, LLC.

Description: SESCO Enterprises, LLC submits its Triennial Updated Market Analysis.

Filed Date: 2/7/2006.

Accession Number: 20060210–0030.

Comment Date: 5 p.m. Eastern Time on Tuesday, February 28, 2006.

Docket Numbers: ER03–394–004; ER03–427–004; ER03–175–006.

Applicants: Elk Hills Power, LLC; Mesquite Power, LLC; Termoelectrica U.S., LLC.

Description: Elk Hills Power, LLC et al submit corrected pages to the affidavit which formed a part of the Triennial Update filed on 1/10/06.

Filed Date: 2/7/2006.

Accession Number: 20060209–0223.

Comment Date: 5 p.m. Eastern Time on Tuesday, February 28, 2006.

Docket Numbers: ER04–230–022; ER01–3155–015; ER01–1385–024; EL01–45–023.

Applicants: New York Independent System Operator, Inc.

Description: New York Independent System Operator, Inc. submits its Sixth Quarterly Report on the progress it is making in pursuing changes to software modeling requirements and market rules.

Filed Date: 2/8/2006.

Accession Number: 20060210–0032.

Comment Date: 5 p.m. Eastern Time on Wednesday, March 1, 2006.

Docket Numbers: ER06–187–001.

Applicants: Midwest Independent Transmission System Operator, Inc.

Description: Midwest Independent Transmission System Operator, Inc. submits supplemental informational filing to its executed Large Generator Interconnection Agreement with Valley View Transmission, LLC.

Filed Date: 2/7/2006.

Accession Number: 20060210–0031.

Comment Date: 5 p.m. Eastern Time on Tuesday, February 28, 2006.

Docket Numbers: ER06–455–001.

Applicants: Duquesne Power, LLC.

Description: Duquesne Power, LLC submits an amendment to the 1/5/06 Notice of Succession filing.

Filed Date: 2/8/2006.

Accession Number: 20060210–0026.

Comment Date: 5 p.m. Eastern Time on Wednesday, March 1, 2006.

Docket Numbers: ER06–526–001.

Applicants: Florida Power & Light Company.

Description: Florida Power & Light Co. submits an amended filing to correct the effective date on Tariff Sheets 408B and 408C filed on 1/18/06.

Filed Date: 2/7/2006.

Accession Number: 20060210–0033.

Comment Date: 5 p.m. Eastern Time on Tuesday, February 28, 2006.

Docket Numbers: ER06–569–001.

Applicants: American Electric Power Service Corporation.

Description: American Electric Power submits a replacement sheet for Original Sheet No.16 of Attachment 1 for an interconnection and local delivery service agreement with the Village of Greenwich, OH.

Filed Date: 2/7/2006.

Accession Number: 20060210–0029.

Comment Date: 5 p.m. Eastern Time on Tuesday, February 28, 2006.

Docket Numbers: ER06–614–000.

Applicants: Western Electricity Coordinating Council.

Description: Western Electricity Coordinating Council submits an amended version of their Electric Rate Schedule No. 1, reflecting changes to their Bylaws.

Filed Date: 2/7/2006.

Accession Number: 20060208–0385.

Comment Date: 5 p.m. Eastern Time on Tuesday, February 28, 2006.

Docket Numbers: ER06–617–000.

Applicants: New York Independent System Operator, Inc.

Description: New York Independent Sys. Oper. Inc. submits report of tariff implementation errors, request for approval of proposed compensation methodology, and request for limited tariff waivers.

Filed Date: 2/8/2006.

Accession Number: 20060213–0009.

Comment Date: 5 p.m. Eastern Time on Wednesday, March 1, 2006.

Docket Numbers: ER88–478–001; ER91–576–002.

Applicants: Ocean State Power; Ocean State Power II.

Description: Ocean State Power and Ocean State Power II submit a change in status with respect to the ownership of jurisdictional facilities and withdraw their 1/10/06 filing.

Filed Date: 2/6/2006.

Accession Number: 20060206–5014.

Comment Date: 5 p.m. Eastern Time on Monday, February 27, 2006.

Docket Numbers: ER97–2846–008.

Applicants: Florida Power Corporation.

Description: Florida Power Corp dba Progress Energy Florida, Inc notifies FERC that it has entered into a contract effective 1/25/06 for purchase of 50 MW of capacity from The Energy Authority, Inc for 1/1/06–9/30/06.

Filed Date: 2/8/2006.

Accession Number: 20060210–0028.

Comment Date: 5 p.m. Eastern Time on Wednesday, March 1, 2006.

Docket Numbers: ER99–830–016; ER04–925–008.

Applicants: Merrill Lynch Capital Services, Inc. and Merrill Lynch Commodities, Inc.

Description: Merrill Lynch Capital Services, Inc. and Merrill Lynch

Commodities, Inc., submit notification of change in status.

Filed Date: 2/8/2006.

Accession Number: 20060208–5047.

Comment Date: 5 p.m. Eastern Time on Wednesday, March 1, 2006.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St. NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive 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. E6–2628 Filed 2–23–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP06–49–000]

Southern Star Central Gas Pipeline, Inc.; Notice of Intent To Prepare an Environmental Assessment for the Proposed West Colony Expansion of the Colony Storage Field and Request for Comments on Environmental Issues

February 14, 2006.

The staff of the Federal Energy Regulatory Commission (FERC or Commission) will prepare an environmental assessment (EA) that will discuss the environmental impacts of the Colony Storage Field involving construction and operation of facilities by Southern Star Central Gas Pipeline, Inc. (Southern Star) in Anderson and Allen County, Kansas.

This notice announces the opening of the scoping period that will be used to gather environmental input from the public and interested agencies on the project. Your input will help the Commission staff determine which issues need to be evaluated in the EA. Please note that the scoping period will close on March 16, 2006.

This notice is being sent to affected landowners; federal, state, and local government representatives and agencies; environmental and public interest groups; Native American tribes; other interested parties in this proceeding; and local libraries and newspapers. We encourage government representatives to notify their constituents of this planned project and encourage them to comment on their areas of concern.

If you are a landowner receiving this notice, you may be contacted by a pipeline company representative about the acquisition of an easement to construct, operate, and maintain the proposed facilities. The pipeline company would seek to negotiate a mutually acceptable agreement. However, if the project is approved by the Commission, that approval conveys with it the right of eminent domain. Therefore, if easement negotiations fail to produce an agreement, the pipeline company could initiate condemnation proceedings in accordance with state law.

A fact sheet prepared by the FERC entitled ''An Interstate Natural Gas Facility On My Land? What Do I Need To Know?'' is available for viewing on the FERC Web site (*http://www.ferc.gov*). This fact sheet addresses a number of typically asked questions, including the use of eminent domain and how to participate in the Commission's proceedings.

Summary of the Proposed Project

Southern Star proposes to increase the certificated storage boundary and buffer zone of the Colony Storage Field by approximately 1,960 acres. The additional acreage is necessary to protect the field's integrity by re-capturing gas that has migrated outside the currently identified storage boundary. This added acreage is located at the southwestern boundary of the storage field in an area known as the West Colony Field in Anderson County, reaching into Allen County, Kansas. The existing storage field consists of about 4,900 acres and operates up to a maximum storage capacity of 12.7 billion cubic feet (Bcf) of natural gas. No increase in storage capacity of field deliverability is proposed as part of this action. The location of the project facilities is shown in appendix 1.[1]

The purpose of this project is to expand the field geographically and geologically to collect gas that has moved beyond the existing certificated field boundary. A gas collection system will be installed for collecting and recycling gas back into the presently certificated reservoir.

Southern Star proposes to:

- Install and operate a 180-horsepower natural gas-driven compressor in Anderson County, Kansas;
- Construct a 0.2-mile lateral line connecting the new compressor to an existing well;
- Construct a 2.6-mile connection line from the new compressor to an existing injection/withdrawal well; and
- Install two measurement settings, a filter separator, and an associated waste tank.

Storage rights and wells on approximately 680 acres have already been acquired by Southern Star, and approximately 1,280 additional acres are proposed for acquisition. Within the acreage already acquired, there are fourteen open wells which are used for pressure relief, observation, or salt water disposal. Within the acreage proposed for acquisition, there are eight active oil wells and five temporarily abandoned wells. Pending acquisition of the

[1] The appendices referenced in this notice are not being printed in the **Federal Register**. Copies are available on the Commission's Web site (excluding maps) at the ''eLibrary'' link or from the Commission's Public Reference Room or call (202) 502–8371. For instructions on connecting to eLibrary refer to the end of this notice. Copies of the appendices were sent to all those receiving this notice in the mail.

additional acreage, Southern Star plans to either plug these wells or convert some to observation wells.

Land Requirements for Construction

Construction of the proposed facilities would require about 5.6 acres of land. Of this acreage, 4.7 acres would be temporarily impacted and 0.9 acres would be permanently affected. An additional 0.5 acres of permanently affected land may or may not be required to convert two existing wells to pressure relief.

The EA Process

The National Environmental Policy Act (NEPA) requires the Commission to take into account the environmental impacts that could result from an action whenever it considers the issuance of a Certificate of Public Convenience and Necessity. NEPA also requires us to discover and address concerns the public may have about proposals. This process is referred to as ''scoping''. The main goal of the scoping process is to focus the analysis in the EA on the important environmental issues. By this Notice of Intent, the Commission staff requests public comments on the scope of the issues to address in the EA. All comments received will be considered during the preparation of the EA. State and local government representatives are encouraged to notify their constituents of this proposed action and encourage them to comment on their areas of concern.

In the EA, we [2] will discuss impacts that could occur as a result of the construction and operation of the proposed project. We will also evaluate possible alternatives to the proposed project or portions of the project, and make recommendations on how to lessen or avoid impacts on the various resource areas. This EA will be used by the Commission in its decision-making process to determine whether the project is in the public convenience and necessity.

Our independent analysis of the issues will be presented in the EA. The EA will also include possible alternatives to the proposed project or portions of the project, and our recommendations on how to lessen or avoid impacts on the various resource areas of concern. Depending on the comments received during the scoping process, the EA may be published and mailed to federal, state, and local government agencies; public interest groups; Native American tribes; interested individuals; affected landowners, newspapers, libraries, and the Commission's official service list for this proceeding. A 30-day comment period will be allotted for review if the EA is published. We will consider all comments submitted in any Commission Order that is issued for the project.

Public Participation

You can make a difference by providing us with your specific comments or concerns about the project. By becoming a commentor, your concerns will be addressed in the EA and considered by the Commission. Your comments should focus on the potential environmental effects of the proposal, reasonable alternatives to the proposal (including alternative locations and routes), and measures to avoid or lessen environmental impact. The more specific your comments, the more useful they will be. Please carefully follow these instructions to ensure that your comments are received in time and properly recorded:

- Send an original and two copies of your letter to: Magalie R. Salas, Secretary, Federal Energy Regulatory Commission, 888 First St., NE., Room 1A, Washington, DC 20426.
- Label one copy of the comments for the attention of Gas Branch 1.
- Reference Docket No. CP06–49–000.
- Mail your comments so that they will be received in Washington, DC on or before March 13, 2006.

Please note that the Commission encourages electronic filing of comments. See 18 Code of Federal Regulations (CFR) 385.2001(a)(1)(iii) and the instructions on the Commission's Internet Web site at *http://www.ferc.gov* under the ''eFiling'' link and the link to the User's Guide. Prepare your submission in the same manner as you would if filing on paper and save it to a file on your hard drive. Before you can file comments you will need to create an account by clicking on ''Login to File'' and then ''New User Account.'' You will be asked to select the type of filing you are making. This filing is considered a ''Comment on Filing.''

The determination of whether to distribute the EA for public comment will be based on the response to this notice. If you are interested in receiving it, please return the Information Request (appendix 3). An effort is being made to send this notice to all individuals, organizations, and government entities interested in and/or potentially affected by the proposed project. This includes all landowners who are potential right-of-way grantors, whose property may be used temporarily for project purposes, or who own homes within distances defined in the Commission's regulations of certain aboveground facilities.

Becoming an Intervenor

In addition to involvement in the EA scoping process, you may want to become an official party to the proceeding, or ''intervenor''. To become an intervenor you must file a motion to intervene according to Rule 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.214). Intervenors have the right to seek rehearing of the Commission's decision. Motions to Intervene should be electronically submitted using the Commission's eFiling system at *http://www.ferc.gov*. Persons without Internet access should send an original and 14 copies of their motion to the Secretary of the Commission at the address indicated previously. Persons filing Motions to Intervene on or before the comment deadline indicated above must send a copy of the motion to the Applicant. All filings, including late interventions, submitted after the comment deadline must be served on the Applicant and all other intervenors identified on the Commission's service list for this proceeding. Persons on the service list with email addresses may be served electronically; others must be served a hard copy of the filing. Please refer to appendix 2 if you would like more information on how to intervene in Commission proceedings.

Affected landowners and parties with environmental concerns may be granted intervenor status upon showing good cause by stating that they have a clear and direct interest in this proceeding which would not be adequately represented by any other parties. You do not need intervenor status to have your environmental comments considered.

Additional Information

Additional information about the project is available from the Commission's Office of External Affairs at 1–866–208 FERC (3372) or on the FERC Internet Web site *(http://www.ferc.gov)*. Using the ''eLibrary'' link, select ''General Search'' from the eLibrary menu, enter the selected date range and ''Docket Number'' (*i.e.*, PF06–49–000), and follow the instructions. For assistance with access to eLibrary, the helpline can be reached at 1–866–208–3676, TTY (202) 502–8659, or at *FERCOnlineSupport@ferc.gov*. The eLibrary link on the FERC Internet Web site also provides access to the texts of formal documents issued by the

[2] ''We'', ''us'', and ''our'' refer to the environmental staff of the Office of Energy Projects (OEP).

Commission, such as orders, notices, and rule makings.

In addition, the Commission now offers a free service called eSubscription which allows you to keep track of all formal issuances and submittals in specific dockets. This can reduce the amount of time you spend researching proceedings by automatically providing you with notification of these filings, document summaries and direct links to the documents. Go to *http://www.ferc.gov/esubscribenow.htm.*

Magalie R. Salas,

Secretary.

[FR Doc. E6–2622 Filed 2–23–06; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

February 14, 2006.

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40 CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are 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, please contact FERC, Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Exempt

Docket No.	Date received	Presenter or requester
1. CP06–26–000, CP05–130–000, *et al.*	2–7–06	Hon. Barbara A. Mikulski.

Magalie R. Salas,

Secretary.

[FR Doc. E6–2620 Filed 2–23–06; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OECA–2005–0028; FRL–8036–5]

Agency Information Collection Activities; Submission for OMB Review and Approval; Comment Request; NSPS for Lime Manufacturing (Renewal), ICR Number 1167.08, OMB Control Number 2060–0063

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act, this document announces that an Information Collection Request (ICR) has been forwarded to the Office of Management and Budget (OMB) for review and approval. This is a request to renew an existing approved collection. This ICR is scheduled to expire on April 30, 2006. Under OMB regulations, the Agency may continue to conduct or sponsor the collection of information while this submission is pending at OMB. This ICR describes the nature of the information collection and its estimated burden and cost.

DATES: Additional comments may be submitted on or before March 27, 2006.

ADDRESSES: Submit your comments, referencing docket ID number EPA–HQ–OECA–2005–0028, to (1) EPA online using *http://www.regulations.gov* (our preferred method), by e-mail to *docket.oeca@epa.gov*, or by mail to: EPA Docket Center (EPA/DC), Environmental Protection Agency, Enforcement and Compliance Docket and Information Center, Mail Code 2201T, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, and (2) OMB at: Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), Attention: Desk Officer for EPA, 725 17th Street, NW., Washington, DC 20503.

FOR FURTHER INFORMATION CONTACT: Learia Williams, Compliance Assessment and Media Programs Division, Office of Compliance, (Mail Code 2223A), Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; telephone number: (202) 564–4113; fax number: (202) 564–0050; e-mail address: *williams.learia@epa.gov.*

SUPPLEMENTARY INFORMATION: EPA has submitted the following ICR to OMB for review and approval according to the procedures prescribed in 5 CFR 1320.12. On May 6, 2005 (70 FR 24020), EPA sought comments on this ICR pursuant to 5 CFR 1320.8(d). EPA received no comments.

EPA has established a public docket for this ICR under Docket ID Number EPA–HQ–OECA–2005–0028, which is available for public viewing at the Enforcement and Compliance Docket and Information Center in the EPA Docket Center (EPA/DC), EPA West, Room B102, 1301 Constitution Avenue, NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the

Reading Room is (202) 566–1744, and the telephone number for the Enforcement and Compliance Docket and Information Center Docket is: (202) 566–1752.

Use EPA's electronic public docket and comment system at *http://www.regulations.gov* to submit or view public comments, access the index listing of the contents of the public docket, and to access those documents in the public docket that are available electronically. When in the system, select ''search,'' then key in the docket ID number identified above.

Any comments related to this ICR should be submitted to EPA and OMB within 30 days of this notice. EPA's policy is that public comments, whether submitted electronically or in paper, will be made available for public viewing at *http://www.regulations.gov* as EPA receives them and without change, unless the comment contains copyrighted material, Confidential Business Information (CBI), or other information whose public disclosure is restricted by statute. When EPA identifies a comment containing copyrighted material, EPA will provide a reference to that material in the version of the comment that is placed in *http://www.regulations.gov.* The entire printed comment, including the copyrighted material, will be available in the public docket. Although identified as an item in the official docket, information claimed as CBI, or whose disclosure is otherwise restricted by statute, is not included in the official public docket, and will not be available for public viewing at *http://www.regulations.gov*. For further information about the electronic docket, go to *http://www.regulations.gov.*

Title: NSPS for Lime Manufacturing (Renewal).

Abstract: The New Source Performance Standards (NSPS) for lime manufacturing plants were proposed on May 3, 1977, and promulgated on April 26, 1984. These standards apply to each rotary lime kiln used in the manufacture of lime, which commenced construction or modification after May 3, 1977. This subpart does not apply to facilities used in the manufacture of lime at kraft pulp mills.

Owners or operators of the affected facilities must make one-time-only reports including notification of startup, initial performance test, notification of any physical or operational change, and notification of the demonstration of the continuous monitoring system (CMS). Owners or operators are also required to maintain records of the occurrence and duration of any startup, shutdown, or malfunction, or any period during which the monitoring system is inoperative. Semiannual reports of excess emissions are also required.

Any owner or operator subject to the provisions of this part must maintain a file of these measurements, and retain the file for at least two years following the collection of such measurements, maintenance reports, and records. All reports are sent to the delegated State or local authority. In the event that there is no such delegated authority, the reports are sent directly to the EPA regional office.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB Control Number. The OMB Control Numbers for EPA's regulations are listed in 40 CFR part 9 and 48 CFR chapter 15, and are identified on the form and/or instrument, if applicable.

Burden Statement: The annual public reporting and recordkeeping burden for this collection of information is estimated to average 46 hours per response. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; to 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; to adjust the existing ways to comply with any previously applicable instructions and requirements; to train personnel to be able to respond to a collection of information; to search data sources; to complete and review the collection of information; and to transmit or otherwise disclose the information.

Respondents/Affected Entities: Owner or operator of each lime manufacturing plant.

Estimated Number of Respondents: 41.

Frequency of Response: Semi-annually, initially and on occasion.

Estimated Total Annual Hours Burden: 3,773 hours.

Estimated Total Annual Costs: $366,056, which includes $0 annualized capital/startup costs, $61,500 annual O&M costs, and $304,556 annual labor costs.

Changes in the Estimates: There is decrease of 661 hours in the total estimated burden currently identified in the OMB Inventory of Approved ICR Burdens. This decrease is due to a change in the number of respondents. After a thorough analysis involving industry, and by using the most updated reports (dated December 2004) from the U.S. Department of the Interior and the U.S. Geological Survey, we arrived at forty-one as the number of sources as compared to fifty-three in the previous ICR.

There is a decline in the reporting and recordkeeping burden cost. The reason for the decline is because there are no new sources expected over the next three years and the adjustment to the number of existing sources as compared to the previous ICR.

Dated: February 12, 2006.

Oscar Morales,

Director, Collection Strategies Division.

[FR Doc. E6–2660 Filed 2–23–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6672–6]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at 202–564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 1, 2005 (70 FR 16815).

Draft EISs

EIS No. 20050428, ERP No. D–FRC–K03028–CA, Long Beach Liquefied Natural Gas (LNG) Import Project, Construction and Operation of a LNG Receiving Terminal and Associated Facilities, U.S. Army COE 10 and 404 Permits, Long Beach, CA.

Summary: EPA expressed environmental concerns about the projected modeled exceedance of the National Ambient Air Quality Standard for fine particulate matter (PM2.5) from operational emissions of the project. EPA believes there are additional control measures that could be evaluated to mitigate the proposed projects impact on ambient PM2.5 concentrations. Concerns were also expressed about localized air emission impacts to surrounding communities and the safety risk evaluation of the onsite storage of certain products. Rating EC2.

EIS No. 20050487, ERP No. D–NRS–J36054–UT, Coal Creek Flood Control

and Parkway Project, Proposed Channel Improvements, Two Irrigation Division Structures on Coal Creek (the Main Street Diversion and the Woodbury Diversion), Cedar City, Iron County, UT.

Summary: EPA expressed concerns about the formulation of the purpose and need statement and the limited range of alternatives analyzed, and requested clarification about air quality impacts the cumulative impacts analysis and whether the impacts in the riparian area have been significant enough to warrant mitigation. Rating EC2.

EIS No. 20050432, ERP No. DS–FHW–E40714–GA, US 411 Connector, From US411/GA–20 Interchange with US41 to US 411 Interchange with I–75, Updated Information, Funding and U.S. Army COE Section 404 Permit, Bartow County, GA.

Summary: EPA has expressed environmental concerns about the proposed project because of the potential for significant direct and indirect impacts to water quality and threatened and endangered fish species as well as water quality. Rating EC2.

Final EISs

EIS No. 20050238, ERP No. F–AFS–J36053–UT, Monticello and Blanding Municipal Watershed Improvement Projects, Implementation, Manti-La Sal National Forest, Monticello Ranger District, San Juan County, UT.

Summary: EPA supports Alternative C which should reduce the wetland and stream impacts associated with replacement of the water collection and piping systems for the municipal water supply system for the City of Monticello. EPA remains concerned about the level of ecological benefits attributed to logging spruce stands at risk for a spruce beetle invasion.

EIS No. 20050313, ERP No. F–DOE–J39033–UT, Moab Uranium Mill Trailings Remediation, Proposal to Clean Up Surface Contamination and Implement a Ground Water Strategy, Grand and San Juan Counties, UT.

Summary: EPA supports the Department of Energy's selection of the Crescent Junction off-site location and the movement of these tailings by rail. This location has the least environmental and cultural impact of any of the alternatives considered. The stable geologic and surface conditions at the Crescent Junction alternative will provide isolation of these tailings without public health risks for the long term. Moving these tailings by rail will avoid disruption of highway traffic and can be accomplished in the least amount of time.

EIS No. 20050439, ERP No. F–COE–E09810–MS, Enhanced Evaluation of Cumulative Effects Associated with U.S. Army Corps of Engineers Permitting Activity for Large-Scale Development in Coastal Mississippi, Hancock, Harrison, Jackson, and Mississippi Counties, MS.

Summary: EPA supports the use of the proposed permitting methodologies along with the trends analysis approach.

EIS No. 20060012, ERP No. FS–COE–K60105–CA, U.S. Army National Training Center, Additional Maneuver Training Land at Fort Irwin, Implementation, San Bernardino County, CA.

Summary: EPA's concerns were addressed in the EIS; therefore, EPA had no objection to the proposed project.

Dated: February 21, 2006.

Robert W. Hargrove,

Director, NEPA Compliance Division Office of Federal Activities.

[FR Doc. E6–2661 Filed 2–23–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6672–7]

Environmental Impact 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 02/13/2006 Through 02/17/2006

Pursuant to 40 CFR 1506.9.

EIS No. 20060047, Draft Supplement, AFS, CA, Empire Vegetation Management Project, Additional Information to Clarify Previous Analysis, Vegetation, Fire/Fuels/Air Quality, Wildlife, Watershed, and Botanical Resource/Noxious Weeds, Mount Hough Ranger District, Plumas National Forest, Plumas County, CA. *Comment Period Ends:* 04/10/2006, *Contact:* Gary Rotta 530–283–0555.

EIS No. 20060048, Draft EIS, FRC, CA, Lake Elsinore Advanced Pumped Storage (LEAPS) Project, Construction and Operation, Application for Hydroelectric License, Special-Use-Permit, FERC No. 11858, City of Lake Elsinore, Riverside County, CA. *Comment Period Ends:* 04/25/2006, *Contact:* James Fargo 202–502–6095.

EIS No. 20060049, Final EIS, FHW, AK, South Extension of the Coastal Trail Project, Extending the existing Tony Knowles Coastal Trail from Kincaid Park through the Project Area to the Potter Weigh Station, COE Section 10 and 404 Permit, Municipality of Anchorage, Anchorage, AK. *Wait Period Ends:* 03/27/2006, *Contact:* Tim A. Haugh 907–586–7418.

EIS No. 20060050, Revised Draft EIS, COE, FL, Central and Southern Florida Project, Revised Draft Integrated Project Implementation Report, Comprehensive Restoration Plan, Implementation, Everglades Agricultural Area Storage Reservoirs, Palm Beach County, FL. *Comment Period Ends:* 04/10/2006, *Contact:* Rebecca Weiss 904–232–1577.

EIS No. 20060051, Final Supplement, AFS, CO, Sheep Flats Diversity Unit, Timber Sales and Related Road Construction, Additional Information Concerning Management Indicator Species and Sensitive Species, Grand Mesa Uncompahgre and Gunnison National Forests, Grand Valley Ranger District, Mesa County, CO. *Wait Period Ends:* 03/27/2006, *Contact:* Carol McKenzie 208–634–0761.

EIS No. 20060052, Draft EIS, NRC, MI, Generic—License Renewal of Nuclear Plants, Supplement 27 to NUREG–1437, Regarding Palisade Nuclear Plant, Located in Covert Township, Van Buren County, MI. *Comment Period Ends:* 05/18/2006, *Contact:* Bo M. Pham 301–415–8450.

EIS No. 20060053, Draft EIS, AFS, CA, Slapjack Project, Protect Rural Communities from Fire Hazards by Constructing Defensible Fuel Profile Zones (DFPZs), Feather River Ranger District, Plumas National Forest, Butte and Yuba Counties, CA. *Comment Period Ends:* 04/10/2006, *Contact:* Susan Joyce 530–532–7437.

EIS No. 20060054, Final Supplement, NOA, 00, Reef Fish (Amendment 25) and Coastal Migratory Pelagics (Amendment 17) for Extending the Charter Vessel/Headboat Permit Moratorium, Gulf of Mexico and South Atlantic. *Wait Period Ends:* 03/27/2006, *Contact:* Roy E. Crabtree, Ph.D 727–824–5301.

EIS No. 20060055, Draft Supplement, AFS, WY, Dean Project Area, Proposes to Implement Multiple Resource Management Actions, New Information to Disclose Direct, Indirect, and Cumulative Environmental Impacts, Black Hills National Forest, Bearlodge Ranger District, Sundance, Crook County, WY. *Comment Period Ends:* 04/10/2006, *Contact:* Steve Kozel 307–283–1361.

EIS No. 20060056, Draft Supplement, IBR, CA, Central Valley Project, West San Joaquin Division, Additional Information, San Luis Unit Long-Term

Water Service Contract Renewal, Cities of Avenal, Coalinga and Huron, Fresno, King and Merced Counties, CA. *Comment Period Ends:* 04/10/2006, *Contact:* Shane Hunt 559–487–5138.

EIS No. 20060057, Final EIS, NPS, OH, Fallen Timbers Battlefield and Fort Miamis National Historic Site, General Management Plan, Implementation, Lucas County, OH. *Wait Period Ends:* 03/27/2006, *Contact:* James Speck 419–535–3057.

EIS No. 20060058, Final Supplement, AFS, CO, Baylor Park Blowdown Project, New Information, Salvage and Treat Down and Damaged Timber, To Reduce Impact of Spruce Beetles, Implementation, White River National Forest, Sopris and Rifle Ranger District, Garfield, Mesa and Pitkin Counties, CO. *Wait Period Ends:* 03/27/2006, *Contact:* Jan Burke 970–945–3246.

EIS No. 20060059, Final EIS, USA, PA, Pennsylvania Army National Guard's 56th Brigade Transformation into a Stryker Brigade Combat Team (SBCT), Proposal to Comply with this Directive, near Annville, PA. *Wait Period Ends:* 03/27/2006, *Contact:* Patricia Rickard 717–861–2580.

Amended Notices

EIS No. 20050546, Draft EIS, BLM, ID, Smoky Canyon Mine Panels F & G, Proposed Mine Expansion, Caribou County, ID. *Comment Period Ends:* 03/18/2006, *Contact:* Bill Stout 208–478–6340.

Revision of FR Notice Published 12/30/2005: Comment Period has been extended from 03/03/2006 to 03/18/2006.

Dated: February 21, 2006.

Ken Mittelholtz,

Environmental Protection Specialist, Office of Federal Activities.

[FR Doc. E6–2662 Filed 2–23–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OPP–2005–0516; FRL–7763–3]

Request for Public Comment on Proposed Settlement Agreement Involving Pesticides and the Endangered Species Act

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability; request for public comment.

SUMMARY: EPA is making available for comment a proposed Settlement Agreement that would establish a series of deadlines for the Agency to make ''effects determinations'' on atrazine as it relates to any of 21 identified endangered or threatened species or their designated critical habitat. If the Agency determines atrazine ''may affect and is likely to adversely affect'' any of the listed species, the Agency will initiate formal consultation with the U.S. Fish and Wildlife Service (FWS) or the National Marine Fisheries Service (NMFS), as appropriate. EPA will evaluate all comments received during the public comment period to determine whether all or part of the proposed Settlement Agreement warrants reconsideration. This proposed Settlement Agreement, if entered by the Court, would resolve a lawsuit brought against EPA by the Natural Resources Defense Council (NRDC or plaintiff).

DATES: Comments must be received on or before March 13, 2006.

ADDRESSES: Submit your comments, identified by docket identification (ID) number EPA–HQ–OPP–2005–0516, 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–2005–0516. 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–2005–0516. 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/docket.htm/*.

Docket: All documents in the docket are listed in the regulations.gov index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, 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 telephone number for the docket facility is (703) 305–5805.

FOR FURTHER INFORMATION CONTACT: Arty Williams, Environmental Fate and Effects Division (7507C), Office of Pesticide Programs, Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460–0001; telephone number: 703–305–7695; faxnumber: 703–305–6309; e-mail address:*williams.arty@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 particular interest to the Natural Resources Defense Council, other public interest groups, state regulatory partners, other

interested federal agencies, pesticide registrants and pesticide users. 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 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 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 making available for comment a proposed Settlement Agreement that would establish a series of deadlines for the Agency to make ''effects determinations'' on atrazine as it relates to any of 21 identified endangered or threatened species or their designated critical habitat. If the Agency determines atrazine ''may affect and is likely to adversely affect'' any of the listed species, the Agency will initiate formal consultation with the U.S. Fish and Wildlife Service (FWS) or the National Marine Fisheries Service (NMFS), as appropriate. EPA will evaluate all comments received during the public comment period to determine whether all or part of the proposed Settlement Agreement warrants reconsideration. This proposed Settlement Agreement, if entered by the Court, would resolve a lawsuit brought against EPA by the Natural Resources Defense Council (NRDC or plaintiff).

III. Background

On August 21, 2003, plaintiff filed a lawsuit in the Federal District Court of Maryland alleging that EPA failed to comply with section 7(a)(2) of the Endangered Species Act (ESA), 16 U.S.C. 1536(a)(2) (*NRDC* v.*EPA*, Case No. Civ. No: 03–CV–02444 RDB).

EPA has reached an agreement with the plaintiff. The agreement is embodied in a proposed Settlement Agreement. The proposed Settlement Agreement sets a series of deadlines for the Agency to make ''effects determinations'' on the potential for atrazine to affect any of the following species (or their designated critical habitat): Loggerhead sea turtle, leatherback sea turtle, green sea turtle, Kemp's ridley sea turtle, shortnose sturgeon, dwarf wedge mussel, Barton Springs salamander, Alabama sturgeon, pink mucket pearly mussel, shiny pigtoe pearly mussel, fine-rayed pigtoe mussel, rough pigtoe mussel, heavy pigtoe mussel, ovate clubshell mussel, southern clubshell mussel, stirrup mussel, pallid sturgeon, Topeka shiner, fat pocketbook pearly mussel, purple cat's paw pearly mussel, and northern rifflesheell. An ''effects determination'' considers whether use of a pesticide: (1) Has no effect on a listed species; (2) may affect but is not likely to adversely affect a listed species; or (3) may affect and is likely to adversely affect a listed species. If the Agency determines atrazine ''may affect and is likely to adversely affect'' any of the 21 named species or their designated critical habitat, EPA will initiate formal consultation with the U.S. Fish and Wildlife Service (FWS) or the National Marine Fisheries Service (NMFS) as described in the Settlement Agreement. In addition, during the pendency of the schedule for effects determinations outlined in the Settlement Agreement, the plaintiff agrees not to seek any injunction or other use restriction for any of the pesticides subject to the Settlement Agreement. Pursuant to the Settlement Agreement, in the event EPA makes a ''may affect and is likely to adversely affect'' determination for atrazine on any of the listed species named in the lawsuit, the plaintiff reserves the right to seek use restrictions for that pesticide by filing a new complaint with the Court.

Beginning today, EPA is opening a 15–day comment period on the proposed Settlement Agreement. EPA will use the comments to determine whether all or part of the proposed Settlement Agreement warrants reconsideration. If EPA determines that any part of the proposed Settlement Agreement merits reconsideration, EPA will provide the plaintiff with a written request for further negotiations and the proposed Settlement Agreement shall not be entered with the Court unless the parties can reach agreement on needed changes. If EPA determines that the proposed Settlement Agreement does not need to be reconsidered, the terms of the proposed Settlement Agreement shall become effective upon entry by the U.S. District Court for Maryland. Once the Settlement Agreement is entered by the U.S. District Court, EPA will post on its web site at *www.epa.gov/pesticides* a notice indicating the Settlement Agreement has been so entered.

List of Subjects

Environmental protection, Endangered species.

Dated: February 15, 2006.

Margaret Schneider,

Acting Assistant Administrator, Office of Prevention, Pesticides and Toxic Substances.

[FR Doc. 06–1744 Filed 2–23–06; 8:45 am]

BILLING CODE 6560–50–S

ENVIRONMENTAL PROTECTION AGENCY

[OARM–2006–0101; FRL–8036–7]

Establishment of New System of Records Notice for EZHIRE

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Establishment of a New System of Records Notice for EZHIRE.

SUMMARY: Pursuant to the provisions of the Privacy Act of 1974 (5 U.S.C. 552a), the Office of Human Resources is giving notice that it proposes to establish a new system of records, EZHire. This system of records is a web-based hiring

management system that collects, maintains, monitor, and track individuals filing employment applications with U.S. EPA and to assess recruiting goals and objectives.

DATES: Persons wishing to comment on this new system of records notice may do so by April 5, 2006. Unless there is a further notice in the **Federal Register**, this system of records will become effective on April 5, 2006.

ADDRESSES: Questions regarding this notice should be referred to Rose Ann Clark, Office of Human Resources, Ariel Rios East Building, 1200 Pennsylvania Ave., NW., Washington, DC 20460.

FOR FURTHER INFORMATION CONTACT: Rose Ann Clark or (202) 564–7877.

SUPPLEMENTARY INFORMATION:

General Information

The EZHire system of records does not duplicate any existing recruitment system of records. Details regarding the new system of records are contained in this **Federal Register** Notice. The new system is a web-based hiring management system for advertised vacancies that allows individuals to file applications for employment with the U.S. EPA in response to advertised position vacancy announcements. Access to the system is restricted to authorized users and will be maintained in a secure, password protected computer system, in secure areas and buildings with physical access controls and environmental controls. The system is maintained by the Office of Human Resources.

EPA has established an official public docket for this action under Docket ID No. EPA–HQ–OARM–2006–0101. The official public docket is the collection of materials that is available for public viewing at the OEI Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified above.

Dated: February 15, 2006.

Linda A. Travers,

Acting Assistant Administrator and Chief Information Officer.

EPA–56

SYSTEM NAME:

EZHIRE.

SYSTEM LOCATION:

Human Resources Office, Personnel Services Branch, United States Environmental Protection Agency (EPA) 1200 Pennsylvania Avenue, Washington, DC 20640.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals filing applications for employment with the U.S. Environmental Protection Agency in response to advertised position vacancy announcements.

CATEGORIES OF RECORDS IN THE SYSTEM:

Position vacancy announcement information such as position title, series and grade level(s), office and duty location, opening and closing date of the announcement, and dates of referral and return of lists of qualified candidates; applicant personal data such as name, address, social security number, date of birth, sex, veterans' preference and federal competitive status; and applicant qualification and processing information such as qualifications, grade level eligibility, reason for ineligibility, referral status, and dates of notification.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 1104, 5 U.S.C. 1302, 5 U.S.C. 3301, 5 U.S.C. 3304, 5 U.S.C., 3320, 5 U.S.C. 3327, 5 U.S.C. 3361, and 5 U.S.C. 3393; Executive Order 9397 (Nov. 22, 1943).

PURPOSE(S):

The records are collected and maintained to monitor, track and rank qualified individuals filing employment applications with the U.S. EPA and to assess recruiting goals and objectives. EZHire will improve time-to-hire cycle, it will comply with the security requirements of Federal Information Security Management Act (FISMA), collect Equal Employment Opportunity (EEO) data and facilitate ad hoc reporting.

GENERAL ROUTINE USES OF EPA SYSTEMS OF RECORDS:

A. To the U.S. Office of Personnel Management, the Merit Systems Protection Board, the Office of Government Ethics, the Office of Special Counsel, the Federal Labor Relations Authority or its General Counsel, the Equal Employment Opportunity Commission, to the extent disclosure is determined to be relevant and necessary to carry out the government-wide personnel management, investigatory, adjudicatory, and appellate functions within their respective jurisdictions;

B. To a congressional office in response to a written inquiry made by a congressional office at the request of the individual to whom the record pertains;

C. To the appropriate Federal, State or local agency or responsible authority, such information that is necessary and pertinent for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order, when the information indicates a violation or potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule or order issued pursuant thereto;

D. To a court, magistrate, or administrative tribunal in the course of presenting evidence, including disclosures to counsel or witnesses in the course of civil discovery, litigation, or settlement negotiations or in connection with criminal proceedings, when the U.S. EPA is a party to the proceeding or has a significant interest in the proceeding and the information is determined to be relevant and necessary; and

E. To a consultant, person or entity who contracts or subcontracts with the U.S. EPA, to the extent necessary for the performance of the contract or subcontract. The recipient of the records shall be required to comply with the requirements of the Privacy Act of 1974, as amended (5 U.S.C. 552a).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media and paper format.

RETRIEVABILITY:

Indexed and retrieved by name and social security number of individual applicant.

SAFEGUARDS:

Electronic files are password protected and accessible only by authorized personnel (Human Resources Specialist who are assigned to this task). Network servers are located in a locked

room with physical access limited to only authorized personnel such as IT personnel.

RETENTION AND DISPOSAL:

Personal data that is collected from the individual is maintained for two years after which all data is removed in accordance with National Archives and Records Administration procedures.

SYSTEM MANAGER(S) AND ADDRESS:

Acting Director, Office of Human Resources, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460.

NOTIFICATION PROCEDURE:

An Individual wishing to determine if they are named in this system of records or gain access to records maintained in this system must be a registered user. (If you have previously applied for employment enter your online applicant User ID (or e-mail address) plus your Password to view or edit the application, personal data or your resume.)

RECORD ACCESS PROCEDURES:

An individual wishing to determine if they are named in this system of records or gain access to records maintained in this system must be a Registered User.

CONTESTING RECORD PROCEDURES:

An individual wishing to contest or amend information maintained in this system should be a Registered User.

RECORD SOURCE CATEGORIES:

None.

Information originates from position vacancy announcements, and applications for employment submitted by individuals.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

[FR Doc. 06–1738 Filed 2–23–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[HQ–OARM–2006–0100; FRL–8036–6]

Privacy Act System of Records

AGENCY: Environmental Protection Agency.

ACTION: Notice of amendment to existing Privacy Act System of Records .

SUMMARY: The Environmental Protection Agency (EPA or ''Agency'') is amending a Privacy Act system of records entitled ''PeoplePlus Payroll, Time and Labor Application System'' to reflect the Agency's transfer of payroll processing services from EPA to the Defense Finance and Accounting Service (DFAS) in FY2006. Under the President's Management Agenda e-Payroll initiative, federal agencies are required to select one of four consolidated government-wide payroll service providers. EPA selected DFAS because its system was the most compatible with EPA's existing systems and accounting structure. DFAS will compute the Agency payroll and make all payments. This notice also notifies the public of the additional routine uses for the payroll data. This notice does not affect any Privacy Act rights already accorded individuals who are the subject of Agency payroll records. This action gives notice that payroll processing will be performed by DFAS and adds compatible routine uses.

DATES: Person wishing to comment on this revised system of records notice may do so by April 5, 2006. Unless there is a further notice in the **Federal Register**, this revised system of records will become effective on April 5, 2006.

ADDRESSES: Questions regarding this notice should be referred to Zandra Kern at (202) 564–7721.

FOR FURTHER INFORMATION CONTACT: Zandra Kern, Washington Finance Center, Office of Financial Services, Office of the Chief Financial Officer, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., (MC 2734R), Washington, DC 20460, 202–564–7721.

SUPPLEMENTARY INFORMATION:

I. General Information

DFAS will prepare and process payroll for EPA employees and for employees of the Department of Transportation's Surface Transportation Board (STB). DFAS will compute each employee's gross pay, subtract all applicable deductions and benefits and forward net payments to banks, and report back the results. The Agency will then perform labor distribution and enter the information into the Agency's central accounting system. Transferring payroll processing services is part of an overall e-government effort led by the Office of Personnel Management (OPM) to consolidate executive branch payroll providers and to simplify and standardize civilian payroll procedures across the Federal government. This action gives notice that the payroll processing function is being transferred to DFAS and new routine uses are being added.

EPA has established an official public docket for this action under Docket ID No. EPA–HQ–OARM–2006–0100. The official public docket is the collection of materials that is available for public viewing at the Office of Environmental Information (OEI) Docket in the EPA Docket Center, (EPA/DC) EPA West, Room B102, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Reading Room is (202) 566–1744, and the telephone number for the OEI Docket is (202) 566–1752.

An electronic version of the public docket is available through EPA's electronic public docket and comment system, EPA Dockets. You may use EPA Dockets at *http://www.epa.gov/edocket/* to view public comments, access the index listing of the contents of the official public docket, and to access those documents in the public docket that are available electronically. Although not all docket materials may be available electronically, you may still access any of the publicly available docket materials through the docket facility identified above.

Dated: February 15, 2006.

Linda A. Travers,

Acting Assistant Administrator and Chief Information Officer.

EPA–1

SYSTEM NAME:

PeoplePlus Payroll, Time and Labor Application.

SYSTEM LOCATION:

National Computer Center, Environmental Protection Agency, Research Triangle Park, North Carolina 27711.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Current and former EPA employees including Health and Human Services Public Health Service Commissioned Officers assigned to EPA and employees of the Surface Transportation Board (formerly the Interstate Commerce Commission), Department of Transportation.

CATEGORIES OF RECORDS COVERED BY THE SYSTEM:

This system contains personnel, basic benefits, pay, cash awards, and leave records. This includes, but is not limited to, employee information such as: Name(s), date of birth, social security number, home and mailing addresses, grade, employing organization, salary, pay plan, number of hours worked, overtime, compensatory time, leave accrual rate, leave usage and balances, Civil Service Retirement and Federal Retirement System contributions, FICA

withholdings, Federal, State, and city tax withholdings, Federal Employee Group Life Insurance withholdings, Federal Employee Health Benefits withholdings, charitable deductions, allotments to financial organizations, garnishments, savings bonds allotments, union dues withholdings, deductions for Internal Revenue Service levies, court ordered child support levies, Federal salary offset deductions, and information on the Leave Transfer Program and the Leave Bank Program.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 5101 *et seq.;* 5 U.S.C. 5501 *et seq.;* 5 U.S.C. 5525 *et seq.;* 5 U.S.C. 5701 *et seq.;* 5 U.S.C. 6301 *et seq.;* 31 U.S.C. 3512; Executive Order 9397 (Nov. 22, 1943); 5 U.S.C. 6362; 5 U.S.C. 6311.

PURPOSE(S):

The records are needed to administer EPA's pay and leave requirements, including processing, accounting and reporting requirements.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS, AND THE PURPOSES OF SUCH USES:

A. To the Department of the Treasury to issue checks, make payments, make electronic funds transfers, and issue U.S. Savings Bonds.

B. To the Department of Agriculture National Finance Center to credit Thrift Savings Plan deductions and loan payments to employee accounts.

C. To the Department of Labor in connection with a claim filed by an employee for compensation due to a job connected injury or illness.

D. To the Internal Revenue Service; Social Security Administration; and State and local tax authorities in connection with the withholding of employment taxes.

E. To the State Unemployment Offices in connection with a claim filed by former employees for unemployment benefits.

F. To the officials of labor organizations as to the identity of employees contributing union dues each pay period and the amount of dues withheld from each employee.

G. To the Office of Personnel Management and to Health Benefit carriers in connection with enrollment and payroll deductions.

H. To the Office of Personnel Management in connection with employee retirement and life insurance deductions

I. To the Combined Federal Campaign in connection with payroll deductions for charitable contributions.

J. To the Office of Management and Budget and Department of the Treasury to provide required reports on financial management responsibilities.

K. To provide information as necessary to other Federal, State, local or foreign agencies conducting computer matching programs to help eliminate fraud and abuse and to detect unauthorized overpayments made to individuals. When disclosures are made as part of computer matching programs, EPA will comply with the Computer Matching and Privacy Protection Act of 1988.

L. To the Internal Revenue Service in connection with withholdings for tax levies.

M. To the Social Security Administration and the Department of Health and Human Services to provide information on newly hired employees for child support enforcement purposes.

N. To the Department of Health and Human Services in connection with the master personnel and payroll files for their Public Health Service Officers.

O. To the Defense Finance and Accounting Service to provide payroll processing services.

P. To the Federal Retirement Benefit Contractors to enable employees to receive retirement benefit calculations.

EPA'S GENERAL ROUTINE USES:

A, B, C, D, E, F, G, H, I, J, and K apply to this system.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

These records are maintained in hard copy formats and computer processable storage media such as computer tapes and disks. The computer storage devices are located in the National Computer Center, Research Triangle Park, North Carolina. Backup tapes are maintained at a disaster recovery site.

RETRIEVABILITY:

These records are retrieved by the employee identification number or name.

SAFEGUARDS:

Computer records are maintained in a secure password protected environment. Access to computer records is limited to those who have a need to know. Permission level assignments allow users access only to those functions for which they are authorized. Paper records are maintained in locked metal file cabinets. All records are maintained in secure, access-controlled areas or buildings.

RETENTION AND DISPOSAL:

The retention of data in the system is in accordance with applicable EPA Records Schedules, as approved by the National Archives and Records Administration. Employee records are retained on magnetic tapes for an indefinite period. Hard copy records are maintained for varying periods of time, at which time they are disposed of by shredding.

SYSTEM MANAGER(S) AND ADDRESS:

Director, Office of Financial Services, Office of the Chief Financial Officer, U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., (MC 2734R), Washington, DC 20460.

NOTIFICATION PROCEDURES:

Individuals who want to know whether this system of records contains information about them, who want to access their records, or who want to contest the contents of a record, should make a written request to the EPA Privacy Act Officer, Freedom of Information Office, U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., (MC 2822T), Washington, DC 20460 or via the Agency's Privacy Act Web site at *http://www.epa.gov/privacy* or by fax, (202) 566–1639. Individuals must furnish the following information for their records to be located and identified:

A. Full name.

B. The request relates to the PeoplePlus Payroll, Time and Labor Application Privacy Act system of records.

C. A statement indicating the type of request being made (*i.e.,* access, correction or amendment) and whether a personal inspection of the records or a copy of them by mail is desired.

D. Signature.

These requirements and related provisions are set forth in EPA's Privacy Act regulations, 40 CFR Part 16, as amended (2006), which are available on the Agency's Privacy Act Web site at *http://www.epa.gov/privacy/laws/index.htm*

RECORD ACCESS PROCEDURES:

Individuals wishing to request access to their records should follow the Notification Procedures. Individuals requesting access are also required to provide adequate identification, such as a driver's license, employee identification card, social security card, credit card or other identifying document. Additional identification procedures may be required in some instances.

CONTESTING RECORD PROCEDURES:

Individuals requesting correction or amendment of their records should follow the Notification Procedures and

the Record Access Procedures and also identify the record or information to be changed, giving specific reasons for the change. Complete EPA Privacy Act procedures are set out in 40 CFR part 16, as amended (2006).

RECORD SOURCE CATEGORIES:

Information in this system of records is provided by:

A. The individual on whom the record is maintained.

B. Agency officials such as managers and supervisors.

C. Consumer reporting agencies, debt collection agencies, Department of the Treasury, and other Federal agencies.

D. Federal Retirement Benefit contractors.

E. Leave Bank

SYSTEM EXEMPTED FROM CERTAIN PROVISIONS OF THE ACT:

None.

[FR Doc. 06–1739 Filed 2–23–06; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8024–7]

Indian General Assistance Program 2006 Grants Administration Guidance

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of Guidance Issuance.

SUMMARY: EPA is issuing guidance, entitled ''Indian General Assistance Program (GAP) 2006 Grant Administration Guidance.'' The guidance summarizes the issues and procedures required to ensure compliance with current grant policies and regulations. It addresses the following areas: GAP allocation; notification letters; work plan and reporting templates; environmental results; GAP national set-asides; solid waste implementation priorities; and GAP tracking electronic data entry. The ''GAP 2006 Grants Administration Guidance'' does not replace the ''2000 Guidelines on the Award and Management of General Assistance Agreements for Indian Tribes.''

DATES: This guidance is effective upon publication in the **Federal Register.**

ADDRESSES: This guidance with appendices may be viewed and downloaded from EPA's homepage at *http://www.epa.gov/Indian/pdfs/gap2006.pdf.*

FOR FURTHER INFORMATION CONTACT: Rodges Ankrah, American Indian Environmental Office, Mail Code 4104M, Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460 telephone number: (202) 564–0280; fax number: (202) 564–0298; e-mail address: *ankrah.rodges@epa.gov.*

SUPPLEMENTARY INFORMATION:

Background and Purpose

In 1992, Congress passed the Indian Environmental General Assistance Program Act (42 U.S.C. 4368b) which authorizes EPA to provide General Assistance Program (GAP) grants to federally-recognized Tribes and tribal consortia for planning, developing, and establishing environmental protection programs in Indian Country, as well as for developing and implementing solid and hazardous waste programs on tribal lands. The goal of this program is to assist Tribes in developing the capacity to manage their own environmental protection programs, and to develop and implement solid and hazardous waste programs in accordance with individual tribal needs and applicable Federal laws and regulations.

EPA's assistance agreement practices and procedures have been under heightened scrutiny from the U.S. Congress, Government Accountability Office (GAO), and EPA's Office of Inspector General (OIG). This scrutiny has centered on grantee selection, oversight, accountability, and environmental results. In response, the Office of Grants and Debarment (OGD) has moved aggressively to implement its long-term Grants Management Plan. This is highlighted by the fact that OGD has recently issued three new grants policies that address competition, pre-award review of non-profit organizations, and environmental results.

The American Indian Environmental Office (AIEO) is proactively responding to the scrutiny by taking a much larger role in ensuring compliance with grant policies, accountability for environmental results, and consistency with program requirements. In furtherance of this, AIEO is issuing this grant administration guidance for the Indian General Assistance Program (GAP) that addresses the following:

1. GAP Allocation.
2. Notification Letters.
3. Work plan and Reporting Templates.
4. Environmental Results.
5. GAP National Set-Asides.
6. Solid Waste Implementation Priorities.
7. GAP Tracking Electronic Data Entry.

This guidance does not replace the ''2000 Guidelines On the Award and Management of General Assistance Agreements for Indian Tribes.'' Instead, the grant administration guidance is intended to summarize the issues and procedures required to ensure compliance with current grant policies and regulations. This guidance will remain in effect until withdrawn or superseded.

1. GAP Allocation

The GAP provides annual grant funding to federally recognized Tribes and Intertribal consortia through an allocation process administered for each EPA Region. The grant funds may be used by tribes to plan and carry out any number of capacity-building activities including the education and outreach; development of administrative procedures; quality assurance/quality control systems; sampling and laboratory capabilities; baseline environmental assessments; enforcement programs; legal procedures; communications plans; computer information systems; and staff qualifications and expertise. GAP may not be used for the ongoing implementation of media-specific environmental programs once established, except as otherwise provided. Funding is provided per applicable rules and procedures. AIEO is establishing additional measures to ensure national consistency, such as conducting a self-assessment of GAP as part of the Agency's continuing efforts to improve oversight of grant management activities, as well as reviews of Regional program operations.

As the National Program Manager for GAP, AIEO is responsible for distribution of the national GAP funds to the EPA Regional Offices. AIEO distributes the funds using a formula that considers the tribal land base, number of tribes, and tribal population in each Region. Each year AIEO will issue a decision memorandum on the distribution of GAP funds to the Regions by January 31st.

For FY 2006, EPA has $57.5 million for Regional allocations of GAP funds. This is a $4.5 million reduction from FY 2005. This amount does not reflect any Agency reductions that may be forthcoming.

2. Notification Letters

The GAP program is currently exempt from competition under sections 6(c)1 and 2 of EPA's Policy for Competition of Assistance Agreements (EPA Order 5700.5A1). AIEO has determined that competition is not practicable because of the need to provide a clear and stable source of base funding for program development and capacity building

across Indian country consistent with the primary statutory purpose of the program.

Consistent with Federal policy, a primary mission of EPA is to work with federally-recognized tribal governments to protect the environment and public health in Indian Country. Goal 5.3 of EPA's current Strategic Plan provides that by 2008 the goal is to increase tribes' ability to develop environmental program capacity by ensuring that 100% of federally recognized tribes have access to an environmental presence.[1] AIEO has determined that this goal can best be met by distributing funding consistent with the guidelines below.

AIEO has developed the following funding allocation guidelines to assist Regional Tribal Programs in making their funding decisions beginning in FY 2006. The guidelines are to be incorporated into the information materials developed by each Region.

- Consistent with the GAP statute and regulations, eligible recipients will be able to receive at least $75,000 for their first fiscal year. Funding amounts for the following fiscal years is determined by each Region.
- Each Region will send a letter to eligible tribes informing them that they may qualify for a base amount of funding with the final funding amount dependent upon the results of the work plan negotiations. Scheduling deadlines for negotiations and decision-making are established by each Region.
- Each Region can emphasize those funding factors that are most appropriate for their Region during the work plan negotiations. Where the recipient has Tier III Tribal EPA Agreement (TEA), these may be used a basis for making funding decisions. Funding decisions should be made with a focus on producing the most outcome based improvements to human health and the environment in Indian country. The funding decisions should also be consistent with the allocation approach among eligible recipients selected by the Region.
- In any funding materials distributed, please refrain from using the following terms or others like them that may create the impression that the GAP funds are being awarded ''competitively'':
  - Request for Proposals.
  - Solicitations.
  - Ranking criteria.

Given the purposes of the GAP to build individual tribal capacity, EPA may evaluate proposals based on, among other things, capacity of applicant, past grant performance, work plan progress, and expected human health and environmental results. Regions should not use any allocation factors which have the effect of measuring the relative quality or merit of one work plan against the other, or that focus on the skill of the applicant.

3. Work Plan and Reporting Templates

Strong and effective grant management is critical to our success in accomplishing the goals of GAP. The GAP work plan is the basis for the management and evaluation of performance under the grant agreement. The ''Office of Water 2005 Grants Management Self-Assessment Report'' has identified that there was inconsistent documentation of cost reviews and documentation of environmental results in the work plans. AIEO has addressed this by developing a template that will consistently include milestones, deliverables, link to the Agency's Strategic Plan, and environmental outcomes and outputs in the grant work plans. This work plan and reporting template, presented in Exhibit 3.1 and 3.2, is to be used by tribal governments and intertribal consortia applying for GAP funds. For FY 2006, we strongly recommend the Regions to use this format. The template will be the required format for FY 2007.

While it is not required by 40 CFR part 35, subpart B to include estimated costs in the work plan, AIEO strongly recommends that grantees include estimated costs and that the estimated costs be linked to the task and anticipated output. This encourages cost accountability, effective grant management, and is consistent with Governmental Accounting Standards Board (GASB) no. 34 accounting pronouncements that are supported by the Native American Finance Officers Association.

For purposes of tracking how GAP funds are being used by grantees, the Regions and grantees are required to categorize the range of activities into the following categories:

Legal: Activities are to develop legal and enforcement infrastructure, i.e., codes, regulations, ordinances, and standards that can be used to implement management policies and guidelines.

Enforcement and Compliance: Activities demonstrate the ability to perform the inventories, monitoring, and inspection needed to ensure compliance with environmental policies and guidelines.

Technical and Non-Administrative: Activities develop technical skills for environmental management such as monitoring and analysis, baseline assessment, data management, quality assurance procedures, and emergency response systems.

Communications: Activities demonstrate the ability to communicate about environmental issues with the community, tribal executives, the regulated community, and other government entities.

Administrative: Activities establish the ability and procedures for managing and accounting for program funds, including procedures for staffing and training, management of office resources and personnel, and communication with other tribal government agencies.

Solid and Hazardous Waste: Activities may include, but are not limited to removal of abandoned vehicles, scrap metals and used tires, planning and conducting household hazardous waste cleanups, establishing recycling collection areas and support facilities, and open dump cleanups.

Additionally, Regions should provide the relevant goal, objective and subobjective for the above activities using EPA's Strategic Plan located at *http://www.epa.gov/ocfo/plan/plan.htm.*

EXHIBIT 3.1.—EXAMPLE WORK PLAN AND REPORTING TEMPLATE

Estimated Cost: $27,000		Estimated Work Years: .20		
Tasks	Primary capacity area	Estimated cost	Time frame	Outputs
Work Plan Objective 1: Build capacity to implement a tribal solid waste program. Environmental Outcome:				

[1] EPA is currently preparing its fourth strategic plan under Government Performance and Results Act (GPRA). GPRA requires Federal agencies to revise their strategic plans every 3 years. EPA's Strategic Plan outlines our mission, establishes our goals and objectives, and describes the means and strategies we will employ to reach our goals and achieve results.

EXHIBIT 3.1.—EXAMPLE WORK PLAN AND REPORTING TEMPLATE—Continued

Estimated Cost: $27,000		Estimated Work Years: .20		
Tasks	Primary capacity area	Estimated cost	Time frame	Outputs
—Reduce exposure to illegal dump sites in the tribal community. —Increase knowledge & understanding of illegal dump impacts by community members.				
1.1 Select two illegal dump sites for remediation.	Enforcement & Compliance.	$2,000	Quarter 1	Site selection reports; tribal government approval of site selection.
1.2 Select contractors and develop, approve and sign contracts.	Administrative	15,000	Quarter 1	Signed contract.
1.3 Oversee the remediation of the dump sites.	Administrative	1,000	Quarter 3	Records of site visits and final remediation report.
1.4 Install fence and post ''no dumping'' signs at the former illegal dump site.	Solid Waste Implementation.	5,000	Quarter 3	Fences; signs.
1.5 Hold one community meeting to demonstrate the impacts illegal dumps have on the community.	Communications	2,000	Quarter 4	Pre and post meeting surveys to demonstrate change in knowledge.
1.6 Municipal Waste Facility Operator Training/Certification for tribal employee.	Technical (non-administrative).	2,000	Quarter 4	Certified landfill operator.

EPA Use Only

2003–2008 EPA Strategic Plan

Goal 3: Land Preservation and Restoration
Objective 3.1: Preserve Land
Sub-objective 3.1.1: Reduce Waste Generation and Increase Recycling.

Estimated cost: $19,000		Estimated work years: 20		
Tasks	Primary capacity area	Estimated cost	Time frame	Outputs
Work Plan Objective 2: Develop solid waste management codes. Environmental Outcome: —Reduce number of illegal dumping activities.. —Improved compliance with integrated waste management plan.				
2.1 Seek and obtain information from EPA solid waste personnel and other regional tribes regarding Solid Waste Codes.	Legal	$3,000	Quarter 1	Trip reports; meeting minutes; SW Code template
2.2 Write draft Solid Waste Codes that reflect the needs and desires of the tribe.	Legal	6,000	Quarter 2	Draft SW Code.
2.3 Retain an attorney/consultant to review the draft SW Codes.	Legal	9,000	Quarter 3	Contract/Agreement with attorney/consultant.
2.4 Submit draft SW Codes to EPA for comments and meet with EPA as needed to understand any issues EPA raises.	Legal	1,000	Quarter 4	Revised Draft SW Code.

EPA Use Only

2003–2008 EPA Strategic Plan

Goal 5: Compliance and Environmental Stewardship
Objective 5.1: Improve Compliance
Sub-objective 5.1.3: Monitoring and Enforcement

EXHIBIT 3.2.—EXAMPLE WORK PLAN REPORT

Estimated costs: $25,000	Estimated work years: 20					
Tasks	Est. cost	Actual cost	Time frame	Status	Outputs	Comments **Note:** Explanatory comments are required for any task listed as ''Not complete.''
Work Plan Objective 1: Build capacity to implement a tribal solid waste program. Environmental Outcome:						

EXHIBIT 3.2.—EXAMPLE WORK PLAN REPORT—Continued

Estimated costs: $25,000	Estimated work years: 20					
Tasks	Est. cost	Actual cost	Time frame	Status	Outputs	Comments **Note:** Explanatory comments are required for any task listed as "Not complete."
—Reduce number of illegal dump sites in the tribal community. —Increase knowledge & understanding of illegal dump impacts by community members.						
1.1 Select two illegal dump sites for remediation.	$2,000	$1,500	Quarter 1	Complete	Signed site selection reports.	Use this space for descriptions of activities to accomplish the task. This narrative field can have as much detail as grantee & project officer agree is necessary.
1.2 Select contractors and develop, approve and sign contracts.	15,000	10,000	Quarter 1	Complete	Signed contract.	*Example:* "Three contractors submitted proposals for our review: (1) Remediation, Inc.; (2) Cleanup, Inc.; and (3) Land Like New, Inc. A team of tribal employees and an independent third party technical expert reviewed and ranked each proposal (see Attachment X). Remediation, Inc. received the most favorable review and was selected as our contractor. The contract was negotiated and signed on May 12 (see Attachment Y)."
1.3 Oversee the remediation of the dump sites.	1,000		Quarter 3	On track ..	Records of site visits and final remediation report.	
1.4 Hold one community meeting to demonstrate the impacts illegal dumps have on the community.	2,000		Quarter 4	On track ..	Pre and post meeting surveys.	
1.5 Municipal Waste Facility Operator Training/Certification for tribal employee.	2,000		Quarter 4	Not complete.	Certified landfill operator.	*Example:* "Employee scheduled to receive training left the program. New employee will not be in place for tribal employee until next fiscal year."

EPA Use Only
2003–2008 EPA Strategic Plan
Goal 3: Land Preservation and Restoration
Objective 3.1: Preserve Land
Sub-objective 3.1.1: Reduce Waste Generation and Increase Recycling.

4. Environmental Results

A. Environmental Outputs, Outcomes and Milestones

The U.S. Congress, the EPA Office of Inspector General (IG), and the Office of Management and Budget (OMB) have raised concerns about the lack of clarity or documentation showing how EPA grant funds have been spent or are expected to be spent, and the lack of evidence that EPA grants produce environmental results. In response, EPA issued the Environmental Results Order 5700.7 that went into effect on January 1, 2005. It is now required that EPA Program Offices ensure that recipient work plans contain well-defined outputs and, to the maximum extent practicable, well-defined environmental outcomes that help measure tribal successes toward achieving GAP goals.

Tracking environmental results is important for a number of reasons. It allows EPA and tribes to discuss alterations to the GAP program, such as addressing the need for a bridge between program development and implementation. It also demonstrates the effectiveness of resource investments in terms of public health and environmental improvement in Indian country. Additional benefits include promoting good grant management by tying in the goals in EPA's Strategy Plan with actual environmental results.

The templates, presented in Exhibit 4.1 and 4.2, provide examples of environmental outputs and outcomes both for programmatic and administrative capabilities. It demonstrates the linkage to the Agency's goals, objectives, sub-objectives, annual Program Activity Measures (PAMs) and provides samples of outputs and outcomes. The Regions should ensure that EPA can clearly identify environmental outputs and

outcomes in the work plan format and contents. The Regions should also ensure that the outputs and outcomes are linked to EPA's Strategic Plan. AIEO will continue working with the Regions to develop additional measures that accurately reflect the spectrum of environmental results across media programs. AIEO expects to begin reporting programmatic environmental outcome measures by FY 2007.

The Environmental Results Order defines output and outcome as follows:

Outcome: The result, effect or consequence that will occur from carrying out an environmental program or activity that is related to an environmental or programmatic goal or objective. Outcomes may be environmental, behavioral, health-related or programmatic in nature, must be quantitative, and may not necessarily be achievable within an assistance agreement funding period.

Output: An environmental activity, effort, and/or associated work products related to an environmental goal or objective that will be produced or provided over a period of time or by a specified date. Outputs may be quantitative or qualitative but must be measurable during an assistance agreement funding period.

EXHIBIT 4.1.—GAP PROGRAMMATIC ENVIRONMENTAL RESULTS SHEET

Grant Program: Indian Environmental General Assistance Program
CFDA: 66.926
GOAL 5: COMPLIANCE AND ENVIRONMENTAL STEWARDSHIP
Improve environmental performance through compliance with environmental requirements, preventing pollution, and promoting environmental stewardship. Protect human health and the environment by encouraging innovation and providing incentives for government, businesses and the public that promote environmental stewardship.
Strategic Plan Objective 5.3: Build Tribal Capacity—Through 2008, assist all federally recognized tribes in assessing the condition of their environment, help in building their capacity to implement environmental programs where needed to improve tribal health and environments, and implement programs in Indian country where needed to address environmental issues.
Note: Project Officers are responsible for ensuring that work plans contain, to the maximum extent practicable, well-defined outputs and outcomes. The following outputs/outcomes are options for grantees and Project Officers to consider including in their work plans to comply with the Environmental Results Order.
National Reportable Outputs/Outcomes for GAP:
- ❑ By 2008, increase tribes' ability to develop environmental program capacity by ensuring that 100% of federally recognized tribes have access to an environmental presence.
- ❑ By 2008, increase the number of EPA-approved quality assurance plans for tribal environmental monitoring and assessment activities.
- ❑ By 2008, increase by 50% the number of EPA agreements with tribes that reflect holistic program integration and traditional use of natural resources.

EXAMPLES OF PROGRAMMATIC GAP OUTPUTS AND OUTCOMES

Example Outputs
- ❑ Number of approved grants or cooperative agreements.
- ❑ Number of staff hired or retained.
- ❑ Number of QAPPs filed.
- ❑ Number of stream miles assessed for ambient stream conditions.
- ❑ Survey of contamination sources.
- ❑ Number of environmental ordinance proposals to Council.

Example Outcomes that Demonstrate Changes in Awareness, Attitudes or Knowledge
- ❑ Achievement of operator certification.
- ❑ Successful completion of training program.
- ❑ Completed exit surveys or reports from public education sessions.
- ❑ Establishment of job descriptions.
- ❑ Accurate location of contamination sources.
- ❑ Demonstrated increase in knowledge of bio-assessment protocols.
- ❑ Number of environmental ordinances passed by Council.

Example Outcomes that Demonstrate Changes in Behavior
- ❑ Number of projects [insert range] initiating operation, resulting in improved public health protection.
- ❑ Number of cross-agency agreements signed.
- ❑ Number of environmental ordinances passed by Council.

Example Outcomes that Demonstrate Changes in the Environment or Public Health
- ❑ Reduction in population exposed to drinking water that is not in compliance with health-based standards.
- ❑ Increase in population with access to approved solid waste disposal.
- ❑ Reduction in detection of PM10 contaminants.

EXHIBIT 4.2.—GAP ADMINISTRATIVE ENVIRONMENTAL RESULTS SHEET

Grant Program: Indian Environmental General Assistance Program
CFDA: 66.926
GOAL 5: COMPLIANCE AND ENVIRONMENTAL STEWARDSHIP
Improve environmental performance through compliance with environmental requirements, preventing pollution, and promoting environmental stewardship. Protect human health and the environment by encouraging innovation and providing incentives for government, businesses and the public that promote environmental stewardship.
Strategic Plan Objective 5.3: Build Tribal Capacity—Through 2008, assist all federally recognized tribes in assessing the condition of their environment, help in building their capacity to implement environmental programs where needed to improve tribal health and environments, and implement programs in Indian country where needed to address environmental issues.
Note: Project Officers are responsible for ensuring that work plans contain, to the maximum extent practicable, well-defined outputs and outcomes. The following outputs/outcomes are options for grantees and Project Officers to consider including in their work plans to comply with the Environmental Results Order.

EXHIBIT 4.2.—GAP ADMINISTRATIVE ENVIRONMENTAL RESULTS SHEET—Continued

National Reportable Outputs/Outcomes for GAP:
- ❑ By 2008, increase tribes' ability to develop environmental program capacity by ensuring that 100% of federally recognized tribes have access to an environmental presence.
- ❑ By 2008, increase the number of EPA-approved quality assurance plans for tribal environmental monitoring and assessment activities.
- ❑ By 2008, increase by 50% the number of EPA agreements with tribes that reflect holistic program integration and traditional use of natural resources.

EXAMPLES OF ADMINISTRATIVE GAP OUTPUTS AND OUTCOMES

Example Outputs
- ❑ Number of staff hired.
- ❑ Number of staff supervised.
- ❑ Number of items of equipment authorized to be purchased (if purchased under an U.S. EPA grant, identify the grant number).
- ❑ Number and name of grant deliverables reviewed (if under an U.S. EPA grant, identify the grant number).
- ❑ Number of grants closed out (if U.S. agreement, identify the grant number).
- ❑ Number of briefings that were provided to tribal officials on environmental issues.
- ❑ Number permitting procedures implemented as well as the relevant Federal Agency.
- ❑ Attendance at quarterly state Tribal Environmental Committee meeting.
- ❑ Number of environmental issues and/or policies staff reviewed, analyzed and provided comments.
- ❑ Develop/update EPA/Tribal Environmental Agreement.
- ❑ Administer QAMPs and/or QAPPs.
- ❑ Conduct long and/or short range environmental and/or natural resources management planning.
- ❑ Number of environmental databases developed or enhanced.
- ❑ Attendance at the Regional General Assistance Program Conference.

Example Outcomes that Demonstrate Changes in Awareness, Attitudes or Knowledge
- ❑ Increase in number of certified staff in the environmental departments.
- ❑ Completion and maintenance of standard operating procedures for departmental functions.

Example Outcomes That Demonstrate Changes in Behavior
- ❑ Annual audit contains no major environmental program or administrative findings.
- ❑ Number of environmental ordinances passed by Council.
- ❑ Documented annual environmental improvements which are a direct result of grant work plan implementation.

SEQUENTIAL EXAMPLES

Activity—Trainings, Conferences and Workshops
- ❑ Output—Number of trainings and/or workshops attended; number of conferences coordinated.
- ❑ Outcome—Demonstrated change in knowledge and/or behavior (i.e. operation and maintenance practices established, best management practices implemented, etc.) due to training and/or workshop, as demonstrated by an exit survey or examination.

Activity—Outreach and Education
- ❑ Output—Number/type of outreach conducted (i.e. trainings, workshops, conferences, stakeholder meetings etc.).
- ❑ Outcome—Establishment of staff position(s) to provide outreach and education (i.e. watershed coordinator, PWSS circuit rider, etc.)
- ❑ Outcome—Demonstrated change in behavior (i.e. operation and maintenance practices established, best management practices (structural or non-structural implemented, etc.) attributed to the outreach and/or education.

B. GAP Logic Model

AIEO is conducting a program evaluation of the GAP program. The purpose of the evaluation is to assess: (1) The impact of GAP on tribal environmental capacity to help AIEO understand which elements of GAP contribute to the establishment of multimedia environmental programs and (2) the impact and relevance of the program on Section 5.3 of EPA's Strategic Plan.

To illustrate the various components of the GAP for the program evaluation, AIEO has developed a logic model, a graphical representation of the relationships between program inputs, outputs, and intended outcomes, presented in Appendix 1 at *http://www.epa.gov/Indian/pdfs/gap2006.pdf*. This is a tool that can be used by the Regions in identifying outcomes and outputs related to GAP goals. Key components of the logic model include the following:

- Resources are the basic inputs of funds, staffing, and knowledge dedicated to the program.
- Activities/Outputs are the specific actions taken by EPA to achieve program goals and the immediate products that result. Under the GAP, these products include grant funds, technical assistance, training, and grant oversight.
- Customers are the users of the activities and outputs (fiscal, technical, administrative) provided. They are the tribal governments that receive GAP grants and the environmental employees hired with GAP funds.
- Short-Term Outcomes are changes in awareness, attitudes, knowledge, and behavior resulting from program outputs. Technical and grant management training opportunities provided to tribal environmental employees through the GAP increase understanding of the processes required in developing a tribal environmental program. Note that outcomes listed in italics are intended as illustrative examples of the effects of tribes increased understanding of the process required in the development of a tribal environmental program.
- Intermediate Outcomes are broader in scope than short-term outcomes and often build upon the progress achieved in the short-term. Under the GAP, changes in tribal awareness and understanding pave the way for planning, development, and initiation of capacity-building activities. The logic model includes examples of activities that represent increased capability in the legal, enforcement, technical, communications, and administrative arenas. Note that outcomes listed in

italics are intended as illustrative examples of the effects of tribes increased legal, enforcement, technical, communications, and administrative capability.

• Long-Term Outcomes parallel the overarching goals of the program and are the environmental improvements and public health benefits that flow from the behavioral, procedural, and operational changes.

• Contextual/External Variables are factors, not directly controlled by the program or its entities, which may affect program performance. For example, changes in tribal policy and budgetary priorities may influence the ability of tribes to sustain environmental efforts.

5. GAP National Set-Asides

The GAP National Set-Aside is a specific portion of the overall GAP appropriation that is ''set aside'' to support specific tribal or tribal consortia projects, as directed by AIEO. The projects must have a national application or address a national program need identified by AIEO. Each year AIEO will issue a decision memorandum on the distribution of GAP set-aside funds to the Regions by January 31st.

AIEO is working with the Office of Solid Waste on potential use of limited GAP set-aside funds in FY 2006.

The National Set-Aside Funded Project Areas for FY 2006 are as follows:

A. Financial Management Training

The American Indian Environmental Office (''AIEO'') will continue to provide funding to the Regions for targeted training to tribal financial managers on EPA financial assistance agreements. As before, the training must be targeted to train tribal staff directly responsible for financial management of EPA funds, although tribal environmental staff is encouraged to attend scheduled trainings. The training must take place during FY 2006. Regions can tailor their training to meet the unique needs of their tribes, and where possible may take advantage of existing training opportunities and venues.

The available funding is limited. Proposals should include the number of tribes expected to participate, the proposed methodology, and the approach to be used to ensure maximum participation by financial management staff. Regional proposals should be signed off on by the Regional Grants Management Officers.

AIEO will review the Regional proposals and will negotiate the amount of funding to be set-aside for each Region that applies. Key factors AIEO will consider include the number of participants, Regional contribution, and available funding at the time of the request.

Regions will also need to provide short reports documenting the training provided, and providing specific outcome measures (e.g., entrance and exit surveys, training certifications, improved grantee performance, etc.).

B. Incentive Funding for Tier III Tribal EPA Agreements

Tribal EPA Agreements (TEAs) are a valuable tool in EPA's work with tribes to identify and address mutually shared objectives. They are one of the key parameters for the measurement of success of the Tribal program in the EPA Strategic Plan.

In recognition of their importance, and in order to promote greater implementation of this approach, AIEO will be providing supplemental funding to each Region in the amount of $3,000 to $4,000 per approved Tier III TEAs listed in the 5.3 System as of May 30, 2006. The maximum cap per Region is $200,000. This supplemental funding must be for activities fundable under GAP regulations, and must be accounted for in the work plan for the grant.

C. Implementation of Direct Implementation Tribal Cooperative Agreements

Direct Implementation Tribal Cooperative Agreements (DICTAs) is a funding authority enabling EPA to award funds to federally recognized tribes and qualified Intertribal consortia to carry out agreed upon activities to assist EPA with the implementation of federal environmental programs for Indian tribes in the absence of an acceptable tribal program. AIEO has identified the lack of dedicated resources as an impediment to promoting and establishing DICTAs.

For FY 2006, AIEO is providing dedicated funding assistance in the amount of $200,000 for the implementation of DITCAs. AIEO will work to make this funding available in FY 2007 and FY 2008. However, funding availability may change based on Agency-wide needs. The use of these funds will require the additional commitment of funding from other sources that do not include Regional GAP funding.

This support is currently in the proposal stage. The requirements will be provided once finalized.

D. Support Services for the Tribal Caucus of the National Tribal Operations Committee

AIEO will continue to fund support services for the Tribal Caucus of the National Tribal Operations Committee (TOC) through a Policy Advisor. The Policy Advisor provides support in reviewing, analyzing and commenting on issues of policy and practice that are before the Tribal Caucus. The Policy Advisor also provides the Tribal Caucus with meeting facilitation, as well as coordinates communication between EPA managers and staff and members of the Tribal Caucus.

E. Support for the United South and Eastern Tribes Liaison

The Liaison position with United South and Eastern Tribes (USET) provides support to member tribes in assisting tribal capacity building in specific program areas through technical and administrative aid, on-site reviews, and advisory services. The Liaison also provides assistance to member tribes through regulatory analysis and communication.

AIEO support is intended to assist Region 4 in initiating the Liaison program, with the expectation that the other Regions support the continuation of the program to serve USET members in their areas.

F. Discretionary Support for Selected Activities or Conferences

The Director of AIEO will continue to provide support for specific national events and conferences, as appropriate.

G. Scheduling

Financial Management Training: Regional proposals should be submitted no later than December 31, 2005. Training must take place during FY 2006.

Incentive Funding: TEA funding will be reprogrammed to the Region based on the approved Tier III TEAs listed in the 5.3 System as of May 30, 2006.

DITCAs: A schedule will be provided pending final approval of the proposal.

6. Solid Waste Implementation Priorities

The primary purpose of GAP is to support the development of a core tribal environmental program as outlined in Section II A, ''Guidelines on the Award and Management of General Assistance Agreements for Indian Tribes'' (March 9, 2000). Where Regions can ensure that recipients have put in place the elements of a core environmental protection program, they may approve solid and hazardous waste implementation activities that

supplement recipients' environmental management capacity.

When funding solid and hazardous waste activities under GAP, AIEO expects the Regions to implement the following principles and funding priorities for FY 2006.[2]

A. Principles

When making funding decisions for solid and hazardous waste implementation activities, the following principles must be addressed:

- The availability of funding.
- The risk of compromising the development of tribal environmental capacity and overall in program effectiveness areas other than solid and hazardous waste management.
- The reasonableness of costs cited for the proposed activities.
- Whether the proposed activities supplement or improperly duplicate activities funded by the Federal Tribal Solid Waste Management Assistance Project (formerly known as the ''Tribal Open Dumps Cleanup Project'').
- The proposed activities will have technical review by EPA RCRA regional staff.
- There are no guarantees, either implicit or explicit of future funding for long term projects.
- Higher priority is given to self-sustaining programs, prevention programs and one time cleanups, as environmental outcome based work.
- Use of GAP funding for operations and maintenance activities is given the lowest priority.

B. Priorities

The following are the recommended priorities for use of GAP funding for solid and hazardous waste activities:

1. Expansion for Interagency Coordination

Several Regions have used GAP funds to participate in interagency in efforts to coordinate solid and hazardous waste projects in Indian Country. We encourage those efforts and are supporting similar initiatives at the national level through the Tribal Solid Waste Interagency Work Group, which includes HUD, IHS, BIA, Rural Utility Service, DoD and FAA. AIEO promotes the use of GAP funds in tandem with other (EPA and non-EPA) Agency resources.

2. Targeted Procedures

The unique status of solid and hazardous waste implementation activities under GAP requires different internal Regional procedures than with GAP capacity building activities. Several Regions are developing procedures for working with their Regional solid and hazardous waste counterparts to review and approve implementation activities. We recommend that all Regions establish such procedures.

3. Continued Review of Implementation Costs

Funding implementation activities under GAP continues to represent a new and potentially resource-intensive area of investment. Regional data has greatly assisted EPA in understanding the impact of this new grant flexibility. Several Regions have indicated that they expect an increase in the number and variety of projects.

Each Region should therefore continue to track and report separately on investments in solid and hazardous waste implementation for FY 2006. The information tracked should include name of recipient, a brief description of the project, and the amount of GAP funding allocated to that specific grant activity. Estimated amounts are acceptable, but should be stated as such.

Please contact Rodges Ankrah at ankrah.rodges@epa.gov before March 7, 2006, if you have any question about data collection.

7. GAP Tracking Electronic Data Entry

AIEO is continuing to develop and define the GAP Tracking System to enable EPA to track environmental tribal activities supported by EPA grants. The GAP Tracking System is for program management, a tool that will allow EPA to better manage the GAP program. To avoid duplication of information, the GAP Tracking System will eventually be linked to other grant and financial reporting systems. When the System becomes operational, grantees will be required to use the system in order to receive GAP funding.

The GAP Tracking System is designed to do the following:

- Allow regional officers to access GAP-related records for their region.
- Wherever possible, read data from existing databases that are a part of the larger Tribal Information Management project.
- Allow regional officers to enter and store GAP-related information in a central GAP-specific database.
- Generate common reports for use by EPA regional officers, tribal officials, EPA programs, and the U.S. Congress and OMB.
- Integrate features that will allow the GAP Tracking Tool to be efficient to use.
- Avoid duplication of information into multiple grant and financial reporting systems.

The GAP Tracking System was NOT designed for the following:

- Allow the entry of records into the Tribal Information Management System (TIMS) databases.
- Allow editing information submitted in previous fiscal years.

The screens, located in Appendix 2 at *http://www.epa.gov/Indian/pdfs/gap2006.pdf*, are a proposed update to the GAP Tracking System. EPA may impose additional requirements to integrate into the current system. Please send your comments on the proposed updates to the GAP Tracking System to Rodges Ankrah at *ankrah.rodges@epa.gov* by March 7, 2006.

Dated: January 9, 2006.

Benjamin H. Grumbles,

Assistant Administrator for Water.

[FR Doc. 06–1729 Filed 2–23–06; 8:45 am]

BILLING CODE 6560–50–P

[2] The funding principles and priorities for solid and hazardous waste implementation activities were derived from Memorandum from the American Indian Environmental Office on Guidance for Implementation of Solid and Hazardous Waste Activities under the Indian General Assistance Program to Regional Indian Coordinators, Regional Solid Waste Program Managers, Office of Solid Waste, OSWER Tribal Coordinator, and National Indian Work Group (June 7, 2001) (on file with AIEO's GAP National Program Manager).

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 March 23, 2006.

A. Federal Reserve Bank of Chicago (Patrick M. Wilder, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690-1414:

1. Community State Bank Employee Stock Ownership Plan and Trust, Union Grove, Wisconsin; to increase its ownership to 33.95 percent of the voting shares of Union Bancorporation, Inc., Union Grove, Wisconsin, and thereby indirectly acquire Community State Bank, Union Grove, Wisconsin.

2. Gerber Bancshares, Inc., Argenta, Illinois; to become a bank holding company by acquiring 100 percent of the voting shares of Gerber State Bank, Argenta, Illinois.

B. 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 its subsidiary bank, The San Francisco Company, San Francisco, California; to acquire 80 percent of the voting shares of First Independent National Bank, Plano, Texas.

2. First Banks, Inc. , Hazelwood, Missouri, and its subsidiary bank holding company, The San Francisco Company, San Francisco, California; to acquire 100 percent of Pittsfield Community Bancorp, Inc., Pittsfield, Illinois, and thereby indirectly acquire Community Bank of Pittsfield, Pittsfield, Illinois.

Board of Governors of the Federal Reserve System, February 21, 2006.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E6–2640 Filed 2–23–06; 8:45 am]

BILLING CODE 6210–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Assistant Secretary for Planning and Evaluation; Medicaid Program; Meeting of the Medicaid Commission—March 13–15, 2006

AGENCY: Assistant Secretary for Planning & Evaluation (ASPE), HHS.

ACTION: Notice of meeting.

SUMMARY: This notice announces a public meeting of the Medicaid Commission. Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. App. 2, section 10(a)(1) and (a)(2)). The Medicaid Commission will advise the Secretary on ways to modernize the Medicaid program so that it can provide high-quality health care to its beneficiaries in a financially sustainable way.

DATES: *The Meeting:* March 13–15, 2006. The meeting will begin at 6 p.m. on March 13, 9 a.m. on March 14, and 8:30 a.m. on March 15.

Special Accommodations: Persons attending the meeting who are hearing or visually impaired, or have a condition that requires special assistance or accommodations, are asked to notify the Medicaid Commission by March 3, 2006 (see **FOR FURTHER INFORMATION CONTACT**).

ADDRESSES: *The Meeting:* The meeting will be held at the following address: Crowne Plaza-Atlanta-Perimeter N.W., 6345 Powers Ferry Road, NW., Atlanta, GA 30339, United States, telephone: 1 (770) 955–1700, fax: 1 (770) 850–0444.

Web site: You may access up-to-date information on the Medicaid Commission at *http://aspe.hhs.gov/medicaid/.*

FOR FURTHER INFORMATION CONTACT: Margaret Reiser, (202) 205–8255.

SUPPLEMENTARY INFORMATION: On May 24, 2005, we published a notice (70 FR 29765) announcing the Medicaid Commission and requesting nominations for individuals to serve on the Medicaid Commission. This notice announces a public meeting of the Medicaid Commission.

Topics of the Meeting

The Commission will discuss options for making longer-term recommendations on the future of the Medicaid program that ensure long-term sustainability. Issues to be addressed may include, but are not limited to: Eligibility, benefit design, and delivery; expanding the number of people covered with quality care while recognizing budget constraints; long term care; quality of care, choice, and beneficiary satisfaction; and program administration.

Procedure and Agenda

This meeting is open to the public. There will be a public comment period at the meeting. The Commission may limit the number and duration of oral presentations to the time available. We will request that you declare at the meeting whether or not you have any financial involvement related to any services being discussed.

After the presentations and public comment period, the Commission will deliberate openly. Interested persons may observe the deliberations, but the Commission will not hear further comments during this time except at the request of the Chairperson. The Commission will also allow an open public session for any attendee to address issues specific to the topic.

Authority: 5 U.S.C. App. 2, section 10(a)(1) and (a)(2).

Dated: February 16, 2006.

Mary M. McGeein,

Deputy Assistant Secretary for Planning and Evaluation, Office of Disability, Aging and Long-Term Care.

[FR Doc. E6–2608 Filed 2–23–06; 8:45 am]

BILLING CODE 5150–05–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Debarment

AGENCY: Office of the Secretary, HHS.

ACTION: Notice.

SUMMARY: Notice is hereby given that the Deputy Assistant Secretary for the Office of Acquisition Management and Policy of the Department of Health and Human Services (HHS) has taken final agency action in the following case:

Paul H. Kornak, Stratton VA Medical Center, Albany, New York: Upon recommendations from the Office of Research Integrity (ORI), Acting Assistant Secretary for Health for the Department of Health and Human Services (HHS), the Office of Research Oversight (ORO), and the Under Secretary for Health, Department of Veterans Affairs (VA), that were based on the criminal convictions of making and using a materially false statement, in violation of 18 U.S.C. 1001(a)(3); mail fraud, in violation of 18 U.S.C. 1341 and 1346; and criminally negligent homicide, in violation of 18 U.S.C. 13 and New York Penal Law § 125.10, the HHS debarring official has permanently debarred Mr. Paul Kornak, former

research coordinator at the Stratton VA Medical Center. This action is taken pursuant to the HHS government-wide nonprocurement debarment and suspension regulation at 45 CFR part 76. As such, Mr. Kornak is excluded for life from participating in any and all Federal agency transactions, both procurement and nonprocurement, as set forth in part 76.

Of the 48 criminal charges contained in his Indictment, Paul Kornak pled guilty to the three criminal charges listed above. See *United States of America* v. *Paul H. Kornak*, Criminal Action No. 03–CR–436 (FJS), U.S. District Court (N.D.N.Y.) (January 18, 2005). In addition to the 71-month term of imprisonment imposed, Mr. Kornak was directed to pay restitution to two pharmaceutical companies and the VA in the amount of approximately $639,000.

As part of his guilty plea, Mr. Kornak admitted to the following facts:

• In August 2000, Mr. Kornak applied for employment to the VA, submitting a false ''Declaration for Federal Employment'' form. Mr. Kornak denied that he had been convicted or on probation in the preceding 10 years, whereas in fact, he had been convicted of mail fraud in 1992 and placed on probation for 3 years.

• By October of 2000, Mr. Kornak was responsible for organizing, coordinating, implementing, and directing all research elements in the Stratton VA Medical Center oncology research program. Specifically, Mr. Kornak was the site coordinator at the Stratton VA Medical Center for the ''Iron (Fe) and Atherosclerosis Study'' (FeAST), cancer studies known as Tax 325 and Tax 327, and a bladder cancer study. The FeAST study was a clinical trial that tested a novel procedure for controlling atherosclerosis, also known as hardening of the arteries, by reducing the iron in the body through blood drawing. The Tax 325 cancer treatment study involved the administration of pharmaceutical products to patients with metastatic or locally recurrent gastric cancer previously untreated with chemotherapy for advanced disease. The Tax 327 study involved the administration of pharmaceutical products to patients with metastatic hormone refractory prostate cancer. The purpose of the bladder cancer study, which was co-sponsored by the National Cancer Institute, National Institutes of Health, was to compare the use of difluoromethylornithine (DFMO) to the use of a placebo in patients with low grade superficial bladder cancer according to time to first recurrence of the tumor and toxicities.

• From May 14, 1999, to July 10, 2002, in connection with the above protocols, Mr. Kornak participated in a scheme to defraud the sponsors of the clinical studies in that ''he would and repeatedly did submit false documentation regarding patients and study subjects and enroll and cause to be enrolled persons as study subjects who did not qualify under the particular study protocol.''

• Mr. Kornak caused the death of a study subject when he ''failed to perceive a substantial and unjustifiable risk that death would occur when he knowingly and willfully made and used * * * documents falsely stating and representing the results of [the study subject's] blood chemistry analysis * * *, which false documents purported that [the study subject] met the inclusion and exclusion criteria for participation in Tax 325 when the actual results did not meet the inclusion and exclusion criteria and showed impaired kidney and liver function, and [the study subject] thus was administered the chemotherapeutic drugs docetaxel, cisplatin, and 5–FU in connection with Tax 325 on or about May 31, 2001, and died as a result thereof on or about June 11, 2001.''

Based on the criminal conviction and the facts admitted to above, HHS and VA believe that a debarment period longer than the standard length of debarment is warranted in this case. Mr. Kornak admitted to a dishonest handling of the research records and demonstrated a complete disregard for the well-being of vulnerable human subjects under his care. In pleading guilty to criminally negligent homicide, Mr. Kornak admitted that a reasonable person would have perceived a substantial and unjustifiable risk of death if an ineligible subject were enrolled in the cancer study in question and that his failure to perceive such a risk in enrolling the ineligible subject constituted a gross deviation from the standard of care.

Moreover, a longer debarment period is warranted in this case because of an established pattern of misconduct and criminal behavior on the part of Mr. Kornak. As stated above, Mr. Kornak has a prior conviction of mail fraud. In addition, the Office of Personnel Management excluded Mr. Kornak from all Federal nonprocurement transactions for an indefinite period, effective July 22, 1993. Nonetheless, beginning in 1999, Mr. Kornak actively participated in federally sponsored research protocols in violation of the imposed exclusion.

A lifetime debarment of Mr. Kornak is necessary to protect the public interest overall. Given the scope of his criminal conviction, his longstanding pattern of criminal behavior, and his total disregard for the safety and well-being of human subjects, Mr. Kornak's responsibility to engage in transactions with the Federal Government cannot be assured at any time in the future.

FOR FURTHER INFORMATION CONTACT:

Director, Division of Investigative Oversight,
Office of Research Integrity,
1101 Wootton Parkway, Suite 750,
Rockville, MD 20852.
(240) 453–8800,
or
Peter Poon,
Health Science Specialist,
Office of Research Oversight,
Veteran's Health Administration, VA,
811 Vermont Ave., NW. (10R), Suite 574,
Washington, DC 20420.
(202) 565–8107.

Chris B. Pascal,
Director, Office of Research Integrity.

[FR Doc. E6–2667 Filed 2–23–06; 8:45 am]
BILLING CODE 4160–17–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Agency for Healthcare Research and Quality, HHS.

ACTION: Notice.

SUMMARY: This notice announces the intention of the Agency for Healthcare Research and Quality (AHRQ) to request that the Office of Management and Budget (OMB) allow the proposed information collection project: ''Use of IT and Health IT Among Health Centers funded under Section 330 of the Public Health Service Act''. In accordance with the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)), AHRQ invites the public to comment on this proposed information collection.

DATES: Comments on this notice must be received by April 25, 2006.

ADDRESSES: Written comments should be submitted to: Cynthia D. McMichael, Reports Clearance Officer, AHRQ, 540 Gaither Road, Suite 5022, Rockville, MD 20850. Copies of the proposed collection plan, data collection instrument, and specific details on the estimated burden can be obtained from AHRQ's Reports Clearance Officer.

FOR FURTHER INFORMATION CONTACT: Cynthia D. McMichael, AHRQ, Reports Clearance Officer, (301) 427–1651.

SUPPLEMENTARY INFORMATION:

Proposed Project

''Use of IT and Health IT Among Health Centers funded under Section 330 of the Public Health Service Act.''

This project is being conducted under contact 290–04–0016 between the Agency for Healthcare Quality and Research and the National Opinion Research Center (NORC) at the University of Chicago, the prime contractor for AHRQ's National Resource Center for Health Information Technology. AHRQ, in close collaboration with the Health Resources and Services Administration's (HRSA) Bureau of Primary Health care (BPHC), is requesting that NORC conduct an assessment of the use of information technology (IT) at ambulatory health centers funded under Section 330 of the Public Health Services Act. Specifically, the project will assess IT applications which assist in improving the quality, safety, efficiency, and effectiveness of health care (health IT) at HRSA-funded ambulatory health centers.

For the purposes of this project, AHRQ and HRSA have drafted an Intra-Agency Agreement (AHRQ IAA #05–404R–05) which establishes roles and responsibilities for both agencies. HRSA, AHRQ and NORC will work collaboratively to develop the analytic questions, survey tool, sampling strategy and analysis plan. AHRQ and HRSA will review data runs as well as descriptive and comparative analysis. NORC will field the survey, conduct descriptive and comparative analysis, and report findings to both AHRQ and HRSA.

The HRSA-funded health centers from a key part of the nation's health care ''safety net,'' delivering primary car medical services to vulnerable populations. Special administrative requirements, including tracking and reporting on their patient populations, maintaining patient-specific data and supporting disease registries for vulnerable populations, make health centers a prime target for implementing health IT applications. As such, health centers represent and early laboratory for health IT adoption, use, and impact among ambulatory health care providers.

The study will inquire about the gains and challenges experienced at selected health centers in the implementation of IT programs. Information will be collected with regard to the following topics and issues: current state of Health Information Technology (HIT) use, goals and approach to HIT, readiness for HIT adoption and expansion, management of HIT issues and adherence to requirements, and overall experience with HIT implementation of sustainability, including successes experienced and barriers encountered.

Findings from the proposed collection will assist policy makers at AHRQ, HRSA and elsewhere as they seek to build on this early IT adoption among health centers and promote policy efforts to encourage the implementation of IT in ambulatory health care settings to achieve efficiency and quality of care objectives.

Date Confidentiality

To obtain the necessary information, surveys will be conducted with staff at selected HRSA-funded health centers. The study will primarily involve the use of web-based interviews, although some telephone interviews will be conducted when selected health centers do not respond online. All appropriate measures will be taken to protect the confidentiality of individual respondents and their institution. Web surveys are administered using an encrypted SSL connection using secured web data collection servers. Access to response data will be limited on a strictly ''need to access'' basis and any person accessing the data will have signed a corporate confidentially pledge which clearly enumerates their responsibilities in this regard including AHRQ's statutory confidentiality requirements and specific consequences of improper disclosures or allowing breaches in confidentiality.

Methods of Collection

The data will be collected from a systematic random sample of 450 of the approximately 920 total HRSA Section 330-funded Health Centers. Centers will be chosen stratified by urbanicity (urban, rural and suburban) and geographical area. The expected response rate of 75 percent will result in data from approximately 338 centers.

One survey will be completed by each organization. Multiple individuals from each Health Center may be respondents, including senior management and administrative personnel, information technology staff, and clinicians.

Based on experience with surveys of similar length, the estimate is that the questionnaire will take one hour to complete. The primary method of data collection will be web-based self-administered questionnaire. All sample centers will receive an advance e-mail followed a week later by an e-mail containing instructions for accessing the Web survey. We will use a multiple mode approach to follow-up with centers that do not complete the survey within 4 weeks of the initial e-mailing.

ESTIMATED ANNUAL RESPONDENT BURDEN

Data collection effort	Number of respondents	Estimated time per respondent (minutes)	Estimated total burden to respondents (hours)	Average hourly wage rate	Estimated annual cost to health center respondent
Online and Telephone Surveys*	338	60	338	$42.38	$14,324.44

*Using the mean of the average wages for managers in medicine, physicians and computer systems analyst/scientist as reported in the National Compensation Survey: Occupational Wages in the United States, 2004, (U.S. Department of Labor, Bureau of Labor Statistics, September 2004), we estimate the total hourly cost to respondents to be $42.38 or $14,324.44 across all 338 health center respondents.

Request for Comments

In accordance with the above cited legislation, comments on AHRQ's information collection are requested with regard to any of the following: (a) Whether the proposed collection of information is necessary for the proper performance of functions of AHRQ, including whether the information will have practical utility; (b) the accuracy of AHRQ's estimate of burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information upon the respondents, including the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and included in the request for OMB approval of the proposed information

collection. All comments will become a matter of public record.

Dated: February 16, 2006.

Carolyn M. Clancy,

Director.

[FR Doc. 06–1716 Filed 2–23–06; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Agency for Healthcare Research and Quality

Meetings on Patient Safety and Quality Improvement

AGENCY: Agency for Healthcare Research and Quality (AHRQ), HHS.

ACTION: Notice of public meetings, including telephone call-in.

SUMMARY: We are considering how to implement the Patient Safety and Quality Improvement Act of 2005 (Act), including such questions as how the Act might be applied to various organizational configurations and how best to ensure that the statute's fundamental confidentiality objectives are achieved. To help us better understand the thinking and plans of providers that are interested in seeking out patient safety organization (PSO) services, and of entities that anticipate establishing such an organization, this notice invites the public to provide information that may assist the Agency, either in person or by telephone call-in, at three related public meetings.

DATES: The three public meetings will be held on Wednesday, March 8, 2006; Monday, March 13, 2006; and Thursday, March 16, 2006. Each meeting will be held from 12:30 p.m. EST until finished (no later than 3:30 p.m. EST).

ADDRESSES: The meetings on March 8 and 13 will be held at AHRQ, John M. Eisenberg Building, 540 Gaither Road, Rockville, MD 20850. The meeting on March 16 will be held at Hilton Washington Embassy Row, 2015 Massachusetts Ave. NW., Washington, DC 20036.

FOR FURTHER INFORMATION CONTACT: Eileen Hogan, Agency for Healthcare Research and Quality, 540 Gaither Road, Rockville, MD 20850; Telephone: 301–427–1307; E-mail: *Eileen.Hogan@ahrq.hhs.gov.*

SUPPLEMENTARY INFORMATION: The Act is intended to help health care providers improve patient safety, reduce the incidence of events that adversely effect patient safety, and otherwise improve the quality of health care delivery. More specifically, the Act, by establishing a Federal privilege and mandating confidentiality protection, encourages health care providers to contract with PSOs to collect and analyze data on patient safety events (including ''near misses,'' ''close calls,'' and ''no-harm'' events as well as other types of patient safety events), to develop and disseminate information to improve patient safety, and to provide feedback and assistance to reduce patient risk. The decision to contract with a PSO is voluntary.

Registration and Other Information About the Meetings

We request that interested persons register with the Cygnus Corporation on the Internet at *http://www.cygnusc.com/* to participate in one or more meetings either in person or by telephone. The contact at Cygnus Corporation is Megan Griggs who can be reached by telephone at (301) 231–7537, ext. 260 and by e-mail at *griggsm@cygnus.com.* Interested persons should register at least the day before a meeting in which they wish to participate. Non-registered individuals will be able to attend a meeting in person if space is available. However, we will not be able to provide a telephone hook-up for those that do not register at least the day before the meeting.

If sign language interpretation or other reasonable accommodation for a disability is needed, please contact Mr. Donald L. Inniss, Director, Office of Equal Employment Opportunity Program Support Center, on (301) 443–1144.

Each public meeting is scheduled for a three-hour period, but will end sooner if participants have finished providing input before the time period expires. We are asking for input concerning specific topics as follows:

March 8, 2006: Provider—PSO relationships, contracts, and disclosures. March 13, 2006: Operation of a component PSO (a PSO that is part of another organization). March 16, 2006: Security and Confidentiality issues.

We request that input regarding the specified topics be provided at the meeting scheduled for that topic. After those who wish to provide input on the specific topics have finished, participants will be welcome to provide input on other issues regarding the implementation of the Act. The format for the meetings is intended to allow participants not only to provide input, but also to respond to the input provided by others. We especially request input from entities interested in becoming or creating PSOs and from providers interested in contracting with PSOs.

To help interested individuals prepare for the meetings, we invite review of the Act. The full text is set forth on the Internet at: *http://www.gpoaccess.gov/plaws/* (search for ''Public Law 109—41.'')

Also, we will establish an e-mail notification list to provide interested parties with automatic notification of relevant information posted on the AHRQ Web site (*http://www.ahrq.gov*) concerning the PSO program. To be added to the e-mail notification list, send your e-mail address to *Eileen.Hogan@ahrq.hhs.gov* and use the words ''Add me to the list'' in the subject line.

These meetings will be primarily listening sessions for the Agency and potentially an opportunity for dialogue among participants. We believe that the input received at the public meetings will be most helpful in providing the Agency with background information, fostering fact finding, and broadening awareness of issues raised by the legislation. We generally will not respond to the presentations during the meetings and will not regard them as formal comments that must be addressed in later rulemaking documents.

Dated: February 17, 2006.

Carolyn M. Clancy,

Director.

[FR Doc. 06–1725 Filed 2–23–06; 8:45 am]

BILLING CODE 4160–90–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–06–0576]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–5960 or send an e-mail to *omb@cdc.gov.* Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–6974.

Notice of Correction

Title of Project

Possession, Use, and Transfer of Select Agents and Toxins (OMB Control No. 0920–0576)—Extension—Office of the Director (OD), Centers for Disease Control and Prevention (CDC).

Description of Correction

Due to a clerical oversight, the closing date of the 30-day **Federal Register** Notice (FRN) under 30dy–06–0576 published on January 24, 2006 will be used as the official 30-day for the OMB submission printed under that notice number. The closing date of the 30-day FRN under 30dy–06–0576 dated February 8, 2006 will not be used. The second 30-day FRN was inadvertently published, so please disregard the second closing date.

Comments will be considered until COB of February 24, 2006 and not March 8, 2006.

Dated: February 21, 2006.

Joan F. Karr,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. 06–1779 Filed 2–23–06; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–1450(UB–04)]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* New Collection; *Title of Information Collection:* Medicare Uniform Institutional Provider Bill and Supporting Regulations in 42 CFR 424.5; *Use:* Section 42 CFR 424.5(a)(5) requires providers of services to submit a claim for payment prior to any Medicare reimbursement. Charges billed are coded by revenue codes. The bill specifies diagnoses according to the International Classification of Diseases, Ninth Edition (ICD–9-CM) code. Inpatient procedures are identified by ICD–9–CM codes, and outpatient procedures are described using the CMS Common Procedure Coding System (HCPCS). These are standard systems of identification for all major health insurance claims payers. Submission of information on the CMS–1450 permits Medicare intermediaries to receive consistent data for proper payment. All hardcopy claims processed by Medicare fiscal intermediaries must be submitted on the CMS–1450 (UB–04) after May 23, 2007. Data fields in the X12N 837 data set are consistent with the CMS–1450 (UB–04) data set.; *Form Numbers:* CMS–1450 (UB–04) (OMB#: 0938–NEW); *Frequency:* Reporting—On occasion; *Affected Public:* Not-for-profit institutions, Business or other for-profit; *Number of Respondents:* 53,111; *Total Annual Responses:* 179,489,721; *Total Annual Hours:* 308,237.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS'' Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995,* or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov,* or call the Reports Clearance Office on (410) 786–1326.

To be assured consideration, comments and recommendations for the proposed information collections must be received at the address below, no later than 5 p.m. on April 25, 2006. CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development—B, Attention: William N. Parham, III, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: February 16, 2006.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 06–1767 Filed 2–23–06; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

[Document Identifier: CMS–10182]

Emergency Clearance: Public Information Collection Requirements Submitted to the Office of Management and Budget (OMB)

AGENCY: Center for Medicare and 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 and 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. This is necessary to ensure compliance with an initiative of the Administration. CMS does not have sufficient time to complete the normal PRA clearance process. Section 1860D–1 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) and implementing regulations at 42 CFR 423.56(c) and (d) requires that all entities provide a disclosure of creditable coverage status to all Medicare Part D eligible individuals. The normal PRA clearance process would result in violating this statute which would result in public harm to enrolled Medicare prescription drug beneficiaries.

1. *Type of Information Collection Request:* New Collection; *Title of Information Collection:* Model Creditable Coverage Disclosure Notices; *Use:* Section 1860D–1 of the MMA requires entities that offer prescription drug benefits under any of the types of coverage described in 42 CFR 423.56(b) to provide a disclosure of creditable coverage status to all Medicare Part D eligible individuals covered under the entity's plan. These disclosure notices must be provided to Part D eligible individuals, at a minimum, at the following times: (1) Prior to an individual's initial enrollment period for Part D, (2) prior to the effective date of enrollment in the entity's coverage, and upon any change in creditable status; (3) prior to the commencement of the Part D Annual Coordinated Election Period (ACEP) which begins on November 15 of each year, and (4) upon request by the individual. Disclosure of whether prescription drug coverage is creditable provides Medicare eligible individuals with important information relating to their Medicare Part D enrollment.

Form Number: CMS–10182 (OMB#: 0938–New);

Frequency: Recordkeeping, Third party disclosure and Reporting: On occasion, Annually, and Other-As requested;

Affected Public: Individuals or Households, Business or other for-profit, Not-for-profit institutions and Federal, State, Local or Tribal Government;

Number of Respondents: 450,160;

Total Annual Responses: 1,225,173;

Total Annual Hours: 522,204.

CMS is requesting OMB review and approval of these collections by *March 29, 2006*, with a 180-day approval period. Written comments and recommendations will be considered from the public if received by the individuals designated below by *March 17, 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/PaperworkReductionActof1995/* or e-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

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 to the designees referenced below by *March 17, 2006*:

Centers for Medicare and Medicaid Services, Office of Strategic Operations and Regulatory Affairs, Room C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850, Attn: Bonnie L Harkless,

and,

OMB Human Resources and Housing Branch, Attention: Carolyn Lovett, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: February 15, 2006.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 06–1768 Filed 2–23–06; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–1500 (12–90), CMS–1490U, CMS–1490S, CMS–1500 (08–05)]

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS), Department of Health and Human Services, is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the Agency's function; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Health Insurance Common Claims Form and Supporting Regulations at 42 CFR part 424, subpart C; *Form Number:* CMS–1500 (12–90), CMS–1490–U, CMS–1490–S (OMB#: 0938–0008); *Use:* The Form CMS–1500 answers the needs of many health insurers. It is the basic form prescribed by CMS for the Medicare program and is only accepted from physicians and suppliers that are excluded from the mandatory electronic claims submission requirements set forth in the Administrative Simplification Compliance Act (ASCA) Public Law 107–105 and the implementing regulation at 42 CFR 424.32. The Medicaid State Agencies, CHAMPUS/TriCare, Office of Workers' Compensation Programs (OWCP), U.S. Railroad Retirement Board (RRB), Blue Cross/Blue Shield Plans, the Federal Employees Health Benefit Plan, and several private health plans also use it; it is the de facto standard ''professional'' claim form. CMS is seeking re-approval of the CMS–1500 (12/90), CMS–1490–U, and the CMS–1490–S forms.; *Frequency:* Reporting—On occasion; *Affected Public:* State, Local, or Tribal Government, Business or other-for-profit, Not-for-profit institutions; *Number of Respondents:* 902,378; *Total Annual Responses:* 957,204,707; *Total Annual Hours:* 46,383,364.

2. *Type of Information Collection Request:* New collection; *Title of Information Collection:* Health Insurance Common Claims Form and Supporting Regulations at 42 CFR part 424, subpart C; *Form Number:* CMS–1500 (08–05), CMS–1490–S (OMB#: 0938–NEW); *Use:* CMS is simultaneously seeking approval for form CMS–1500 (08–05) and the CMS–1500 (12–90). A concurrent approval for the two forms is needed to allow the industry to prepare for the conversion, i.e. computer system conversions and mass printing of the form CMS–1500 (08–05). The CMS–1500 (08–05) will be accepted beginning in October, 2006. Its use will be mandatory in 2007. In 2007, the CMS–1500 (12–90) and the corresponding OMB control number will be discontinued. The Form CMS–1500 answers the needs of many health insurers. It is the basic form prescribed by CMS for the Medicare program and is only accepted from physicians and suppliers that are excluded from the mandatory electronic claims submission requirements set forth in the Administrative Simplification Compliance Act (ASCA) Public Law 107–105 and the implementing regulation at 42 CFR 424.32. The Medicaid State Agencies, CHAMPUS/TriCare, Office of Workers' Compensation Programs (OWCP), U.S. Railroad Retirement Board (RRB), Blue Cross/Blue Shield Plans, the Federal

Employees Health Benefit Plan, and several private health plans also use it; it is the de facto standard ''professional'' claim form.; *Frequency:* Reporting—On occasion; *Affected Public:* State, Local, or Tribal Government, Business or other-for-profit, Not-for-profit institutions; *Number of Respondents:* 902,378; *Total Annual Responses:* 957,204,707; *Total Annual Hours:* 46,383,364.

To obtain copies of the supporting statement and any related forms for these paperwork collections referenced above, access CMS Web site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995*, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

To be assured consideration, comments and recommendations for the proposed information collections must be received by the OMB Desk Officer at the address below, no later than 5 p.m. on March 27, 2006. OMB Human Resources and Housing Branch, Attention: Carolyn Lovett, CMS Desk Officer, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: February 16, 2006.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. 06–1769 Filed 2–23–06; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–4115–N]

Medicare Program; Request for Nominations for the Advisory Panel on Medicare Education

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

ACTION: Notice.

SUMMARY: This notice requests nominations for individuals to serve on the Advisory Panel on Medicare Education (the Panel). The Panel advises and makes recommendations to the Secretary of Health and Human Services (HHS) (the Secretary) and the Administrator of the Centers for Medicare & Medicaid Services (CMS) on opportunities for CMS to optimize the effectiveness of the National Medicare Education Program and other CMS programs that help Medicare beneficiaries understand the range of health plan options available under the Medicare program.

DATES: *Effective Date:* Nominations will be considered if we receive them at the appropriate address, provided in the **ADDRESSES** section of this notice, no later than 5 p.m., e.s.t. on Friday, March 17, 2006.

ADDRESSES: Mail or deliver nominations to the following address: Lynne G. Johnson, Center for Beneficiary Choices, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Mail stop S1–20–21, Baltimore, MD 21244–1850.

FOR FURTHER INFORMATION CONTACT: Lynne G. Johnson, Health Insurance Specialist, Division of Partnership Development, Center for Beneficiary Choices, Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Mail stop S1–20–21, Baltimore, MD 21244–1850, (410) 786–0090. Please refer to the CMS Advisory Committees Information Line (1–877–449–5659 toll free)/(410–786–9379 local) or the Internet (*http://www.cms.hhs.gov/FACA/04_APME.asp*) for additional information and updates on committee activities, or contact Ms. Johnson via e-mail at *lynne.johnson@cms.hhs.gov.* Press inquiries are handled through the CMS Press Office at (202) 690–6145.

SUPPLEMENTARY INFORMATION: Section 222 of the Public Health Service Act (42 U.S.C. 217a), as amended, grants to the Secretary the authority to establish an advisory council or committee for the purpose of advising him in connection with any of his functions. Under the Federal Advisory Committee Act (FACA) (Pub. L. 92–463), the Secretary signed the charter establishing the Panel on January 21, 1999 (64 FR 7899) and approved the renewal of the charter on January 14, 2005 (70 FR 4129). The Panel advises HHS and CMS on opportunities to enhance the effectiveness of consumer education materials serving the Medicare program.

The goals of the Panel are to provide advice on the following:

- Developing and implementing a national Medicare education program that describes the options for selecting health plans and prescription drug benefits under Medicare.
- Enhancing the Federal Government's effectiveness in informing the Medicare consumer, including the appropriate use of public-private partnerships.
- Expanding outreach to vulnerable and underserved communities, including racial and ethnic minorities, in the context of a national Medicare education program.
- Assembling an information base of best practices for helping consumers evaluate health plan options and building a community infrastructure for information, counseling, and assistance.

The Panel shall consist of a maximum of 20 members. The Chair shall either be appointed from among the 20 members, or a Federal official will be designated to serve as the Chair. The charter specifies that meetings shall be held approximately four times per year. Members will be expected to attend all meetings. The members and the Chair shall be selected from representatives of the general public and authorities knowledgeable in the fields of:

- Senior citizen advocacy.
- Outreach to minority communities.
- Health communications.
- Managing a prescription drug benefit.
- Disease-related health advocacy.
- Disability policy and access.
- Health economics research.
- Health insurers and plans.
- Providers and clinicians.
- Matters of labor and retirement.

This notice is an invitation to interested organizations or individuals to submit their nominations for membership on the Panel. The Secretary, or his designee, will appoint new members to the Panel from among those candidates determined to have the expertise required to meet specific agency needs, and in a manner to ensure an appropriate balance of membership. Current members whose terms expire in 2006 may be considered for reappointment, if renominated, subject to committee service guidelines.

Each nomination must state that the nominee has expressed a willingness to serve as a Panel member and must be accompanied by a resume and a brief biographical summary of the nominee's experience. In order to permit an evaluation of possible sources of conflict of interest, potential candidates will be asked to provide detailed information concerning such matters as financial holdings, consultancies, and research grants or contracts. Self-nominations will also be accepted.

Authority: (Section 222 of the Public Health Service Act (42 U.S.C. 217(a)); Pub. L. 92–463 (5 U.S.C. App. 2); and, 41 CFR section 102–3.5 through 102–3.175).

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

Dated: February 10, 2006.

Mark B. McClellan,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 06–1648 Filed 2–23–06; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–1332–NC]

Medicare and Medicaid Programs; Announcement of an Application From a Hospital Requesting a Waiver From Its Designated Organ Procurement Service Area

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

ACTION: Notice with comment period.

SUMMARY: This notice announces a hospital's request for a waiver from entering into an agreement with its designated organ procurement organization (OPO), in accordance with section 1138(a)(2) of the Social Security Act. This notice requests comments from OPOs and the general public for our consideration in determining whether we should grant the requested waiver.

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on April 25, 2006.

ADDRESSES: In commenting, please refer to file code CMS–1332–NC. Because of staff and resource limitations, we cannot accept comments by facsimile (FAX) transmission.

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

1. *Electronically.* You may submit electronic comments on specific issues in this regulation to *http://www.cms.hhs.gov/eRulemaking.* (Attachments should be in Microsoft Word, WordPerfect, or Excel; however, we prefer Microsoft Word.)

2. *By regular mail.* You may mail written comments (one original and two copies) to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–1332–NC, P.O. Box 8015, Baltimore, MD 21244–8015.

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

3. *By express or overnight mail.* You may send written comments (one original and two copies) to the following address ONLY: Centers for Medicare & Medicaid Services, Department of Health and Human Services, Attention: CMS–1332–NC, Mail Stop C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850.

4. *By hand or courier.* If you prefer, you may deliver (by hand or courier) your written comments (one original and two copies) before the close of the comment period to one of the following addresses. If you intend to deliver your comments to the Baltimore address, please call telephone number (410) 786–9994 in advance to schedule your arrival with one of our staff members. Room 445–G, Hubert H. Humphrey Building, 200 Independence Avenue, SW., Washington, DC 20201; or 7500 Security Boulevard, Baltimore, MD 21244–1850.

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

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

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

FOR FURTHER INFORMATION CONTACT: Mark A. Horney, (410) 786–4554.

SUPPLEMENTARY INFORMATION:

Submitting Comments: We welcome comments from the public on all issues set forth in this notice to assist us in considering whether we should grant the requested waiver. You can assist us by referencing the file code CMS–1332–NC and the specific ''issue identifier'' that precedes the section on which you choose to comment.

Inspection of Public Comments: All comments received before the close of the comment period are available for viewing by the public, including any personally identifiable or confidential business information that is included in a comment. CMS posts all electronic comments received before the close of the comment period on its public Web site as soon as possible after they have been received. Hard copy comments received timely will be available for public inspection as they are received, generally beginning approximately 3 weeks after publication of a document, at the headquarters of the Centers for Medicare & Medicaid Services, 7500 Security Boulevard, Baltimore, Maryland 21244, Monday through Friday of each week from 8:30 a.m. to 4 p.m. To schedule an appointment to view public comments, phone 1–800–743–3951.

I. Background

Organ Procurement Organizations (OPOs) are not-for-profit organizations that recover human organs from potential donors in hospitals and distribute them to transplant centers throughout the country. Qualified OPOs are designated by the Centers for Medicare & Medicaid Services (CMS) to recover organs in CMS-defined exclusive geographic service areas, according to section 371(b)(1)(F) of the Public Health Service Act (42 U.S.C. 273(b)(1)(F)) and our regulations at 42 CFR 486.307. Once an OPO has been designated for an area, hospitals in that area that participate in Medicare and Medicaid are required to work with that OPO in providing organs for transplantation, according to section 1138(a) of the Social Security Act (the Act), and our regulations at 42 CFR 482.45. Section 1138(a)(1)(A)(iii) of the Act provides that a hospital must notify the designated OPO (for the service area in which it is located) of potential organ donors. Under section 1138(a)(1)(C) of the Act, every participating hospital must have an agreement with its designated OPO to identify potential donors only within its service area.

However, section 1138(a)(2) of the Act provides that a hospital may obtain a waiver of the above requirements from the Secretary under certain specified conditions. A waiver allows the hospital to have an agreement with an OPO other than the one initially designated by CMS, if the hospital meets certain conditions specified in section 1138(a)(2) of the Act. In addition, the Secretary may review additional criteria described in section 1138(a)(2)(B) of the Act to evaluate the hospital's request for a waiver.

Section 1138(a)(2)(A) of the Act states that in granting a waiver, the Secretary must determine that the waiver: (1) Is expected to increase organ donations; and (2) will ensure equitable treatment of patients referred for transplants within the service area served by the designated OPO and within the service area served by the OPO with which the hospital seeks to enter into an agreement under the waiver. In making a waiver determination, section 1138(a)(2)(B) of the Act provides that the Secretary may consider, among other factors: (1) Cost-effectiveness; (2) improvements in quality; (3) whether there has been any change in a hospital's designated OPO due to the

changes made in definitions for metropolitan statistical areas (MSAs); and (4) the length and continuity of a hospital's relationship with an OPO other than the hospital's designated OPO. Under section 1138(a)(2)(D) of the Act, the Secretary is required to publish a notice of any waiver application within 30 days of receiving the application, and to offer interested parties an opportunity to comment in writing, during the 60-day public comment period.

The criteria that the Secretary uses to evaluate the waiver in these cases are the same as those described above under sections 1138(a)(2)(A) and (B) of the Act and have been incorporated into the regulations at 42 CFR 486.316(e) and (f).

II. Waiver Request Procedures

In October 1995, we issued a Program Memorandum (Transmittal No. A–95–11) detailing the waiver process and discussing the information that hospitals must provide in requesting a waiver. We indicated that upon receipt of a waiver request, we would publish a **Federal Register** notice to solicit public comments, as required by section 1138(a)(2)(D) of the Act.

According to these requirements, we will review the request and comments received. During the review process, we may consult on an as-needed basis with the Public Health Service's Division of Transplantation, the United Network for Organ Sharing, and our regional offices. If necessary, we may request additional clarifying information from the applying hospital or others. We will then make a final determination on the waiver request and notify the hospital, the designated OPO, and the requested OPO.

III. Hospital Waiver Request

As permitted by 42 CFR 486.316(e), Piedmont Healthcare Systems of Rock Hill, South Carolina has requested a waiver in order to enter into an agreement with an alternative, out-of-area OPO. Piedmont Healthcare Systems is requesting a waiver to work with: LifePoint, 4200 Faber Place Drive, Charleston, SC 29105.

Piedmont Healthcare System's designated OPO is: LifeShare of the Carolinas, 5000–D Airport Center Parkway, Charlotte, NC 28208.

Piedmont Healthcare Systems must continue to work with its designated OPO while we complete our review.

IV. Collection of Information Requirements

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

Section 486.316 sets forth the requirements for a Medicare or Medicaid participating hospital to request a waiver permitting the hospital to have an agreement with an OPO other than the OPO designated for the service area in which the hospital is located. The burden associated with those requirements is currently approved under OMB 0938–0688, and HCFA–R–13, Conditions of Coverage for Organ Procurement Organizations, with an expiration date of February 28, 2007.

V. Response to Comments

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

VI. Regulatory Impact Statement

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

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

The RFA requires agencies to analyze options for regulatory relief of small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and small governmental jurisdictions. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $6 million to $29 million in any 1 year. Individuals and States are not included in the definition of a small entity. We are not preparing an analysis for the RFA because we have determined that this rule will not have a significant economic impact on a substantial number of small entities.

In addition, section 1102(b) of the Act requires us to prepare a regulatory impact analysis if a rule may have a significant impact on the operations of a substantial number of small rural hospitals. This analysis must conform to the provisions of section 603 of the RFA. For purposes of section 1102(b) of the Act, we define a small rural hospital as a hospital that is located outside of a Core-Based Statistical Area and Metropolitan Statistical Area and has fewer than 100 beds. We are not preparing an analysis for section 1102(b) of the Act because we have determined that this notice will not have a significant impact on the operations of a substantial number of small rural hospitals.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule whose mandates require spending in any 1 year of $100 million in 1995 dollars, updated annually for inflation. That threshold level is currently approximately $120 million. This notice will have no consequential effect on State, local, or tribal governments or on the private sector.

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

Authority: Section 1138 of the Social Security Act (42 U.S.C. 1320b–8).

(Catalog of Federal Domestic Assistance Program No. 93.773, Medicare-Hospital Insurance; Program No. 93.774, Medicare-Supplementary Medical Insurance, and Program No. 93.778, Medical Assistance Program)

Dated: February 9, 2006.

Mark B. McClellan,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 06–1646 Filed 2–23–06; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[CMS–2227–FN]

Medicare and Medicaid Programs; Approval of Deeming Authority of the Accreditation Commission for Healthcare (ACHC) for Home Health Agencies

AGENCY: Centers for Medicare and Medicaid Services, HHS.

ACTION: Final notice.

SUMMARY: This notice announces our decision to approve the Accreditation Commission for Healthcare (ACHC) for recognition as a national accreditation program for home health agencies seeking to participate in the Medicare or Medicaid programs.

DATES: *Effective Date:* This final notice is effective February 24, 2006 through February 24, 2009.

FOR FURTHER INFORMATION CONTACT: Cindy Melanson, (410) 786–0310.

SUPPLEMENTARY INFORMATION:

I. Background

Under the Medicare program, eligible beneficiaries may receive covered services from a Home Health Agency (HHA) provided certain requirements are met. Sections 1861(o) and 1891 of the Social Security Act (the Act) establish distinct criteria for facilities seeking designation as an HHA in the Medicare program. The regulations at 42 CFR part 484 specify the conditions that an HHA must meet in order to participate in the Medicare program, the scope of covered services, and the conditions for Medicare payment for home health care. Regulations concerning provider agreements are at 42 CFR part 489, and those pertaining to activities relating to the survey and certification of facilities are at 42 CFR part 488. Regulations concerning eligibility for home health and certain payment requirements are at 42 CFR part 409, Subpart E.

Generally, to enter into an agreement, a HHA must first be certified by a State survey agency as complying with the conditions or requirements set forth in part 484 of our regulations. Then, the HHA is subject to regular surveys by a State survey agency to determine whether it continues to meet those requirements. There is an alternative, however, to surveys by State agencies.

Section 1865(b)(1) of the Act provides that, if a provider entity demonstrates through accreditation by an approved national accreditation organization that all applicable Medicare conditions are met or exceeded, we would ''deem'' those provider entities as having met the requirements. Accreditation by an accreditation organization is voluntary and is not required for Medicare participation.

If an accreditation organization is recognized by the Secretary as having standards for accreditation that meet or exceed Medicare requirements, any provider entity accredited by the national accrediting body's approved program would be deemed to meet the Medicare conditions. A national accreditation organization applying for approval of deeming authority under part 488, subpart A must provide us with reasonable assurance that the accreditation organization requires the accredited provider entities to meet requirements that are at least as stringent as the Medicare conditions.

II. Deeming Applications Approval Process

Section 1865(b)(3)(A) of the Act provides a statutory timetable to ensure that our review of deeming applications is conducted in a timely manner. The Act provides us with 210-calendar days after the date of receipt of an application to complete our survey activities and application review process. Within 60 days of receiving a completed application, we must publish a notice in the **Federal Register** that identifies the national accreditation body making the request, describes the request, and provides no less than a 30-day public comment period. At the end of the 210-day period, we must publish an approval or denial of the application.

III. Proposed Notice

On September 23, 2005, we published a proposed notice (70 FR 55862) announcing the Accreditation Commission for Healthcare's (ACHC's) request for approval as a deeming organization for HHAs. In the proposed notice, we detailed our evaluation criteria. Under section 1865(b)(2) of the Act and our regulations at § 488.4 (Application and reapplication procedures for accreditation organizations), we conducted a review of the ACHC application in accordance with the criteria specified by our regulation, which include, but are not limited to the following:

- An onsite administrative review of ACHC's (1) Corporate policies; (2) financial and human resources available to accomplish the proposed surveys; (3) procedures for training, monitoring, and evaluation of its surveyors; (4) ability to investigate and respond appropriately to complaints against accredited facilities; and (5) survey review and decision-making process for accreditation.
- A comparison of ACHC's HHA accreditation standards to our current Medicare HHA conditions for participation.
- A documentation review of ACHC's survey processes to:

+ Determine the composition of the survey team, surveyor qualifications, and the ability of ACHC to provide continuing surveyor training.

+ Compare ACHC's processes to those of State survey agencies, including survey frequency, and the ability to investigate and respond appropriately to complaints against accredited facilities.

+ Evaluate ACHC's procedures for monitoring providers or suppliers found to be out of compliance with ACHC program requirements. The monitoring procedures are used only when the ACHC identifies noncompliance. If noncompliance is identified through validation reviews, the survey agency monitors corrections as specified at § 488.7(d).

+ Assess ACHC's ability to report deficiencies to the surveyed facilities and respond to the facility's plan of correction in a timely manner.

+ Establish ACHC's ability to provide us with electronic data in ASCII-comparable code and reports necessary for effective validation and assessment of ACHC's survey process.

+ Determine the adequacy of staff and other resources.

+ Review ACHC's ability to provide adequate funding for performing required surveys.

+ Confirm ACHC's policies with respect to whether surveys are announced or unannounced.

+ Obtain ACHC's agreement to provide us with a copy of the most current accreditation survey together with any other information related to the survey as we may require, including corrective action plans.

In accordance with section 1865(b)(3)(A) of the Act, the September 23, 2005 proposed notice (70 FR 55862) also solicited public comments regarding whether ACHC's requirements met or exceeded the Medicare conditions of participation for HHAs. We received no public comments in response to our proposed notice.

IV. Provisions of the Final Notice

A. Differences Between the ACHC's Standards and Requirements for Accreditation and Medicare's Conditions and Survey Requirements

We compared the standards contained in ACHC's accreditation manual for

HHAs and its survey process in ACHC's Surveyor Training Manual with the Medicare HHA conditions for participation and our State Operations Manual. Our review and evaluation of ACHC's deeming application, which were conducted as described in section III of this final notice yielded the following:

- To meet the full intent of all Medicare standards and conditions, ACHC crosswalked the corresponding Medicare standard to each of its standards and stated that HHAs undergoing a deemed status survey from ACHC would meet the ACHC standard as well as the corresponding Medicare standard.
- ACHC added time frames to respond to complaints in all categories listed in its complaint process.
- ACHC revised its survey procedures to add triggers for identification of Immediate Jeopardy and the guidelines to determine when Immediate Jeopardy is removed.
- ACHC amended its guidelines for determining survey frequency for HHAs in accordance with the State Operations Manual (SOM) 2195.
- In order to be consistent with our policy, ACHC modified the language in its policies to state that Branch Office Additions must first be approved by the CMS Regional Office before scheduling a survey.
- ACHC modified its policies to conform with our standards in SOM 2200 that HHAs applying for an initial certification survey provide care to at least 10 patients and that 7 of those 10 are still active at the time of the initial survey.
- To meet our standards listed in SOM 2200C4, ACHC amended its policies to include criteria necessary for the required number of home visits required during the survey.
- ACHC developed a systematic way to ensure that the appropriate number of active and closed records was reviewed for the size of the facility being surveyed in order to meet the standards listed at SOM 2200C5.
- ACHC established a new policy that requires all deemed HHAs to submit a Plan of Correction for all deficiencies identified.
- A new policy was developed by ACHC concerning the qualifications and training necessary for lead surveyors.
- ACHC will implement an annual training program for all its surveyors and incorporate a measurement tool that evaluates effectiveness of training.
- To meet the requirements listed in § 488.4(b)(3)(v), ACHC established a policy that permits its surveyors to serve as witnesses if we take an adverse action based on accreditation findings.
- ACHC revised its policies to eliminate pre-survey contact and notification of surveyors to HHAs in order to meet our requirements of fully unannounced HHA surveys.

B. Term of Approval

Based on the review and observations described in section III of this final notice, we have determined that ACHC's requirements for HHAs meet or exceed our requirements. Therefore, we recognize the ACHC as a national accreditation organization for HHAs that request participation in the Medicare program, effective February 24, 2006 through February 24 2009.

V. Collection of Information Requirements

This final notice does not impose any information collection and record-keeping requirements subject to the Paperwork Reduction Act (PRA). Consequently, it does not need to be reviewed by the Office of Management and Budget (OMB) under the authority of the PRA.

VI. Regulatory Impact Statement

We have examined the impact of this final notice as required by Executive Order 12866 and the Regulatory Flexibility Act (RFA) (Public Law 98–354). Executive Order 12866 directs agencies to assess all costs and benefits of available regulatory alternatives and, when regulation is necessary, to select regulatory approaches that maximize net benefits (including potential economic, environmental, public health and safety effects; distributive impacts; and equity). The RFA requires agencies to analyze options for regulatory relief for small businesses. For purposes of the RFA, States and individuals are not considered small entities.

Also, section 1102(b) of the Act requires the Secretary to prepare a regulatory impact analysis for any notice that may have a significant impact on the operations of a substantial number of small rural hospitals. Such an analysis must conform to the provisions of section 604 of the RFA. For purposes of section 1102(b) of the Act, we consider a small rural hospital as a hospital that is located outside of a Metropolitan Statistical Area and has fewer than 100 beds.

This final notice recognizes ACHC as a national accreditation organization for HHAs that request participation in the Medicare program. There are neither significant costs nor savings for the program and administrative budgets of Medicare. Therefore, this final notice is not a major rule as defined in Title 5, United States Code, section 804(2) and is not an economically significant rule under Executive Order 12866. We have determined, and the Secretary certifies, that this final notice will not result in a significant impact on a substantial number of small entities and will not have a significant effect on the operations of a substantial number of small rural hospitals. Therefore, we are not preparing analyses for either the RFA or section 1102(b) of the Act.

In an effort to better assure the health, safety, and services of beneficiaries in HHAs already certified as well as provide relief to State budgets in this time of tight fiscal restraints, we deem HHAs accredited by ACHC as meeting our Medicare requirements. Thus, we continue our focus on assuring the health and safety of services by providers and suppliers already certified for participation in a cost-effective manner.

In accordance with the provisions of Executive Order 12866, this notice was not reviewed by the Office of Management and Budget. In accordance with Executive Order 13132, we have determined that this final notice will not significantly affect the rights of States, local or tribal governments.

Authority: Section 1865 of the Social Security Act (42 U.S.C. 1395bb)

(Catalog of Federal Domestic Assistance Program No. 93.778, Medical Assistance Program; No. 93.773 Medicare Hospital Insurance Program; and No. 93.774, Medicare—Supplemental Medical Insurance Program)

Dated: January 30, 2006.

Mark B. McClellan,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 06–1650 Filed 2–23–06; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare and Medicaid Services

Notice of Hearing: Reconsideration of Disapproval of Iowa State Plan Amendments 05–003

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

ACTION: Notice of hearing.

SUMMARY: This notice announces an administrative hearing to be held on April 13, 2006, at the Richard Bolling Federal Building, 601 E. 12th Street, Room 235, Kansas City Conference Room, Kansas City, MO 64106–2898, to

reconsider CMS' decision to disapprove Iowa State plan amendment 05–003.

Closing Date: Requests to participate in the hearing as a party must be received by the presiding officer by March 13, 2006.

FOR FURTHER INFORMATION CONTACT: Kathleen Scully-Hayes, Presiding Officer, CMS, Lord Baltimore Drive, Mail Stop LB–23–20, Baltimore, Maryland 21244, Telephone: (410) 786–2055.

SUPPLEMENTARY INFORMATION:

This notice announces an administrative hearing to reconsider CMS' decision to disapprove Iowa State plan amendment (SPA) 05–003 which was submitted on March 29, 2005. This SPA was disapproved on November 23, 2005. Under SPA 05–003, Iowa sought to simplify its State plan provisions on drug pricing, reflecting the implementation of State supplemental rebates and preferred drug list.

This amendment was disapproved because it did not comport with the requirements of the Federal regulations at 42 CFR 447.331(c) and sections 1902(a)(54) and 1927 of the Social Security Act (the Act) and implementing regulations.

Specifically, Iowa failed to demonstrate that SPA 05–003 is consistent with the Federal upper limit (FUL) regulations at 42 CFR 447.331(c). This regulation provides that the upper limit for payment for multiple source drugs for which a specific limit has been established does not apply if a physician certifies in his or her own handwriting that a specific brand is medically necessary. The State asserted that the physician certification provision (regarding the medical necessity of a brand name drug) need not be followed as part of the State's drug reimbursement methodology because the net cost, after rebates, of these brand name drugs will not exceed the FUL. The State, however, failed to demonstrate how this assertion is consistent with the plain language of the regulation which provides for an FUL based on State payment rates for prescription drugs (without regard to manufacturer rebates), and an FUL exemption based on physician certification.

The State also failed to demonstrate compliance with sections 1902(a)(54) and 1927 of the Act, which provide for the calculation of rebates for covered outpatient drugs, based on payment that was made under the State plan. Section 1927(b)(1)(B) of the Act provides for an offset against medical assistance to account for such rebates. Such an offset would not be necessary if the reference to ''payment'' was intended to be a net payment and include rebates that are eventually provided under section 1927. The State did not demonstrate that its methodology is consistent with sections 1902(a)(54) and 1927 of the Act which are not intended to change State payment rates for prescription drugs and which, as noted previously, provide for calculation of rebates based on State payment.

For the reasons cited above, and after consultation with the Secretary, as required by the Federal regulations at 42 CFR section 430.15(c)(2), Iowa SPA 05–003 was disapproved.

Section 1116 of the Act and Federal regulations at 42 CFR Part 430, establish Department procedures that provide an administrative hearing for reconsideration of a disapproval of a State plan or plan amendment. CMS is required to publish a copy of the notice to a State Medicaid agency that informs the agency of the time and place of the hearing, and the issues to be considered. If we subsequently notify the agency of additional issues that will be considered at the hearing, we will also publish that notice.

Any individual or group that wants to participate in the hearing as a party must petition the presiding officer within 15 days after publication of this notice, in accordance with the requirements contained at 42 CFR 430.76(b)(2). Any interested person or organization that wants to participate as amicus curiae must petition the presiding officer before the hearing begins in accordance with the requirements contained at 42 CFR 430.76(c). If the hearing is later rescheduled, the presiding officer will notify all participants.

The notice to Iowa announcing an administrative hearing to reconsider the disapproval of its SPA reads as follows:

Mr. Daniel W. Hart, Assistant Attorney General, Counsel to the Iowa Department of Human Services, Regents and Human Services Division, 1305 E. Walnut Street, Des Moines, IA 50319–0109.

Dear Mr. Hart:

I am responding to your request for reconsideration of the decision to disapprove the Iowa State plan amendment (SPA) 05–003, which was submitted on March 29, 2005, and disapproved on November 23, 2005.

Under SPA 05–003, Iowa was seeking to simplify its State plan provisions on drug pricing, reflecting the implementation of State supplemental rebates and the preferred drug list.

This amendment was disapproved because it did not comport with the requirements of the Federal regulations at 42 CFR 447.331(c) and sections 1902(a)(54) and 1927 of the Social Security Act (the Act) and implementing regulations.

Specifically, Iowa failed to demonstrate that SPA 05–003 is consistent with the Federal upper limit (FUL) regulations at 42 CFR 447.331(c). This regulation provides that the upper limit for payment for multiple source drugs for which a specific limit has been established does not apply if a physician certifies in his or her own handwriting that a specific brand is medically necessary. The State asserted that the physician certification provision (regarding the medical necessity of a brand name drug) need not be followed as part of the State's drug reimbursement methodology because the net cost, after rebates, of these brand name drugs will not exceed the FUL. The State, however, failed to demonstrate how this assertion is consistent with the plain language of the regulation which provides for an FUL based on State payment rates for prescription drugs (without regard to manufacturer rebates), and an FUL exemption based on physician certification.

The State also failed to demonstrate compliance with sections 1902(a)(54) and 1927 of the Act, which provide for the calculation of rebates for covered outpatient drugs, based on payment that was made under the State plan. Section 1927(b)(1)(B) of the Act provides for an offset against medical assistance to account for such rebates. Such an offset would not be necessary if the reference to ''payment'' was intended to be a net payment and include rebates that are eventually provided under section 1927. The State did not demonstrate that its methodology is consistent with sections 1902(a)(54) and 1927 of the Act which are not intended to change State payment rates for prescription drugs and which, as noted previously, provide for calculation of rebates based on State payment.

For the reasons cited above, and after consultation with the Secretary, as required by 42 CFR 430.15(c)(2), Iowa 05–003 was disapproved.

I am scheduling a hearing on your request for reconsideration to be held on April 13, 2006, at the Richard Bolling Federal Building, 601 E. 12th Street, Room 235, Kansas City Conference Room, Kansas City, MO 64106–2898, to reconsider the decision to disapprove SPA 05–003. If this date is not acceptable, we would be glad to set another date that is mutually agreeable to the parties. The hearing will be governed by the procedures prescribed at 42 CFR Part 430.

I am designating Ms. Kathleen Scully-Hayes as the presiding officer. If these arrangements present any problems, please contact the presiding officer at (410) 786–2055. In order to facilitate any communication which may be necessary between the parties to the hearing, please notify the presiding officer to indicate acceptability of the hearing date that has been scheduled and provide names of the individuals who will represent the State at the hearing.

Sincerely,

Mark B. McClellan, M.D., Ph.D.

Section 1116 of the Social Security Act (42 U.S.C. section 1316); 42 CFR section 430.18)

(Catalog of Federal Domestic Assistance Program No. 13.714, Medicaid Assistance Program)

Dated: February 13, 2006.

Mark B. McClellan,

Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. 06–1647 Filed 2–23–06; 8:45 am]

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: Temporary Assistance for Needy Families (TANF/National Directory of New Hires (NDNH) Match Results Report.

OMB No.: New Collection.

Description: Section 453(j)(3) of the Social Security Act (the Act) allows for matching between NDNH (maintained by the Federal Office of Child Support Enforcement (OCSE) and State TANF agencies for the purpose of carrying out responsibilities under programs funded under part A of Title IV of the Act. To assist OCSE and the Office of Family Assistance in measuring savings to the TANF program of Family Assistance in measuring savings to the TANF program attributable to the use of NDNH data matches, the State TANF agencies have agreed to provide OCSE with a written description of the performance outputs and outcomes attributable to the State TANF agencies' use of NDNH match results. This information will help OCSE demonstrate how the NDNH supports the President's Management Agenda as well as OCSE's mission and strategic goals.

Respondents: State TANF Agencies.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
TANF/NDNH Match Results Report	40	4	.17	27

Estimated Total Annual Burden Hours: 27

In compliance with the requirements of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *infocollection@acf.hhs.gov.* All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: February 16, 2006.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 06–1699 Filed 2–23–06; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Child Care and Development Fund Annual Aggregate Report.

OMB No.: 0970–0150.

Description: Section 658K of the Child Care and Development Block Grant Act of 1990 (Pub. L. 101–508, 42 U.S.C. 9858) requires that the States and the Territories submit annual aggregate data on the children and families receiving direct services under the Child Care and Development Fund. The implementing regulations for the statutorily required reporting are at 45 CFR 98.70. Annual aggregate reports include data elements represented in the ACF–800. The Administration for Children and Families (ACF) uses aggregate data to determine the scope, type, and methods of child care delivery. This provides ACF with the information necessary to make reports to Congress, address national child care needs, offer technical assistance to grantees, meet performance measures, and conduct research. Consistent with the statute and regulations, ACF requests extension of the ACF–800.

Respondents: States, the District of Columbia, and the Territories, including Puerto Rico, Guam, the U.S. Virgin Islands, American Samoa, and the Northern Mariana Islands.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
ACF–800	56	1	40	2,240

Estimated Total Annual Burden Hours: 2,240.

In compliance with the requirements of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Administration for Children and Families is soliciting public comment on the specific aspects of the information collection described above. Copies of the proposed collection of information can be obtained and comments may be forwarded by writing to the Administration for Children and Families, Office of Administration, Office of Information Services, 370 L'Enfant Promenade, SW., Washington, DC 20447, Attn: ACF Reports Clearance Officer. E-mail address: *infocollection@acf.hhs.gov*. All requests should be identified by the title of the information collection.

The Department specifically requests comments on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology. Consideration will be given to comments and suggestions submitted within 60 days of this publication.

Dated: February 16, 2006.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 06–1701 Filed 2–23–06; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

Submission for OMB Review; Comment Request

Title: Sanction Policies Task Order.

OMB No.: New Collection.

Description: This study is designed to determine how local welfare offices implement sanction policies in the Temporary Assistance for Needy Families program. This study will survey local welfare staff to gather in-depth qualitative information on how workers interpret the policies and apply them in specific instances. The results of this study should give the Administration for Children and Families (ACF) a better understanding of possible outcomes of various sanction policies, which in turn will help ACF design a research program to study the effect of sanctions.

Respondents: A maximum of 324 welfare staff in local welfare offices.

ANNUAL BURDEN ESTIMATES

Instrument	Number of respondents	Number of responses per respondent	Average burden hours per response	Total burden hours
In-person Survey and Telephone Interviews	324	1	.85	275

Estimated Total Annual Burden Hours: 275.

Additional Information: Copies of the proposed collection may be obtained 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. All requests should be identified by the title of the information collection. E-mail address: *infocollection@acf.hhs.gov.*

OMB Comment: OMB is required to make a decision concerning the collection of information 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. Written comments and recommendations for the proposed information collection should be sent directly to the following: Office of Management and Budget, Paperwork Reduction Project, Attn: Desk Officer for ACF, E-mail address: *Baguilare@omb.eop.gov.*

Dated: February 16, 2006.

Robert Sargis,

Reports Clearance Officer.

[FR Doc. 06–1702 Filed 2–23–06; 8:45 am]

BILLING CODE 4184–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

[FDA 225–05–3001]

Memorandum of Understanding Between the United States Food and Drug Administration and the United States General Services Administration

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is providing notice of a memorandum of understanding (MOU) between the U.S. Food and Drug Administration and the U.S. General Services Administration (GSA) (collectively the Parties or individually a Party). The purpose of this MOU is to set forth an agreement between GSA and FDA regarding the roles, responsibilities, and financial commitments of each Party relating to FDA's agreement to coordinate, with GSA and its contractors, removal of a mercury-contaminated laboratory waste plumbing system; and GSA's agreement to coordinate, with FDA and its contractors, its scheduled hazmat removal and demolition work at Federal Office Building 8. It is the Parties' mutual desire to accomplish both actions in such a manner that controls and reduces the overall cost to the taxpayer.

DATES: The agreement became effective January 9, 2006.

FOR FURTHER INFORMATION CONTACT:

For FDA: Kathleen Heuer, Office of the Commissioner (HF–20), Food and Drug Administration, 5600 Fishers Lane, rm. 14–57, Rockville, MD 20857, 301–255–6762.

For GSA: William Guerin, U.S. General Services Administration, 301 Seventh St. SW., rm. 70-80, Washington, DC 20407, 202–708–5891.

SUPPLEMENTARY INFORMATION: In accordance with 21 CFR 20.108(c), which states that all written agreements and MOUs between FDA and others shall be published in the **Federal Register**, the agency is publishing notice of this MOU.

Dated: February 15, 2006.

Jeffrey Shuren,

Assistant Commissioner for Policy.

#225-05-3001

MEMORANDUM OF UNDERSTANDING

BETWEEN THE

U.S. GENERAL SERVICES ADMINISTRATION

AND THE

U.S. FOOD AND DRUG ADMINISTRATION

I. Purpose and Authority

In accordance with 40 USC § 592 and 41 CFR § 102-71.20, the purpose of this Memorandum of Understanding ("MOU") is to set forth an agreement between the General Services Administration ("GSA") and the Food and Drug Administration ("FDA") (collectively "the Parties," or individually as a "Party") regarding the roles, responsibilities, and financial commitments of each Party relating to (i) FDA's agreement to coordinate, with GSA and its contractors, removal of the mercury-contaminated laboratory waste plumbing system, and to (ii) GSA's agreement to coordinate, with FDA and its contractors, its scheduled hazmat removal and demolition work at Federal Office Building 8 ("FOB 8" or the "Building"). It is the Parties' mutual desire to accomplish both actions in such a manner that controls and reduces the overall cost to the taxpayer.

II. Recitals

WHEREAS, GSA maintains administrative accountability of the Building and intends to rehabilitate and renovate the Building in order to return the Building to the inventory of functional Federal buildings within the National Capital Region;

WHEREAS, a Phase I Environmental Site Assessment (ESA) was conducted by Environmental Consultant and Contractors, Incorporated (ECC), which issued a final report, dated March 3, 1999, identifying suspected areas of contamination resulting from FDA operations in the Building including but not limited to mercury contamination;

WHEREAS, mercury contamination is primarily found in the laboratory waste plumbing system, the majority of which is constructed of glass;

WHEREAS, FDA acknowledges that it is solely responsible for the abatement of the mercury contamination in the wastewater plumbing and central vacuum systems;

WHEREAS, the Parties have agreed to manage the effort to return this Building to the inventory of functional Federal buildings in the most effective, safe, and professional manner and have agreed to work together to promote the goals and objectives outlined in this MOU;

WHEREAS, pursuant to the terms and conditions of the MOU, GSA and FDA shall jointly coordinate the work of FDA's decommissioning contractor and GSA's contractor's hazmat removal and demolition work within the Building;

Now, **THEREFORE,** in consideration of the promises herein, and the provisions and conditions below, the Parties further agree to the following:

III. FDA Commitments

1. FDA shall contract with a private sector contractor to decommission the laboratory wastewater plumbing and central vacuum systems at FOB 8.

2. Subject to the provisions of this MOU, FDA acknowledges that it is solely responsible for the successful and complete cleanup and remediation of the mercury-contaminated laboratory wastewater plumbing and central vacuum systems and any other mercury contaminants at FOB 8 caused by FDA operations.

3. To the extent that FDA's contractor's work on the site is concurrent with the work of other contractors on the site, FDA's contractor shall use its best efforts to coordinate its work on the site with the work of other contractors on the site and to advise GSA in writing in a timely manner of coordination issues related to the performance of other contractors on the site and any delay arising therefrom. FDA shall incorporate a clause enumerating the contents of this clause (III.3.) in its contracts with all applicable contractors.

IV. GSA Commitments

1. GSA agrees to provide reasonable parking at FOB 8 for the contractor's personnel and FDA project management personnel at no charge to the contractors or to FDA for the duration of FDA's involvement in the project or to fulfill obligations set forth under this MOU.

2. GSA agrees to provide utilities as required for FDA's contractor to perform its contractual obligations.

V. Mutual Commitments

1. The GSA project managers and FDA project managers shall coordinate with one another to ensure appropriate coordination between their respective contractors, including contractor and sub-contractor access to the laboratory space and other required spaces within the Building. The Parties' project managers shall meet on a regular basis to monitor progress, identify critical issues and develop strategies and objectives that will ensure the successful completion of the removal of the mercury in the laboratory wastewater plumbing and central vacuum systems and the hazmat removal and demolition work at the Building.

2. FDA and GSA have developed a mutually agreeable Demolition/Abatement and Decommissioning Coordination Specification (**Exhibit A**). This Specification shall be included as part of each Party's contract with its respective contractors and sub-contractors.

3. If Building conditions or unexpected issues arise that are out of control of either contractor or either Party, the Parties and the then-relevant contractors shall negotiate in good faith to determine responsibility for additional project costs. These conditions and unexpected issues are those that are not included in the Master Project Schedule.

4. Both Parties shall use best efforts to work together to resolve any coordination and/or scheduling issues in a timely manner.

VI. Miscellaneous

1. The Parties shall cooperate with each other in any reasonable way necessary to ensure that the provisions of this MOU are carried out in an expeditious and timely manner.

2. This MOU represents the final agreement of the Parties and may not be modified or amended except by separate written mutual agreement signed by the Parties. The provisions of this MOU shall be reviewed periodically and amended or supplemented by the written agreement of both Parties, with such agreement not to be unreasonably withheld.

3. Each Party shall be responsible for all claims, damages, penalties, losses, liabilities and costs arising out of or related to its acts or omissions, pursuant to activities and responsibilities as specified in this MOU. Such responsibility includes the obligation, to the extent allowed by law, to comply with any and all administrative orders, compliance

orders or other binding directives, civil penalties, fines, citations or other expenses associated with any governmental action or citizen environmental enforcement action pertaining to acts or omissions of the party pursuant to its enumerated responsibilities under this MOU.

4. This MOU shall become effective upon execution by both parties and shall remain in effect until mutual, written cancellation by the parties.

5. The signatories to this MOU certify that each signatory and each Party has full legal authority to enter into this MOU binding their respective organizations to the obligations set forth in this MOU.

6. Each Party shall be responsible for accepting, processing, adjudicating and defending all administrative claims and litigation asserted under the Federal Tort Claims Act ("FTCA"), 28 U.S.C. §§ 1346(b), 2671-2680, that arise related to its activities on the Property as specified in this MOU. Each Party shall cooperate in providing information to the other party relating to any such tort claims. Any liability on the part of the Parties shall be determined in accordance with the FTCA and the respective party's FTCA implementing regulations and guidance.

7. The Parties agree that no funds are being exchanged under this MOU. However, to the extent that any language in this MOU could be interpreted as the Parties obligating funds, any obligation of funds must be in accordance with each Party's approved and subject to each Party's availability of appropriations.

8. The Parties agree to cooperate with each other in providing information to respond to internal or external audits. The Parties also agree to coordinate and cooperate with each other in responding to requests under the Freedom of Information Act and other requests for information related to this project. The Parties each recognize that it may be more appropriate for the other agency to answer certain inquiries. In all circumstances, communications, including responses to congressional stakeholders, local government authorities and the news media shall be coordinated to the greatest degree possible between the Parties.

9. If any provision of this MOU is determined to be invalid or unenforceable, the remaining provisions shall remain in force to the fullest extent permitted by law and regulation.

APPROVED:

For the Food and Drug Administration:

By: _____ Date: 1/9/06

Kathleen Heuer
Associate Commissioner
for Management
Food and Drug Administration
Department of Health and Human Services

For the General Services Administration:

By: _____ Date: 11-18-05

Linda D. Garvin
Assistant Regional Administrator
Public Buildings Service
Nation Capital Region
U.S. General Services Administration

EXHIBIT A – DEMOLITION/ABATEMENT AND DECOMMISSIONING COORDINATION SPECIFICATION

FEDERAL OFFICE BUILDING NUMBER 8
DEMOLITION, ABATEMENT
AND
DECOMMISSIONING
COORDINATION SPECIFICATION

PART 1 – GENERAL

1.1 DESCRIPTION OF WORK

A. The Food and Drug Administration (FDA) has informed the General Services Administration (GSA) that, during its decommissioning of the laboratories in Federal Office Building 8 (FOB 8), it has found that mercury contamination potentially exists in the laboratory-related wastewater plumbing and in the central vacuum systems, which are primarily located above the suspended ceiling tile in the laboratory areas (as well as in interconnected wastewater conveyances areas), and behind laboratory casework. FDA has requested from GSA that it be allowed to remove this mercury contamination (mercury-containing biomass, mercuric compounds, and elemental mercury) during the time that GSA is conducting the asbestos abatement and demolition work. GSA has chosen to cooperate with FDA and has agreed to facilitate the coordination needed between the GSA and FDA contractors to accomplish these activities. The actual responsibility for on-site coordination will rest with the GSA and FDA contractors. GSA responsibility is limited to coordinating the FDA Contractor's decommissioning activities with the GSA Contractor's work. The two contractors are obligated to comply with this Coordination Specification and to use good faith and best efforts to cooperate with each other, and to ensure that each does not interfere with the other. This Coordination Specification provides guidelines on how to sequence the work of GSA's and FDA's Contractors and on how to identify the decontamination protocols that must be adhered to.

B. The GSA Contractor will provide various construction services related to the renovation of FOB 8 including the abatement and demolition of selected structures as specified in its Statement of Work. This Coordination Specification is included in the GSA Contract as part of said contract's Statement of Work. The purpose of this Coordination Specification is to facilitate the integration of the work performed by FDA's Contractor with work performed by GSA's Contractor so that hazardous materials within the building are mitigated in a safe, expeditious, efficient and cost-effective manner.

C. The FDA Contractor will provide various laboratory decommissioning services in FOB 8 including the removal or decontamination of laboratory wastewater piping and the central vacuum system contaminated with mercury (mercury-containing biomass, mercuric compounds, and elemental mercury) as specified in the FDA Contract and its Statement of Work. This Coordination Specification supplements the FDA Contract and its Statement of Work. The purpose of this Specification is to facilitate the integration of the work performed by FDA's

Contractor with work performed by GSA's Contractor so that hazardous materials within the building are mitigated in a safe, expeditious, efficient and cost-effective manner.

D. Coordinated Activities: It is assumed that demolition activities including the abatement of asbestos containing materials (ACM) and the decommissioning of laboratory-related wastewater piping that may contain mercury will proceed in a sequential manner on a floor-by-floor or area-by-area basis. At a minimum, the following activities require coordination between the GSA and FDA Contractors:

1. The GSA and FDA Contractors will jointly establish a Total Project Construction Schedule (the "Schedule") in a floor-by-floor or in an area-by-area basis that sequences with durations all of the activities associated with the demolition/abatement/by-pass/and coordination efforts covered by the Scopes of Work contracted by the Government with both the GSA Contractor and the FDA Contractor.
2. The GSA Contractor will selectively demolish and abate ACM in a controlled manner to remove obstacles (i.e., initial demolition) and provide access to laboratory-related wastewater and the central vacuum system piping for the FDA Contractor, so that its mercury cleanup work can be reasonably completed.
3. Following the controlled demolition and abatement of a particular floor or isolated area, the GSA Contractor will vacate the area and grant clearance to the FDA Contractor for subsequent decommissioning of laboratory-related wastewater and central vacuum system piping.
4. The FDA Contractor will test laboratory-related wastewater and central vacuum system piping and decommission contaminated piping accordingly. Each individual section of pipe (e.g., elbow, tee, straight pipe) which is verified by the FDA Contractor to be mercury-free and not removed by the FDA Contractor will be clearly and appropriately marked for subsequent demolition by the GSA Contractor. The FDA Contractor will assume risk for inaccurate test results.
5. Following chemical decommissioning based on visual inspection and analytical reports of the laboratory-related piping, the FDA Contractor will vacate the designated area or floor and grant reasonable clearance to the GSA Contractor for completion of demolition activities as per the Schedule.
6. The GSA Contractor will perform demolition and abatement activities only in specific areas or floors that have been cleared by the FDA Contractor of mercury contaminated laboratory-related wastewater and central vacuum system piping.
7. The GSA Contractor will identify, allocate, coordinate, and provide reasonable notice to the FDA Contractor for the use of facility resources needed to support operations in the building. At a minimum, the following resources will require coordination between the Contractors:
   - *i.* utilities requirements (electrical power, water, lighting)
   - *ii.* elevators usage
   - *iii.* equipment storage space location
   - *iv.* waste storage equipment and space location
   - *v.* personnel support facilities (parking, restrooms, rest/eating areas)

vi. decontamination facilities (personnel, equipment, materials)
If the Government provides a facility or utility, it will not be charged to either contractor, e.g., parking, electricity.

8. The GSA Contractor will immediately notify the FDA Contractor in the event that laboratory-related wastewater piping is known or suspected to be damaged during demolition and abatement activities or if suspected elemental mercury is discovered during demolition activities. Upon notification by the GSA Contractor, the FDA Contractor will initiate and complete in a timely manner incident response procedures as referenced in this Specification to mitigate potential mercury contamination.

1.2 SCOPE OF SERVICES REQUIRING COORDINATION

A. General

1. GSA Contractor:

i. The GSA Contractor will provide specified services including the demolition of designated internal and external structures at FOB 8 and the removal (abatement) of structural hazardous components such as asbestos containing materials (ACM). The GSA Contractor will not disturb or damage laboratory-related wastewater and central vacuum system piping (e.g., glass, PVC, cast iron, copper) unless the piping has been identified to be mercury-free by the FDA Contractor. The GSA Contractor will initially demolish, abate, and remove structures and debris (e.g., interior walls, partitions, suspended ceiling, laboratory furniture and casework, light fixtures, utility lines, HVAC ductwork) to provide the FDA Contractor unobstructed access to laboratory-related wastewater and central vacuum system piping for the FDA Contractor's handling of those areas. At a minimum, the GSA Contractor will remove all obstacles and debris including friable ACM between the floor and the structural deck. The floor beneath laboratory-related wastewater and central vacuum system piping and aisles to elevators and stairways will be free of debris or other obstacles so that the decommissioning of the laboratory wastewater and central vacuum system piping can proceed uninhibited.

ii. Following its initial demolition and abatement, of the aforementioned areas specified in section A.1.i, the GSA Contractor will prepare and submit a written clearance notice to the FDA Contractor verifying that the specific area surrounding laboratory-related wastewater and central vacuum system piping or an entire floor is clear of obstacles, ACM, materials coated with lead-based paint (LBP), and electrical devices (i.e., fluorescent light ballasts) containing polychlorinated biphenyls (PCBs), so that decommissioning of the laboratory wastewater and central vacuum systems by the FDA Contractor can proceed . Any ACM, LBP, or PCBs remaining in an area following initial demolition and abatement activities, will be clearly documented and marked by the GSA Contractor so that the materials are not disturbed and do not pose a risk to the FDA Contractor. If the FDA Contractor believes these materials do pose a risk, the GSA Contractor must be notified immediately in writing and both

contractors will reach mutual agreement in a timely manner on the removal of those materials without any costs to the Government.

iii. The GSA Contractor will maintain temporary utilities, services, and access (e.g., lighting, water, elevator) per the Schedule in areas which have undergone initial demolition and abatement to allow the FDA Contractor to proceed with the decommissioning of laboratory-related wastewater and central vacuum system piping.

iv. In the event that the GSA Contractor knows or suspects that laboratory-related wastewater piping has been damaged or discovers droplets or pools of elemental mercury in depressions, cracks, or crevasses such as beneath laboratory casework or wall partitions, the GSA Contractor will notify the FDA Contractor in writing and immediately vacate the area until the mercury has either been removed or identified as not to pose a hazard as per the procedures outlined in paragraph C.1 below.

v. Following the GSA Contractor's written clearance notification of initial demolition and abatement and in the event that the FDA Contractor discovers other structures impeding reasonable access to laboratory-related wastewater piping and notifies the GSA Contractor accordingly, the GSA Contractor will respond within one hour and remove the subject structures in a timely manner so that the FDA Contractor has reasonable access.

vi. The GSA Contractor at its expense will provide awareness training to all FDA Contractor onsite personnel at the start of the project for ACM, LBP debris, PCB containing devices or other demolition debris. This awareness training program will be developed and administered by a qualified professional.

2. FDA Contractor:

i. The FDA Contractor will provide specified services including the testing, decontamination, removal, and disposal of laboratory-related wastewater and impacted central vacuum system piping. The FDA Contractor will not begin its work on any given area or floor until the GSA Contractor has completed initial demolition and abatement activities and the GSA Contractor has submitted appropriate written clearance documentation for the specific area or floor.

ii. The FDA Contractor at its expense will provide mercury awareness training to all GSA Contractor onsite personnel at the start of the project. The mercury awareness training program will be developed and administered by a qualified professional.

iii. The FDA Contractor will not disturb any structures, ACM, LBP debris, PCB containing devices, or other demolition debris which are in the immediate proximity of laboratory-related wastewater piping to be tested, decontaminated, or removed. In the event that structures, ACM, LBP debris, PCB containing devices, or other demolition debris, impede reasonable access to laboratory-related wastewater or central vacuum system piping, the FDA Contractor will notify the GSA Contractor in writing and vacate the area until the area is cleared of obstacles.

B. Work Area

1. GSA Contractor: GSA Contractor will provide demolition, abatement, and other services throughout the entire building including the sub-basement, basement, floors 1 through 6, and the penthouse. The work and supporting activities will involve operations both inside and outside the building.
2. FDA Contractor: FDA Contractor will decommission laboratory-related wastewater and central vacuum system piping contaminated with mercury (mercury-containing biomass, mercuric compounds, elemental mercury) throughout the building. In general, wastewater piping requiring chemical decommissioning will be located in the portions of floors 1 through 6 formerly used as laboratories, and in sections of the basement where laboratory wastewater piping converges and discharges to the municipal sewer. (Note: vent piping will not be removed.) The following provides an estimate of the quantity of laboratory-related piping that will be tested and decommissioned, as needed:

Floor	Estimated Quantity (linear feet)
Sub-basement	1,000 (from Glassware Washing area)
Basement	6,000 (collection lines to sewer)
1	5,000
2	6,000
3	8,000
4	5,300
5	1,800
6	500 (top floor of laboratories)
Penthouse	0

Note: See Section 3.3

C. INCIDENT RESPONSE

1. GSA Contractor and FDA Contractor:
   i. The GSA Contractor will comply with the Total Project Construction Schedule, health and safety requirements, and incident response procedures referenced herein.
   ii. The FDA Contractor will comply with the Total Project Construction Schedule, and incident response procedures referenced herein.
   iii. In the event that the GSA Contractor suspects the presence of elemental mercury during its activities, the GSA Contractor will stop work in that area.
      a. The GSA Contractor will immediately notify the GSA Contracting Officer's Representative or a GSA Safety and Environmental Management representative.
      b. The GSA Contracting Officer's Representative or a GSA Safety and Environmental Management representative immediately investigate the situation and determine

whether or not the situation requires that the FDA Contractor be notified and how soon the FDA Contractor should arrive at the area.

1.3 PROJECT/SITE CONDITIONS

A. Currently, FOB 8 is unoccupied except for a small contingent of security and facility maintenance personnel. The GSA Contractor will assume access control of the building once the demolition and abatement work begins. The GSA Contractor will schedule and coordinate access to the site including decommissioning activities performed by the FDA Contractor as per the Total Project Construction Schedule.

1.4 SEQUENCING AND SCHEDULING

A. Safe and efficient mitigation of hazardous materials in FOB 8 and the demolition and removal of selected structures in the building will depend on the successful coordination of specialty trades. In particular, the GSA Contractor, responsible for primary demolition and abatement work, will reasonably coordinate activities and resources with the FDA Contractor who is responsible for the decommissioning of laboratory-related wastewater and central vacuum system piping, potentially contaminated with mercury. To efficiently meet this goal, the GSA Contractor and FDA Contractor will develop a strategy to sequence the work in a safe, effective, efficient manner. Requirements for the development and submittal of the Total Project Construction Schedule are described in Section 1.6 of this Specification.

1.5 CONTRACTOR RESPONSIBILITIES

A. GSA Contractor: Consistent with the requirements of the GSA Contract and its Statement of Work, the GSA Contractor will assume full responsibility and liability for compliance with all applicable Federal, State, and local regulations pertaining to the protection of workers, visitors to the site, and persons occupying areas adjacent to the site. The GSA Contractor is responsible for providing medical examinations and maintaining medical records of personnel as required by the applicable Federal, State, and local regulations, and will hold the government harmless for failure to comply with any applicable safety or health regulation on the part of himself, his employees, or his subcontractors.

B. FDA Contractor: Consistent with the requirements of the FDA Contract and its Statement of Work, the FDA Contractor will assume full responsibility and liability for compliance with all applicable Federal, State, and local regulations pertaining to the protection of workers, visitors to the site, and persons occupying areas adjacent to the site. The FDA Contractor is responsible for providing medical examinations and maintaining medical records of personnel as required by the applicable Federal, State, and local regulations, and will hold the government harmless for failure to comply with any applicable safety or health regulation on the part of himself, his employees, or his subcontractors.

1.6 SUBMITTALS

A. Demolition/Abatement and Mercury Decontamination Total Project Construction Schedule (GSA and FDA Contractors): The Total Project Construction Schedule will be prepared jointly and agreed upon by the GSA Contractor, GSA, the FDA Contractor and FDA, and will describe the sequence and duration of activities involving initial demolition, decommissioning of laboratory wastewater and central vacuum system piping, and completion of demolition activities on a floor-by-floor or area specific basis. The Schedule will be prepared using the Critical Path Method (CPM) and Microsoft Project. The GSA Contractor must factor in sufficient time between initial and final demolition and abatement activities to allow the FDA Contractor to completely decommission laboratory wastewater and central vacuum system piping. The FDA Contractor input to the Schedule must be based on estimates of the quantity of laboratory wastewater and central vacuum system piping in each specific area or floor. The FDA Contractor will schedule, organize, and manage mercury cleanup and decommissioning activities so that individual areas or floors can be completed as promptly as possible thereby expediting subsequent demolition activities.

B. Initial Demolition/Abatement Clearance (GSA Contractor): Written notification by the GSA Contractor to the FDA Contractor identifying specific areas or floors which have been cleared of structures, ACM, LBP debris, PCB containing devices, and other demolition debris thereby allowing the decommissioning of laboratory wastewater and central vacuum system piping to proceed. The notification will include identification of ACM, LBP debris, or PCB containing devices or other structures that should not be disturbed during mercury cleanup operations.

C. Mercury Cleanup Clearance (FDA Contractor): Written notification by the FDA Contractor to the GSA Contractor identifying specific areas or floors where laboratory-piping was decontaminated or removed by the FDA Contractor or tested and verified to be mercury-free. FDA will remove all piping as per 3.3 B.

D. Incident Response Reports:

1. GSA Contractor: The GSA Contractor will prepare and distribute documentation to GSA and the FDA Contractor identifying laboratory-related wastewater piping that is known or reasonably suspected to be damaged or areas where droplets of elemental mercury are suspected to be present. These incidents will be subject to immediate investigation and appropriate corrective action by the FDA Contractor in accordance with applicable industrial standards.

2. FDA Contractor: The FDA Contractor will prepare and distribute documentation to GSA and the GSA Contractor describing actions taken in response to the GSA Contractor's written notification of laboratory-related wastewater piping known or reasonably suspected to be damaged or the suspected presence of elemental mercury.

1.7 REFERENCES

A. Federal Regulations that FDA and GSA will comply with:

1. Occupational Safety and Health Act (OSHA):
   29 CFR 1910, OSHA, General Industry Standards
   29 CFR 1926, OSHA, Construction Industry Standards
   29 CFR 1910.120, OSHA General Industry, Hazardous Waste Operations Requirements

2. Environmental Protection Agency (EPA):
   40 CFR 260-265, Resource Conservation and Recovery Act
   40 CFR 300-399, EPA Comprehensive Environmental Response Compensation & Liability Act
   40 CFR 761, Toxic Substances Control Act

3. Department of Transportation (DOT):
   49 CFR 171-180, DOT Hazardous Material Regulations
   49 CFR Part 178, DOT Shipping Container Specification

B. The GSA Contractor and the FDA Contractor will comply with applicable Federal, State, and Local laws and regulations and requirements for licenses and permits, transportation and disposal.

PART 2 – PRODUCTS AND RESOURCES

2.1 EQUIPMENT AND MATERIALS

A. GSA Contractor: The GSA Contractor will provide all equipment and materials needed in the performance of the GSA Contract and the Statement of Work. Special facilities, devices, equipment, materials, clothing, and similar items used by the Contractor in the execution of work will comply with the applicable regulations.

B. FDA Contractor: The FDA Contractor will provide all equipment and materials needed in the performance of the FDA Contract and the Statement of Work. Special facilities, devices, equipment, materials, clothing, and similar items used by the Contractor in the execution of work will comply with the applicable regulations.

2.2 UTILITIES

A. GSA Contractor: Per the requirements of the GSA Contract, the GSA Contractor will manage and maintain all utilities, e.g., water, electricity, etc., that will be provided by the Government as needed for the performance of the Statement of Work.

B. FDA Contractor: Per the requirements of the FDA Contract, the FDA Contractor will identify all utilities needed for the performance of the Statement of Work and coordinate access and maintenance of these utilities with the GSA Contractor.

The FDA Contractor will not need to pay for the utilities provided by the Government.

2.3 WASTES AND DEBRIS

A. GSA Contractor: The GSA Contractor will provide all waste containers, dumpsters, roll-offs, and packaging materials needed in the performance of the GSA Contract and the Statement of Work. The GSA Contractor will manage the handling, temporary on-site storage, transportation, and disposition of these wastes. Special facilities, devices, equipment, clothing, and similar items used by the GSA Contractor in the execution of work will comply with the applicable regulations. All waste handling equipment and containers used in the execution of this contract will comply with the applicable Federal, State, and local regulations.

B. FDA Contractor: The FDA Contractor will provide all waste containers, dumpsters, roll-offs, and packaging materials needed to remove hazardous wastes generated as a result of the performance of the FDA Contract and the Statement of Work. The FDA Contractor will manage the handling, temporary on-site storage, transportation, and disposition of hazardous wastes and residues generated by the decommissioning of laboratory wastewater and central vacuum system piping. Special facilities, devices, equipment, clothing, and similar items used by the FDA Contractor in the execution of work will comply with the applicable regulations. All waste handling equipment and containers used in the execution of this contract will comply with the applicable Federal, State, and local regulations.

2.4 SUPPORT FACILITIES

A. GSA Contractor: The GSA Contractor will coordinate and manage all support facilities (e.g., construction trailers, equipment storage space, waste storage space, parking, loading dock access, security) per the requirements of the GSA Contract and the Statement of Work.

B. FDA Contractor: All support facilities required by the FDA Contractor for the performance of the FDA Contract and the Statement of Work must be specifically identified in advance and coordinated with the GSA Contractor.

PART 3 – EXECUTION

3.1 PREPARATION

A. GSA Contractor: Per the requirements of the GSA Contract and the Statement of Work, the GSA Contractor will make all planning, procedural, equipment, and personnel preparations as needed to perform the work as specified. The GSA Contractor has to be prepared to vacate a specific area or floor following initial demolition and abatement activities to allow the FDA Contractor unimpeded access to laboratory-related wastewater piping for chemical decommissioning and mercury cleanup. Because the duration of demolition/abatement and

mercury cleanup operations in a given area or floor may not be equal, the GSA Contractor must be prepared to make effective use of its time. In addition, the GSA Contractor will be prepared to notify the FDA Contractor that laboratory-related wastewater piping is known or suspected to be damaged during demolition and abatement activities or if suspected elemental mercury is discovered during demolition activities. Upon notification the GSA Contractor will vacate the area and the FDA Contractor will initiate incident response procedures as described in Section 1.2.C of this Specification to mitigate potential mercury contamination.

B. FDA Contractor: Per the requirements of the FDA Contract and the Statement of Work, the FDA Contractor will make all planning, procedural, equipment, and personnel preparations as needed to perform the work as specified. The FDA Contractor has to be prepared to begin chemical decommissioning of laboratory-wastewater and central vacuum system piping once the GSA Contractor has performed initial demolition and abatement activities in a particular area or floor and has granted clearance for subsequent mercury cleanup activities. Because the duration of demolition/abatement and decommissioning operations in a given area or floor may not be equal, the FDA Contractor must be prepared to make effective use of its time. In addition, the FDA Contractor will be prepared to respond to notification by the GSA Contractor that laboratory-related wastewater piping is known or suspected to be damaged during demolition and abatement activities or if suspected elemental mercury is discovered during demolition activities. Upon notification, the FDA Contractor will initiate incident response procedures as described in Section 1.2.C of this Specification to mitigate potential mercury contamination.

3.2 WORK PROCEDURE

A. GSA Contractor: The GSA Contractor will abide by the work procedure requirements as specified in the GSA Contract and its Statement of Work.

B. FDA Contractor: The FDA Contractor will abide by the work procedure requirements as specified in the FDA Contract and its Statement of Work.

3.3 CLEANUP AND DISPOSAL

A. GSA Contractor: Per the requirements of the GSA Contract and its Statement of Work, the GSA Contractor will be responsible for the management, temporary on-site storage, transportation, and disposal of demolition debris including hazardous and nonhazardous wastes.

B. FDA Contractor: Per the requirements of the FDA Contract and its Statement of Work, the FDA Contractor will be responsible for the management, temporary on-site storage, transportation, and disposal of mercury contaminated wastewater piping, decontamination residues, and related wastes (e.g., used personal protection equipment). The FDA Contractor will be responsible for transporting and disposing of all plumbing that it removes.

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BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

Agency Information Collection Activities: Submission for OMB Review; Comment Request

Periodically, the Health Resources and Services Administration (HRSA) publishes abstracts of information collection requests under review by the Office of Management and Budget (OMB), in compliance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35). To request a copy of the clearance requests submitted to OMB for review, call the HRSA Reports Clearance Office on (301)–443–1129.

The following request has been submitted to the Office of Management and Budget for review under the Paperwork Reduction Act of 1995:

Proposed Project: Uncompensated Services Assurance Report (OMB No. 0915–0077)—Extension

Under the Hill-Burton Act, the government provides grants and loans for construction or renovation of health care facilities. As a condition of receiving this construction assistance, facilities are required to provide services to persons unable to pay. A condition of receiving this assistance requires facilities to provide assurances periodically that the required level of uncompensated care is being provided, and that certain notification and record keeping procedures are being followed. These requirements are referred to as the uncompensated services assurance.

ESTIMATE OF INFORMATION COLLECTION BURDEN

Type of requirement and regulatory citation	Number of respondents	Responses per respondent	Total responses	Hours per response	Total hour burden
Disclosure Burden (42 CFR)					
Published Notices (124.504(c))	140	1	140	0.40	56
Individual Notices (124.504(c))	140	1	140	26	3,640
Determinations of Eligibility (124.507)	140	396	55,440	0.40	22,176
Subtotal Disclosure Burden					25,872
Reporting					
Uncompensated Services Report—HRSA–710 Form (124.509(a))	5	1	5	11.0	55
Application for Compliance Alternatives:					
Public Facilities (124.513)	2	1	2	6.0	12
Charitable Facilities (124.516(c))	2	1	2	6.0	12
Unrestricted Availability (124.517(b))	3	1	3	6.0	18
Annual Certification for Compliance Alternatives:					
Public Facilities (124.509(b))	52	1	52	0.5	26
Charitable Facilities (124.509(b))	19	1	19	0.5	9.5
Unrestricted Availability (124.509(e))	67	1	67	0.5	33.5
Complaint Information (124.511(a)):					
Individuals	2	1	2	0.25	.5
Facilities	2	1	2	0.5	1
Subtotal Reporting Burden					167.5

Recordkeeping	Number of recordkeepers	Hours per year	Total hour burden
Non-alternative Facilities (124.510(a))	73	50	3,650
Unrestricted Availability (124.510(b))	67	50	3,350
Subtotal Recordkeeping Burden			7,000

The total burden for this project is estimated to be 33,039.5 hours.

Written comments and recommendations concerning the proposed information collection should be sent within 30 days of this notice to: John Kraemer, Human Resources and Housing Branch, Office of Management and Budget, New Executive Office Building, Room 10235, Washington, DC 20503.

Dated: February 21, 2006.

Tina M. Cheatham,

Director, Division of Policy Review and Coordination.

[FR Doc. E6–2666 Filed 2–23–06; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5037–N–10]

Notice of Submission of Proposed Information Collection to OMB; Applications for Housing Assistance Payments: Special Claims Processing

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.

Owners/agents submit vouchers to HUD or their Contract Administrators (CA)/Performance Based Contract Administrators (PBCA) monthly to receive assistance payments for the difference between the gross rent and the total tenant payment for all assisted tenants. Special claims vouchers are also submitted by owners/agents to HUD or their CA/PBCA to receive an amount to offset unpaid rent, tenant damages, vacancies, and/or debt service losses.

DATES: *Comments Due Date:* March 27, 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 (2502–0182) 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, AYO, 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.

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: Applications for Housing Assistance Payments, Special Claims Processing.

OMB Approval Number: 2502–0182.

Form Numbers: HUD–52670; HUD–52670–A Part 1; HUD–52670–A Part 2; HUD–52671–A/B/C/D.

Description of the Need for the Information and Its Proposed Use: Owners/agents submit vouchers to HUD or their Contract Administrators (CA)/Performance Based Contract Administrators (PBCA) monthly to receive assistance payments for the difference between the gross rent and the total tenant payment for all assisted tenants. Special claims vouchers are also submitted by owners/agents to HUD or their CA/PBCA to receive an amount to offset unpaid rents, tenant damages, vacancies, and or debt service losses.

Frequency of Submission: On occasion, Monthly.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting burden:	23,500	12.80		1.041		313,534

Total Estimated Burden Hours: 313,534.

Status: Extension of a currently approved collection.

Authority: Section 3507 of the Paperwork Reduction Act of 1995, 44 U.S.C. 35, as amended.

Dated: February 16, 2006.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E6–2596 Filed 2–23–06; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5037–N–09]

Notice of Submission of Proposed Information Collection to OMB; Debt Resolution Program

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.

Borrowers who owe money to HUD must submit a Personal Financial Statement and Settlement Offer. HUD uses the information to analyze debtors' financial positions and then approve settlements, repayment agreements, and pre-authorized electronic payments to HUD.

DATES: *Comments Due Date:* March 27, 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 (2502–0483) 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, AYO, 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.

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: Debt Resolution Program.

OMB Approval Number: 2502–0483.

Form Numbers: HUD–56141, HUD–56142, HUD–56146, and HUD–92090

Description of the Need for the Information and Its Proposed Use: Borrowers who owe money to HUD must submit a Personal Financial Statement and Settlement Offer. HUD uses the information to analyze debtors' financial positions and then approve settlements, repayment agreements, and pre-authorized electronic payments to HUD.

Frequency of Submission: On occasion.

	Number of respondents	Annual responses	×	Hours per response	=	Burden hours
Reporting Burden:	800	0.50		1.936		847

Total Estimated Burden Hours: 847.

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: February 15, 2006.

Lillian L. Deitzer,

Departmental Paperwork Reduction Act Officer, Office of the Chief Information Officer.

[FR Doc. E6–2597 Filed 2–23–06; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Information Collection Renewal Sent to the Office of Management and Budget (OMB) for Approval Under the Paperwork Reduction Act; OMB Control Number 1018–0120; Federal Subsistence Regional Advisory Council Membership Application/ Nomination and Interview Forms

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice; request for comments.

SUMMARY: We (Fish and Wildlife Service) have sent the information collection described below to OMB for approval under the provisions of the Paperwork Reduction Act. We use this information to screen and rank applicants for membership on the Federal Subsistence Regional Advisory Councils (Regional Councils).

DATES: You must submit comments on or before March 27, 2006.

ADDRESSES: Send your comments and suggestions on this information collection renewal to the Desk Officer for the Department of the Interior at OMB–OIRA at (202) 395–6566 (fax) or *OIRA_DOCKET@OMB.eop.gov* (e-mail). Please provide a copy of your comments to Hope Grey, Information Collection Clearance Officer, Fish and Wildlife Service, MS 222–ARLSQ, 4401 North Fairfax Drive, Arlington, VA 22203 (mail); (703) 358–2269 (fax); or *hope_grey@fws.gov* (e-mail).

FOR FURTHER INFORMATION CONTACT: To request a copy of the information collection requirement, explanatory information, or related forms, contact Hope Grey at the addresses above or by telephone at (703) 358–2482.

SUPPLEMENTARY INFORMATION: OMB regulations at 5 CFR 1320, which implement provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*), require that interested members of the public and affected agencies have an opportunity to comment on information collection and recordkeeping activities (see CFR 1320.8(d)). We have sent a request to OMB to renew approval for our collection of information associated with the recruitment of members for the Regional Councils. The OMB control number for this information collection is 1018–0120, which expires on February 28, 2006. OMB has up to 60 days to approve or disapprove our request for renewal, but may respond in as early as 30 days. To ensure consideration, send your comments to OMB by the date listed in the **DATES** section. Federal agencies may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Title VIII of the Alaska National Interest Lands Conservation Act (16 U.S.C. 3101) designates the Departments of the Interior and Agriculture as the key agencies responsible for implementing the subsistence priority on Federal public lands for rural Alaska residents. These responsibilities include the establishment of Regional Councils with members from each region who are knowledgeable about the region and subsistence uses of the public lands. One-third of the seats on the Regional Councils become vacant each year. Additional vacancies may occur due to resignations or deaths of sitting members. We currently use forms 7–FW 4, 7–FW 5, and 7–FW 6 to collect information during the recruitment process. During this renewal process, we reformatted and streamlined these forms and assigned Fish and Wildlife Service form numbers. We will ask OMB to approve FWS Form 3–2321 (Federal Subsistence Regional Advisory Council Membership Application/ Nomination), FWS Form 3–2322 (Regional Advisory Council Candidate Interview Form), and FWS Form 3–2323 (Regional Advisory Council Reference/ Key Contact Interview Form). These proposed new forms collect the identical information as the current OMB-approved forms, but in an improved format.

On November 23, 2005, we published in the **Federal Register** (70 FR 70874) a 60-day notice of our intent to request renewal of information collection authority from OMB. In that notice, we solicited public comments for 60 days, ending on January 23, 2006. We received one comment. The commenter did not address the necessity, clarity, or accuracy of the information collection, but instead provided general comments on the membership of the Regional Councils and the humane treatment of fish and wildlife. We did not make any changes to our information collection based on this comment.

Title: Federal Subsistence Regional Advisory Council Membership Application/Nomination and Interview Forms.

OMB Control Number: 1018–0120.

Form Numbers: FWS Form 3–2321, FWS Form 3–2322, and FWS Form 3–2323.

Frequency of Collection: Annually.

Description of Respondents: Alaska residents.

Form No.	Number of annual responses	Average burden hour per response	Total annual burden hours
FWS Form 3–2321	100	2	200
FWS Form 3–2322	100	.5	50
FWS Form 3–2323	400	.25	100
Total	600		350

Each person desiring to serve on a Regional Council must complete FWS Form 3–2321. Persons nominating other individuals for membership must also complete this form. Applicants provide information on (1) their knowledge of fish and wildlife resources as well as subsistence and other uses of the resources; (2) their service on working groups, conservation committees, etc.; (3) how they would represent the people in the region; and (4) their willingness to travel and attend meetings. In addition, applicants must provide three references.

Federal staff will use FWS Form 3–2322 to conduct applicant interviews by telephone. Respondents do not see the printed form. Interviewers will ask questions regarding the applicant's willingness to serve on the Regional Council and will ask the applicant to explain information provided on FWS Form 3–2321.

Federal staff will use FWS Form 3–2323 (Regional Council Reference/Key Contact Interview Form) to conduct interviews of references/key contacts for prospective Regional Council members. We conduct all interviews by telephone and the respondents do not see the printed form. Interviewers will ask questions about the applicant's (1) knowledge of fish and wildlife resources as well as subsistence practices and commercial/sport activities; (2) leadership ability; and (3) ability to communicate.

The Federal Subsistence Board uses this information to make recommendations to the Secretary of the Interior for appointment of members to the Regional Councils. We restrict the information collected to the Regional Council member selection process and only to staff that the Federal Subsistence Board deems necessary. The information collections in this program are part of a system of records covered by the Privacy Act (5 U.S.C. 552(a)).

We invite comments concerning this proposed information collection on: (1) Whether or not the collection of information is necessary for the proper selection of Regional Council members, including whether or not the information will have practical utility; (2) the accuracy of our estimate of the burden of the collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and, (4) ways to minimize the burden of the collection of information on respondents.

Dated: January 30, 2006.

Hope G. Grey,

Information Collection Clearance Officer, Fish and Wildlife Service.

[FR Doc. E6–2681 Filed 2–23–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered and Threatened Species Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications.

SUMMARY: The following applicants have applied for permits to conduct certain activities with endangered species.

DATES: Written data or comments must be received on or before March 27, 2006.

ADDRESSESS: Send written data or comments to the Regional Director, U.S. Fish and Wildlife Service, Ecological Services, 1 Federal Drive, Fort Snelling, Minnesota 55111–4056.

FOR FURTHER INFORMATION CONTACT: Mr. Peter Fasbender, (612) 713–5343.

SUPPLEMENTARY INFORMATION:

Permit Number: TE118259

Applicant: Civil and Environmental Consultants, Inc, Pittsburgh, Pennsylvania.

The applicant requests a permit to take the Indiana bat (*Myotis sodalis* and gray bat (*M. grisescens*) throughout their range. The scientific research is aimed at enhancement of survival of the species in the wild.

Permit Number: TE023664–15

Applicant: Environmental Solutions and Innovations, Inc. Cincinnati, Ohio.

The applicant requests a permit amendment to take Running buffalo clover (*Trifolium stoloniferumr*) and Northeastern bulrush (*Scirpus ancistrochaetus*) throughout their range. The scientific research is aimed at enhancement of survival of the species in the wild.

Permit Number: TE120231

Applicant: John Timpone, Ballwin, Missouri.

The applicant requests a permit to take the Indiana bat (*Myotis sodalis*) throughout Missouri, Pennsylvania, and West Virginia. The scientific research is aimed at enhancement of survival of the species in the wild.

Permit Number: TE120256

Applicant: David Ewert, Lansing, Michigan.

The applicant requests a permit to take the Kirtland's warbler (*Dendroica kirtlandii*) in Michigan. The scientific research is aimed at enhancement of survival of the species in the wild.

Permit Number: TE120258

Applicant: Iowa Department of Natural Resources, Des Moines, Iowa.

The applicant requests a permit to take the Topeka shiner (*Notropis topeka*) in Iowa. The scientific research is aimed at enhancement of survival of the species in the wild.

Permit Number: TE120259

Applicant: Missouri Department of Conservation, Chillicothe, Missouri.

The applicant requests a permit to take the Pallid sturgeon (*Scaphirhynchus albus*), throughout Kansas and Missouri. The scientific research is aimed at enhancement of survival of the species in the wild.

Permit Number: TE120260

Applicant: National Park Service, Ashland, Wisconsin.

The applicant requests a permit to take the bald eagle (*Haliaeethus leucocephalus*), throughout Indiana, Michigan, Minnesota, and Wisconsin. The scientific research is aimed at enhancement of survival of the species in the wild.

Permit Number: TE105320–1

Applicant: Tragus Environmental Consulting, Inc., Cuyahoga Falls, Ohio.

The applicant requests a permit amendment to take the Indiana bat (*Myotis sodalis*) and gray bat (*M. grisescens*) throughout their range. The scientific research is aimed at enhancement of survival of the species in the wild.

Permit Number: TE118449

Applicant: U.S. Geological Survey, Columbia Environmental Research Center, Columbia, Missouri.

The applicant requests a permit to take the Pallid sturgeon (*Scaphirhynchus albus*), Topeka shiner (*Notropis topeka*) and Neosho madtom (Noturus placidus) throughout their range. The scientific research is aimed at enhancement of survival of the species in the wild.

Authority: This notice is provided pursuant to section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531, *et seq.*).

Dated: January 27, 2006.

Lynn M. Lewis,

Deputy Assistant Regional Director, Ecological Services, Region 3, Fort Snelling, Minnesota.

[FR Doc. E6–2648 Filed 2–23–06; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Indian Affairs

Poarch Band of Creek Indians—Alcoholic Beverage Control Ordinance

AGENCY: Bureau of Indian Affairs, Interior.

ACTION: Notice.

SUMMARY: This notice publishes the Poarch Band of Creek Indians Alcoholic Beverage Control Ordinance. The Ordinance regulates and controls the possession, sale and consumption of liquor within the Poarch Band of Creek Indians' Reservation. The land is located on trust land and this Ordinance allows for the possession and sale of alcoholic beverages within the Poarch Band of Creek Indians' Reservation and will increase the ability of the tribal government to control the tribe's liquor distribution and possession, and at the same time will provide an important source of revenue for the continued operation and strengthening of the tribal government and the delivery of tribal services.

DATES: *Effective Date:* This Ordinance is effective on February 24, 2006.

FOR FURTHER INFORMATION CONTACT: Harold Spears, Eastern Regional Office, Division of Tribal Government, 711 Stewarts Ferry Pike, Nashville, Tennessee 37214, Telephone (615) 467–2953; or Ralph Gonzales, Office of Tribal Services, 1951 Constitution Avenue, NW., Mail Stop 320–SIB, Washington, DC 20240, Telephone (202) 513–7629.

SUPPLEMENTARY INFORMATION: Pursuant to the Act of August 15, 1953, Public Law 83–277, 67 Stat. 586, 18 U.S.C. 1161, as interpreted by the Supreme Court in *Rice* v. *Rehner,* 463 U.S. 713 (1983), the Secretary of the Interior shall certify and publish in the **Federal Register** notice of adopted liquor ordinances for the purpose of regulating liquor transactions in Indian country. The Poarch Band of Creek Indians' Tribal Council adopted its Liquor Control Ordinance by Ordinance No. TCO 05:001 on January 16, 2005. The purpose of this Ordinance is to govern the sale, possession and distribution of alcohol within the Poarch Band of Creek Indians' Reservation.

This notice is published in accordance with the authority delegated by the Secretary of the Interior to the Principal Deputy Assistant Secretary—Indian Affairs. I certify that this Liquor Ordinance, of the Poarch Band of Creek Indians, was duly adopted by the Tribal Council on January 16, 2005.

Dated: February 21, 2006.

Debbie L. Clark,

Acting Principal Deputy Assistant Secretary—Indian Affairs.

The Poarch Band of Creek Indians' Liquor Ordinance reads as follows:

Poarch Creek Indians Tribal Council Ordinance

TCO 05:001

Exercising inherent and aboriginal Tribal sovereign powers in accordance with the Tribal Constitution as ratified on June 1, 1985, the Poarch Band of Creek Indians hereby enacts the following ordinance:

Poarch Band of Creek Indians Alcoholic Beverage Control Ordinance

The Poarch Band of Creek Indians, being a federally recognized Indian Tribe and organized pursuant to the Final Determination of Federal Acknowledgment, 25 U.S.C. 476; and the Act of June 18, 1934 (48 Stat. 984); and the authority of the Poarch Band of Creek Indians Tribal Council under Article IV, Section 4(k), (m), (n) of the Constitution of the Poarch Band of Creek, hereby establishes and enacts this ordinance to authorize, license and regulate alcoholic beverages on the Indian country within the jurisdiction of the Poarch Band of Creek Indians.

Section 1. Title

This Ordinance shall be known as the Poarch Band of Creek Indians Alcoholic Beverage Control Ordinance.

Section 2. Authority and Purpose

This Ordinance is adopted pursuant to the sovereign authority of the Poarch Band of Creek Indians and Article IV, Section 4(k), (m), (n) of the Constitution of the Poarch Band of Creek Indians and the Act of August 15, 1953, Public Law 83–277, 18 U.S.C. 1161. The purpose of this Ordinance is to regulate the sale of alcoholic beverages on the Indian country within the jurisdiction of the Poarch Band of Creek Indians.

Section 3. Definitions

As used in this Ordinance, the following words shall have the following meanings unless the context clearly requires otherwise:

(a) *''Alcoholic Beverages''* shall mean any alcoholic, spirituous, vinous, fermented or other alcoholic beverage, or combination of liquors and mixed liquor, a part of which is spirituous, vinous, fermented or otherwise alcoholic, and all drinks or drinkable liquids, preparations or mixtures intended for beverage purposes, which contain one-half of one percent or more of alcohol by volume, and shall include liquor, beer, and wine, both fortified and table wine.

(b) *''Beer, or Malt or Brewed Beverages''* shall mean any beer, lager beer, ale, porter, malt or brewed beverage, or similar fermented malt liquor containing one-half of one percent or more of alcohol by volume and not in excess of five percent alcohol by weight and six percent by volume, by whatever name the same may be called.

(c) *''Liquor''* shall mean any alcoholic, spirituous, vinous, fermented, or other alcoholic beverage, or combination of liquors and mixed liquor, a part of which is spirituous, fermented, vinous or otherwise alcoholic, and all drinks or drinkable liquids, preparations or mixtures intended for beverage purposes, which contain one-half of one percent or more of alcohol by volume, except beer and table wine.

(d) *''Minor''* shall mean any person under age twenty one (21) years of age.

(e) *''Tribe''* shall mean the Poarch Band of Creek Indians.

(f) *''Tribal Council''* shall mean the duly elected governing body of the Poarch Band of Creek Indians.

(g) *''Possession or possessing''* shall mean over one's person, vehicle or other property and includes constructive possession through control without regard to ownership.

(h) *''Purchase''* shall mean the exchange, barter, traffic, receipt, with or without consideration in any form.

(i) *''Sale''* shall mean the exchange, barter, traffic, donation, with or without consideration, in addition to the selling, supplying or distribution by any means, by any person to any person.

(j) *''Transport''* shall mean the introduction of alcoholic beverage onto the Indian country under the jurisdiction of the Poarch Band of Creek Indians by any means of conveyance for the purpose of sale, or distribution, to any licensed or permitted dealer.

(k) *''Wine''* shall mean all beverages made from the fermentation of fruits, berries, or grapes, with or without added spirits, and produced in accordance with the laws and regulations of the United States, containing not more than 24 percent alcohol by volume, and shall include all sparkling wines, carbonated wines, special natural wines, rectified wines, vermouths, vinous beverages, vinous liquors, and like products, including restored or unrestored pure condensed juice.

(l) *''Fortified Wine''* or *''Vinous Liquor''* shall mean any wine containing more than 14.9 percent alcohol by volume but not more than 24 percent. Fortified wine is vinous liquor.

(m) *''Table Wine''* shall mean any wine containing not more than 14.9 percent alcohol by volume. Table wine is not liquor, spirituous or vinous.

(n) *''Brandy''* shall mean all beverages which are an alcoholic distillate from the fermented juice, mash, or wine of fruit, or from the residue thereof, produced in such manner that the distillate possesses the taste, aroma, and characteristics generally attributed to the beverage, as bottled at not less than 80 degree proof.

Section 4. General

The introduction, possession, transportation, and sale of alcoholic beverages shall be lawful within the Indian country under the jurisdiction of the Tribe, provided that such introduction, possession, transportation, and sale are in conformity with the provisions of this Ordinance and the laws of the State of Alabama pursuant to 18 U.S.C. 1161.

Section 5. Tribal License or Permit Required

No person shall engage in the sale of any alcoholic beverage within the Indian country under the jurisdiction of the Tribe, unless duly licensed or permitted to do so by the State of Alabama and the Tribe in accordance with the terms of this Ordinance.

Section 6. Tribal Alcoholic Beverage License; Requirements

(a) The Tribal Council is authorized to issue alcoholic beverage licenses to entities or enterprises that are wholly owned and operated by the Tribe, and a separate license is required for each location where alcoholic beverages are to be sold or served.

(b) No licensed establishment shall be located closer than 500 feet from any church or school.

(c) Application for an alcoholic beverage license shall be made to the Tribal Council by the manager, director or chief operating officer of the Tribal entity or Tribal enterprise which seeks to sell and serve alcoholic beverages. The application shall include, among other matters, the following information:

(1) The name and address of the Tribal enterprise or entity making the application;

(2) the description of the premises in which the alcoholic beverages are to be sold;

(3) agreement by the applicant to accept and abide by all conditions of the tribal license;

(4) satisfactory proof that notice of the application has been posted in a prominent, noticeable place on the premises where alcoholic beverages are to be sold for at least 30 days prior to consideration by the Council and has been published at least twice in such local newspaper serving the community that may be affected by the license as the Tribal Chairman or Secretary may authorize. The notice shall state the date, time and place when the application shall be considered by the Council pursuant to Section 7 of this Ordinance;

(5) evidence that the applicant is or will be duly licensed by the State of Alabama.

Section 7. Hearing on Application for Tribal Alcoholic Beverage License

All applications for a tribal alcoholic beverage license shall be considered by the Council in open session at which the applicant, and any person(s) supporting or opposing the application shall have the right to be present, and to offer sworn oral or documentary evidence relevant to the application. After the hearing, the Council, by secret ballot, shall determine whether to grant or deny the application, based on whether the Council, in its discretion, determines that granting the license is in the best interests of the Tribe.

Section 8. Temporary Permits

The Council may grant a temporary permit for the sale of alcoholic beverages for a period not to exceed three (3) days to any tribally-owned and operated enterprise, department, or office, applying for the same in connection with a tribal or community activity, provided that the application shall be made as provided by Sections 6 and 7 of this Ordinance, and that the conditions prescribed in Sections 9(b) through 9(h) of this Ordinance shall be observed by the permittee. Each permit issued shall specify the types of alcoholic beverages to be sold, the specific place, dates, and times when the permit is valid.

Section 9. Conditions of the Tribal License or Tribal Permit

Any Tribal license or permit issued under this Ordinance shall be subject to such reasonable conditions as the Council shall fix, including, but not limited to the following:

(a) A license shall be for a term of one year. A permit shall be for a period of not to exceed three days.

(b) The licensee or permittee shall at all times maintain an orderly, clean, and neat establishment, both inside and outside the licensed premises.

(c) The licensed premises shall be subject to patrol by the Tribal Police Department, and such other law enforcement officials as may be authorized under Tribal or federal law.

(d) The licensed premises shall be open to inspection by duly authorized Tribal officials at all times during the regular business hours.

(e) No alcoholic beverage shall be sold within 200 feet of a polling place on tribal election days, or when a referendum is held of the people of the Tribe, and including special days of observance as designated by the Council.

(f) All acts and transactions under authority of the Tribal alcoholic beverage license or permit shall be in conformity with this Ordinance and the terms of the Tribal license or permit.

(g) All sales of alcoholic beverages shall be for the personal use and consumption of the purchaser. Resale of any alcoholic beverage is prohibited.

(h) No person under the age of 21 shall be sold, served, delivered, given or allowed to consume alcoholic beverages in the licensed establishment. Where there may be a question of a person's right to purchase an alcoholic beverage by reason of his or her age, such person shall be required to present any one of the following cards of identification which shows his or her correct age and bears his or her signature and photograph: (1) A driver's license of any state or identification card issued by any state department of motor vehicles; (2)

United States active duty military ID; (3) a passport; or (4) a Poarch Creek tribal identification card or other recognized tribal identification card.

Section 10. Prohibited Activities

It shall be a violation of this Ordinance for any person:

(a) to sell or offer for sale or distribute or transport in any manner, any alcoholic beverage or to operate or shall have alcoholic beverages in his possession with intent to sell or distribute without a license or permit;

(b) to buy any alcoholic beverage from any person other than a person or entity holding a license or permit as required by this Ordinance;

(c) to sell or provide any alcoholic beverage to any person under the age of 21 years;

(d) to permit any person under the age of 21 years to consume any alcoholic beverage on his or her premises or any premises under his or her control;

(e) to transfer in any manner an identification of age to a minor for the purpose of permitting such minor to obtain any alcoholic beverage;

(f) to attempt to purchase an alcoholic beverage through the use of a false or altered identification;

(g) to consume, acquire or have in his or her possession any alcoholic beverage while under 21 years of age.

Section 11. Enforcement

(a) *Criminal Penalties.* A violation of this Ordinance by any person subject to the criminal jurisdiction of the Tribe is a Class B Misdemeanor and may be prosecuted by the Tribe as provided by Title 9 of the Poarch Band of Creek Indians Code of Justice.

(b) *Civil Fines.* The Tribe may bring a civil action in the Tribal Court against any person or entity for violation of this Ordinance or the terms of a license or permit issued under this Ordinance, and a person found to have violated this Ordinance or the terms of a license or permit issued under the Ordinance may be subject to a civil fine of not to exceed $500 per violation.

(c) *Injunctive relief.* The Tribe may bring a civil action in the Tribal Court against any person or entity to enjoin a violation of this Ordinance.

(d) *Contraband.* Alcoholic beverages confiscated from any person found in violation of this Ordinance are declared to be contraband. Where a person is found to have violated this Ordinance, all alcoholic beverages in such person's possession shall be contraband. Any tribal agent, employee, or officer who is authorized by the Tribal Council to enforce this Ordinance shall have the authority to, and shall, seize all contraband. Any officer seizing contraband shall preserve the contraband in accordance with applicable Tribal and State law. Upon being found in violation of this Ordinance by the Tribal Council or the Tribal Court, the party shall forfeit all right, title and interest in the items seized which shall become the property of the Tribe.

(e) Suspension or revocation of license or permit. Any license or permit issued under this Ordinance may be suspended or revoked by the Tribal Council for violation of any of the provisions of this Ordinance, or of the tribal license or permit, upon hearing before the Tribal Council after 10 days notice to the licensee or permittee. The decision of the Council shall be final and no appeal therefrom shall be allowed. The Tribal Council shall grant all persons in any hearing regarding license or permit suspensions or revocations all the rights and due process granted by the Indian Civil Rights Act, 25 U.S.C. 1302, *et seq.* Notice of a Tribal Council hearing regarding an alleged violation of this Ordinance shall be given to the affected individual(s) or entity(ies) by certified mail at least 10 days in advance of the hearing. The notice will be delivered in person or by certified mail with the Tribal Council retaining proof of service. The notice will set out the rights of the alleged violator, including but not limited to the right to an attorney to represent the alleged violator, the right to speak and to present witnesses and to cross-examine any witnesses against them.

Section 12. License and Permit Not a Property Right

Notwithstanding any other provision of this Ordinance, a tribal alcoholic beverage license or permit is a mere permit for a fixed duration of time. A tribal alcoholic beverage license or permit shall not be deemed a property right or vested right of any kind, nor shall the granting of a tribal alcoholic beverage license or permit give rise to a presumption or legal entitlement to the granting of such license or permit for a subsequent time period.

Section 13. Assignment or Transfer

No tribal license or permit issued under this Ordinance shall be assigned or transferred without the written approval of the Council expressed by formal resolution and upon satisfaction of the conditions required for a license as set out in Sections 6 and 7.

Section 14. Severability

If a court of competent jurisdiction invalidates any part of this Ordinance, all valid parts that are severable from the invalid part shall remain in effect. If a part of this Ordinance is invalid in one or more of its applications, that part shall remain in effect in all valid applications that are severable from the invalid applications.

Section 15. Sovereign Immunity

Nothing contained in this Ordinance is intended to nor does in any way limit, alter, restrict, or waive the Tribe's sovereign immunity.

Section 16. Amendment

Section 8–7–3 of the Poarch Band of Creek Indians Code of Justice, regarding the ''Possession of Liquor'' is hereby amended so that it recites that:

Possession of *alcoholic beverages*

(a) A person commits an offense under this section if said person possesses, sells, trades, transports, manufactures, or distributes any alcoholic beverage *except as provided in the Poarch Band of Creek Indians Alcoholic Beverage Control Ordinance.*

(b) Possession of alcoholic beverages *except as provided in the Poarch Band of Creek Indians Alcoholic Beverage Control Ordinance* is a Class B Misdemeanor.

Section 17. Effective Date

This Ordinance shall be effective on the date that the Secretary of the Interior certifies this Ordinance and it is published in the **Federal Register**.

* * * * *

Approval

I, the Chairman of the Poarch Band of Creek Indians, hereby affix my signature to this ordinance authorizing it to become official this 16th day of January 2005, in accordance with established Tribal Policy.

Eddie L. Tullis,
Tribal Council Chairman.

Certification

I, _____the undersigned, certify that the foregoing is a true extract from the minutes of the Tribal Council Meeting of the Poarch Band of Creek Indians, comprised of nine members, with nine in attendance and eight members voting, on the 16th day of January 2005, and that the above is in conformity with the provisions therein adopted by a vote of eight (8) in favor, none against, and no abstentions, and that the above is the signature of the Chairman.

Daniel K. McGhee,
Tribal Council Secretary.

[FR Doc. 06–1771 Filed 2–22–06; 9:50 am]

BILLING CODE 4310–4J–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AK–964–1410–KC–P; F–14832–A, B]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Deloy Ges Incorporated for lands located in the vicinity of Anvik, Alaska, within:

Seward Meridian, Alaska

Lot 1, U.S. Survey No. 4061.
Tps. 30 and 31 N., R. 58 W.;
Tps. 28 and 30 N., R. 59 W.

Aggregating 6,081.4 acres.

Notice of the decision will also be published four times in the Tundra Drums.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until March 27, 2006 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7599.

FOR FURTHER INFORMATION, CONTACT: The Bureau of Land Management by phone at 907–271–5960, or by e-mail at *ak.blm.conveyance@ak.blm.gov*. Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8330, 24 hours a day, seven days a week, to contact the Bureau of Land Management.

Barbara Opp Waldal,

Land Law Examiner, Branch of Adjudication II.

[FR Doc. E6–2612 Filed 2–23–06; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–030–1320–EL, NDM 91535]

Notice of Competitive Coal Lease Sale, North Dakota

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of competitive coal lease sale.

SUMMARY: Notice is hereby given that the coal reserves in the lands described below in Mercer County, North Dakota, will be offered for competitive lease by sealed bid in accordance with the provisions of the Mineral Leasing Act of 1920, as amended (30 U.S.C. 181 *et seq.*).

DATES: The lease sale will be held at 11 a.m., Thursday, March 2, 2006. Sealed bids must be submitted on or before 10 a.m., March 2, 2006.

ADDRESSES: The lease sale will be held in the 920 Conference Room, of the Bureau of Land Management (BLM) Montana State Office, 5001 Southgate Drive, Billings, Montana 59101. Sealed bids clearly marked ''Sealed Bid for NDM 91535 Coal Sale—Not to be opened before 11 a.m., Thursday, March 2, 2006'' must be submitted to the Cashier, BLM Montana State Office, at the address given above.

FOR FURTHER INFORMATION CONTACT: Connie Schaff, Land Law Examiner, or Rebecca Spurgin, Acting Chief, Branch of Solid Minerals, at 406–896–5060 or 406–896–5080, respectively.

SUPPLEMENTARY INFORMATION: This sale is being held in response to a lease by application filed by The Coteau Properties Company. The Federal coal resources to be offered consists of all recoverable reserves in the following described lands:

T. 144 N., R. 88 W., 5th P. M.
Sec. 2: Lots 3, 4, S½NW¼
Sec. 4: Lots 1, 2, S½NE¼, S½
Sec. 6: Lots 1–7, S½NE¼, SE¼NW¼, E½SW¼, SE¼
Sec. 8: N½NE¼, SE¼NE¼, NW¼, N½SW¼
T. 144 N., R. 89 W., 5th P. M.
Sec. 12: E½
T. 145 N., R. 88 W., 5th P. M.
Sec. 4: Lots 1, 2, S½NE¼, SE¼
Sec. 10: N½
Sec. 14: All
Sec. 22: All
Sec. 26: N½NE¼, SW¼NE¼, W½, NW¼SE¼
Sec. 28: E½NE¼, SW¼NE¼, SE¼NW¼, S½
Sec. 34: N½N½, SE¼NE¼, SW¼, E½SE¼, SW¼ SE¼

The 5,333.56-acre tract, located in Mercer County, North Dakota, contains an estimated 89 million tons of recoverable coal reserves. For NDM 91535, the tract averages 17.3 feet in thickness with an average overburden depth of 117 feet, 6,864 BTU/lb. in heating value and 0.83% sulphur content.

The tracts will be leased to the qualified bidder of the highest cash amount provided that the high bid meets or exceeds the BLM's estimate of the estimated fair market value of the tract. The minimum bid for the tracts is $100 per acre or fraction thereof. No bid that is less than $100 per acre, or fraction thereof, will be considered. The minimum bid is not intended to represent fair market value. The fair market value will be determined by the Authorized Officer after the sale. The bids should be sent by certified mail, return-receipt requested, or be hand-delivered. The cashier will issue a receipt for each hand-delivered bid. Bids received after 10 a.m., Thursday, March 2, 2006, will not be considered.

If identical high bids are received, the tying high bidders will be requested to submit follow-up sealed bids until a high bid is received. All tie-breaking sealed-bids must be submitted within 15 minutes following the Sale Official's announcement at the sale that identical high bids have been received.

A lease issued as a result of this offering will provide for payment of an annual rental of $3 per acre, or fraction thereof; and a royalty payable to the United States of 12.5 percent of the value of coal mined by surface methods and 8.0 percent of the value of coal mined by underground methods.

Bidding instructions for the tracts offered and the terms and conditions of the proposed coal lease are included in the Detailed Statement of Lease Sale. Copies of the statement and the proposed coal lease are available at the Montana State Office. Casefile NDM 91535 is also available for public inspection at the Montana State Office.

Dated: January 5, 2006.

Rebecca Spurgin,

Acting Chief, Branch of Solid Minerals.

[FR Doc. E6–2613 Filed 2–23–06; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Notice of Public Meeting: Resource Advisory Council to the Boise District, Bureau of Land Management, U.S. Department of the Interior

AGENCY: Bureau of Land Management, U.S. Department of the Interior.

ACTION: Notice of Public Meeting.

SUMMARY: In accordance with the Federal Land Policy and Management Act (FLPMA) and the Federal Advisory Committee Act of 1972 (FACA), the U.S. Department of the Interior, Bureau of Land Management (BLM) Boise District Resource Advisory Council (RAC), will meet as indicated below.

DATES: The meeting will be held March 21, 2006, beginning at 9 a.m. and adjourning at 4 p.m. at the BLM Boise District Office, Snake River Conference Room located at 3948 Development Ave, Boise, ID. Public comment periods will be held after topics on the agenda.

FOR FURTHER INFORMATION CONTACT: M.J. Byrne, Public Affairs Officer and RAC Coordinator, BLM Boise District, 3948 Development Ave., Boise, ID 83705, Telephone (208) 384–3393.

SUPPLEMENTARY INFORMATION: The 15-member Council advises the Secretary of the Interior, through the BLM, on a variety of planning and management issues associated with public land management in southwestern Idaho. Meeting topics will include the following:

- Hot Topics;
- Updates on current issues and planned activities in the three Field Offices and the District;
- District Administrative Officer will provide additional information on the 2006 budget process, budget reductions and impacts to workload accomplishments.
- Subcommittee Reports:
  - Rangeland Standards and Guidelines;
  - OHV & Transportation Management;
  - Sage Grouse Habitat Management, and;
  - Resource Management Plans

Agenda items and location may change due to changing circumstances, including wildfire emergencies. All meetings are open to the public. The public may present written comments to the Council. Each formal Council meeting will also have time allocated for hearing public comments. Depending on the number of persons wishing to comment and time available, the time for individual oral comments may be limited. Individuals who plan to attend and need special assistance, such as sign language interpretation, tour transportation or other reasonable accommodations, should contact the BLM as provided below. Expedited publication is requested to give the public adequate notice.

Dated: February 17, 2006.

Jerry L. Taylor,

District Manager.

[FR Doc. E6–2649 Filed 2–23–06; 8:45 am]

BILLING CODE 4310–GJ–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID310–06–1430–EU 252R, IDI–34916]

Notice of Intent To Prepare a Land Use Plan Amendment To Provide for a Proposed Direct Land Sale

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice.

SUMMARY: Pursuant to 43 CFR Part 1600, the Bureau of Land Management (BLM) Upper Snake Field Office (USFO) proposes to amend the Medicine Lodge Resource Management Plan (RMP) to identify a 1.25 acre parcel of public land for disposal in Bonneville County, Idaho. Additionally, the USFO proposes to patent the parcel to Dale E. McDowell, Louise J. Prudhomme, and George McDowell reserving a conservation easement to the United States.

DATES: Comments regarding the proposed plan amendment must be received by April 10, 2006.

ADDRESSES: Written comments should be sent to Wendy Reynolds, Field Manager, Upper Snake Field Office, 1405 Hollipark Drive, Idaho Falls, Idaho 83401.

FOR FURTHER INFORMATION CONTACT: Additional information concerning the proposed plan amendment may be obtained by contacting Deena Teel, NEPA Coordinator, or Skip Staffel, Realty Specialist, at the above address or by calling (208) 524–7500.

SUPPLEMENTARY INFORMATION: The following described public land in Bonneville County, Idaho, will be examined for possible disposal by direct sale under sections 203 and 209 of the Federal Land Policy and Management Act of 1976, 43 U.S.C. 1713 and 1719.

Boise Meridian, Idaho

T. 2 N., R 43 E.,
Sec. 17, N½ NE¼ NE¼ SW¼ NW¼

The land described above contains approximately 1.25 acres.

Upon publication of this notice in the **Federal Register**, the land described above will be segregated from appropriation under the public land laws, including the mining laws, but not the mineral leasing laws, except for the sale provisions of FLPMA for a period of 270 days.

An environmental assessment will be completed for this action. If the land is found suitable for disposal, the United States would offer it for direct sale to Dale E. McDowell, Louise J. Prudhomme, and George McDowell at fair market value, with a conservation easement retained by the BLM. The public is invited to provide scoping comments on the issues that should be addressed in the preparation of the plan amendment, including; lands, wildlife, migratory birds, recreation, wilderness, range, minerals, cultural resources, watershed/soils, threatened/endangered species, and hazardous materials. Staff specialists representing these resources will make up the planning team. Planning issues will include the same planning criteria originally considered for the Medicine Lodge RMP; however, issues for this amendment are expected to primarily involve the adjustment of land tenure. No public meetings are scheduled.

Current land use planning information is available at the BLM Upper Snake Field Office. Office hours are 7:45 a.m. to 4:30 p.m., Monday through Friday except holidays.

Dated: January 17, 2006.

Wendy Reynolds,

Upper Snake Field Manager.

[FR Doc. E6–2611 Filed 2–23–06; 8:45 am]

BILLING CODE 4310–GG–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–06–014]

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: March 7, 2006 at 2 p.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436.

TELEPHONE: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meetings: none.
2. Minutes.
3. Ratification List.
4. Inv. Nos. 731–TA–825 and 826 (Second Review) (Certain Polyester Staple Fiber from Korea and Taiwan)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on or before March 20, 2006.)
5. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not

disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission:

Issued: February 22, 2006.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 06–1814 Filed 2–22–06; 3:47 pm]

BILLING CODE 7020–02–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–06–013]

Sunshine Act Meeting

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: March 6, 2006 at 2 p.m.

PLACE: Room 101, 500 E Street SW., Washington, DC 20436., Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED:

1. Agenda for future meetings: none.
2. Minutes.
3. Ratification List.
4. Inv. Nos. 701–TA–269 and 270 and 731–TA–311–314, 317, and 379 (Second Review)(Brass Sheet and Strip from Brazil, Canada, France, Germany, Italy, and Japan)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on or before March 21, 2006.)
5. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission:

Issued: February 22, 2006.

Marilyn R. Abbott,

Secretary to the Commission.

[FR Doc. 06–1815 Filed 2–22–06; 3:47 pm]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Civil Rights Division; Office of Special Counsel for Immigration Related Unfair Employment Practices, Immigration Related Employment Discrimination Public Education Grants

AGENCY: Office of Special Counsel for Immigration Related Unfair Employment Practices, Civil Rights Division, U.S. Department of Justice.

ACTION: Notice of availability of funds and solicitation for grant applications.

SUMMARY: The Office of Special Counsel for Immigration Related Unfair Employment Practices (OSC) announces the availability of funds for grants to conduct public education programs about the rights afforded potential victims of employment discrimination and the responsibilities of employers under the anti-discrimination provision of the Immigration and Nationality Act (INA), 8 U.S.C. 1324b. It is anticipated that a number of grants will be competitively awarded to applicants who can demonstrate a capacity to design and successfully implement public education campaigns to address immigration related unfair employment discrimination. Grants may range in size from $35,000 to $100,000. Applicants must demonstrate the ability to educate workers, employers and/or the general public about the anti-discrimination provision of the INA. OSC welcomes proposals from diverse public service groups, organizations or associations providing information services to employers and/or potential victims of discrimination, and faith-based organizations and nonprofit groups providing services and assistance to potential victims of discrimination.

DATES: *Application Due Date:* April 7, 2006.

FOR FURTHER INFORMATION CONTACT: Katherine A. Baldwin, Deputy Special Counsel, Office of Special Counsel for Immigration Related Unfair Employment Practices, 950 Pennsylvania Ave., Washington, DC 20530. Tel. (202) 616–5594, or (202) 616–5525 (TDD for the hearing impaired).

SUPPLEMENTARY INFORMATION: The Office of Special Counsel for Immigration Related Unfair Employment Practices of the Civil Rights Division of the Department of Justice announces the availability of funds to conduct cost effective public education programs concerning the anti-discrimination provision of the INA. Funds will be awarded to selected applicants who propose cost-effective ways of educating employers, workers covered by this statute, community service providers, and/or the general public.

Background: The Immigration and Nationality Act protects work authorized individuals from employment discrimination based on their citizenship status and/or national origin. Federal law also makes knowingly hiring unauthorized workers unlawful, and requires employers to verify the identity and employment eligibility of all new employees. Employers who violate this law are subject to sanctions, including fines and possible criminal prosecution. Employers of four or more employees are prohibited from discriminating on the basis of citizenship status or national origin with respect to hiring, firing, recruitment or referral for a fee. They are also prohibited from committing ''document abuse'' on the basis of national origin or citizenship status in the employment eligibility verification process. U.S. citizens and certain classes of work authorized individuals are protected from citizenship status discrimination. Protected non-citizens include:

- Legal Permanent Residents;
- Refugees;
- Asylees; and
- Temporary Residents.

Citizens and all work authorized individuals are protected from discrimination on the basis of national origin. However, under the INA the prohibition against national origin discrimination applies only to employers with four to fourteen employees. National origin discrimination complaints against employers with fifteen or more employees fall under the jurisdiction of the Equal Employment Opportunity Commission pursuant to Title VII of the Civil Rights Act of 1964, 42 U.S.C. 2000e, *et seq.* In addition, under the document abuse provision of the law, employers cannot request more or different documents than are required for completion of the Employment Eligibility Verification (I–9) Form, prefer or require one form of documentation over another, or refuse documents that appear reasonably genuine on their face, if made for the purpose or with the intent of discriminating against an individual on the basis of national origin or citizenship status. OSC is responsible for receiving and investigating discrimination charges and, when appropriate, filing complaints with specially designated administrative law judges. OSC also initiates independent investigations of possible immigration-related job discrimination. While OSC has established a record of vigorous enforcement, studies have shown that there is an extensive lack of knowledge on the part of protected individuals and employers about the anti-discrimination provision of the INA. Enforcement cannot be effective if potential victims of discrimination are not aware of their rights. Moreover, discrimination can never be eradicated so long as employers are not aware of their responsibilities.

Purpose: OSC seeks to educate both workers and employers about their rights and responsibilities under the

anti-discrimination provision of the INA. Applicants must demonstrate the ability to use diverse forms of mass and electronic media to educate employers and/or employees in both the private and business sectors, as well as agencies providing services to potential victims concerning the anti-discrimination provision of the INA. OSC seeks proposals that will use existing materials or may develop additional materials to effectively educate employees and/or employers about exercising their rights or fulfilling their obligations under the anti-discrimination provision. OSC will consider any proposal that articulates and substantiates other creative means of reaching these populations. One example is the use of creative media public service announcements for local communities, non-profit organizations and business groups.

Program Description: The program is designed to develop and implement cost-effective approaches to educate potential victims of employment discrimination about their rights and to educate employers about their responsibilities under INA'propose to educate potential victims only, employers only, or both in a single campaign. Program budgets must include the travel, lodging and other expenses necessary for up to two program staff members to attend the mandatory OSC grantee training (2 days) that will be held in Washington, DC. Proposals should outline the following key elements of the program:

Part I: Intended Audience(s)

The educational efforts under the grant should be directed to: (1) Work authorized and protected non-citizens; (2) citizens at the risk of becoming victims of employment discrimination; and/or (3) employers, especially those in both large and small businesses and industries that employ large numbers of individuals in categories (1) and (2). The proposals should define the characteristics of the work authorized population or the employer group(s) intended to be the focus of the educational campaign. It must also identify the applicant's qualifications to reach credibly and effectively large segments of the intended audience(s). The proposals should detail the reasons for focusing on each group of protected individuals or employers by describing particular needs or other factors to support the selection. In defining the campaign focuses and supporting the reasons for the selection, applicants may use census data, studies, surveys, or any other sources of information of generally accepted reliability.

Part II: Campaign Strategy

We encourage applicants to devise effective and creative means of public education and information dissemination that are specifically designed to reach the widest possible intended audience. Those applicants proposing educational campaigns addressing potential victims of discrimination should keep in mind that some of the traditional methods of public communication may be less than optimal for educating members of national origin or linguistic groups that have limited community-based support and communication networks.

Grants are an important component of OSC partnerships to better serve the public, employers and potential discrimination victims. Grantees should plan to include OSC attorneys and other professional staff in public outreach programs in order to more successfully reach their audiences and prevent discrimination before it occurs or combat it where it exists. Proposals should discuss the components of the campaign strategy, detail the reasons supporting the choice of each component, and explain how each component will effectively contribute to the overall objective of cost-effective dissemination of useful and accurate information to a wide audience of protected individuals or employers. Discussions of the campaign strategies and supporting rationale should be clear, concise, and based on sound evidence and reasoning.

Budget proposals should include the costs for distribution of materials received from OSC or from current/past OSC grantees. To the extent that applicants believe the development of original materials particularly suited to their campaign is necessary, their proposal should articulate in detail the circumstances requiring the development of such materials. All such materials must be approved by OSC prior to production to ensure legal accuracy and proper emphasis. Proposed revisions/translations of OSC-approved materials must also be submitted for clearance. All information distributed should also identify OSC as a source of assistance, information and action, and include the correct address and telephone numbers of OSC (including the toll-free numbers and TDD numbers), and OSC e-mail and Internet addresses.

Part III: Evaluation of the Strategy

A full evaluation of a project's effectiveness is due within 60 days of the conclusion of a campaign. Interim evaluation/activity reports are due quarterly.

Selection Criteria: The selection of grantees for award will be made by the Office of Special Counsel for Immigration Related Unfair Employment Practices. A panel comprised of OSC staff will review and rate the applications and make recommendations regarding funding. The panel's results are advisory in nature and not binding. Letters of support, endorsement, or recommendation are not part of the grant application process and will not be considered. In determining which applications to recommend, OSC staff, based on a one hundred point scale will consider the following:

1. *Program Design (50 points).* Sound program design and cost-effective strategies for educating the intended population are imperative. Consequently, areas that will be closely examined include the following:

a. Demonstration of a clear understanding of the requirements of the anti-discrimination provision of the Immigration and Nationality Act and OSC's outreach goals. (10 points).

b. Clear statement of the proposed goals and objectives, including a listing of the major events, activities, products and timetables for completion and the extent of OSC participation in grantee outreach events. (10 points)

c. Selection and definition of the intended audience(s) for the campaign, and the factors that support the selection, including special needs, and the applicant's qualifications to reach effectively the intended audience(s). (10 points)

d. A cost-effective campaign strategy for educating employers and/or members of the protected class, with a justification for the choice of strategy. (10 points)

e. How the applicant proposes to measure the effectiveness and success of the education campaign. (10 points).

2. *Administrative Capability (20 points).* Proposals will be rated in terms of the capability of the applicant to define the intended audience, reach it, and implement the public education and evaluation components of the campaign:

a. Evidence of proven ability to provide high quality results in the public outreach program. (10 points)

b. Evidence that the applicant can implement the campaign. (10 points)

Note: OSC's experience during previous grant cycles has shown that a number of applicants choose to apply as a consortium of individual entities, or, if applying individually, propose the use of subcontractors to undertake certain limited

functions. It is essential that these applicants demonstrate the proven management capability and experience to ensure that, as lead agency, they will be directly accountable for the successful implementation, completion, and evaluation of the project.

3. *Staff Capability (10 points).* Applications will be evaluated in terms of the degree to which:

a. The duties outlined in the proposed staffing plan for grant-funded positions appear appropriate to the work that will be conducted under the award. (5 points)

b. The qualifications of the grant-funded positions appear to match the requirements of these positions. (5 points)

Note: If the grant project manager or other member of the professional staff is to be hired later as part of the grant, or should there be any change in professional staff during the grant period, hiring is subject to review and approval by OSC at that time.

4. *Service to Underserved Communities (20 points).* OSC has determined a need to reach out to groups and communities previously underserved, or not served at all, by this grant program or by comparable service providers. This includes identifying employer and employee organizations, faith-based groups, non-profit groups, public service groups or other communities not previously served. It also includes identifying employers and employer organizations with whom the program has not previously interacted. This need is particularly relevant in light of recent world events which have raised the possibility of immigration-status discrimination for groups that may not have previously been subject to such conduct. Applicants should identify groups or communities served by their proposed program, which may be categorized as previously underserved. Applicants should consider the need for language services for limited English proficient (LEP) persons served or encountered when developing their proposals, including the proposed budget, and while conducting their programs and activities. The Department of Justice has determined that costs associated with providing meaningful access for LEP individuals are considered an allowable program cost.

Eligible Applicants: This grant competition is open to all applicants including labor and immigrant organizations, small and large businesses and associations, employer groups and associations, public services or community-based organizations, faith-based organizations, and state and local government agencies.

Faith-Based and Community Organizations. Consistent with President George W. Bush's Executive Order 13279, dated December 12, 2002, and 28 CFR Part 38, it is OSC policy that faith-based and community organizations that statutorily qualify as eligible applicants under OSC s program are invited and encouraged to apply for assistance awards to fund eligible grant activities. Faith-based and community organizations will be considered for awards on the same basis as any other eligible applicants and, if they receive assistance awards, will be treated on an equal basis with all other grantees in the administration of such awards. No eligible applicant or grantee will be discriminated for or against on the basis of its religious character or affiliation, religious name, or the religious composition of its board of directors or persons working in the organization. Faith-based organizations receiving grant awards retain their independence and do not lose or have to modify their religious identity (e.g., removing religious symbols) to receive awards. OSC grant funds, however, may not be used to fund any inherently religious activity, such as prayer or worship. Inherently religious activity is permissible, although it cannot occur during an activity funded with OSC grant funds; rather, such religious activity must be separate in time or place from the OSC funded program. Further, participation in such activity by individuals receiving services must be voluntary. Programs funded by OSC are not permitted to discriminate in the provision of services on the basis of a beneficiary's religion.

Grant Period and Award Amount: It is anticipated that several grants will be awarded and may range in size from $35,000 to $100,000. Publication of this announcement does not require OSC to award any specific number of grants, or to obligate all or any part of available funds. The period of performance will be twelve months from the date of the grant award.

Application Deadline: All applications must be postmarked by April 7, 2006. If using regular first class mail, send to: U.S. Department of Justice, Civil Rights Division, Office of Special Counsel for Immigration Related Unfair Employment Practices, 950 Pennsylvania Avenue, NW., Washington, DC 20530. If using messengers, overnight or priority mail—which OSC encourages due to delays in the delivery of regular mail—send to: Office of Special Counsel for Immigration Related Unfair Employment Practices, U.S. Department of Justice, 1425 New York Ave., NW., Suite 9000, Washington, DC 20005. Applications may not be submitted via facsimile machine.

Application Requirements: Applicants should submit an original and two (2) copies of their completed proposal by the deadline established above. In order to improve the statistical reporting of federal grants, the Office of Management and Budget has directed federal agencies to require all applicants to provide a Dun and Bradstreet Data Universal Numbering System (DUNS) number when applying for Federal grants or cooperative agreements. All grantees, contractors and potential applicants are encouraged to obtain a DUNS number and to assure that an accurate DUNS number is included in their application or proposal. If your organization does not have a DUNS number, you should take steps to obtain a DUNS number in advance of the application deadline. Organizations may receive a DUNS number at no cost by calling the dedicated toll-free DUNS Number request line at 1–866–705–5711 or by visiting the D&B Small Business Web site at *http://smallbusiness.dnb.com/default.asp.*

All submissions must contain the following items in the order listed below:

1. A completed and signed Application for Federal Assistance (Standard Form 424).

Note: The Catalog of Federal Domestic Assistance number is 16.110 and the title is Education & Enforcement of the Antidiscrimination provision of the Immigration and Nationality Act (box #10 of the SF 424).

2. OJP Form 4061/6 (Certification Regarding Lobbying; Debarment, Suspension and Other Responsibility Matters; and Drug-Free Workplace Requirements).

3. Disclosure Form to Report Lobbying (SF LLL).

4. OJP Form 4000/3 (Standard Assurances).

5. An abstract of the full proposal, not to exceed one page.

6. A program narrative of not more than fifteen (15) double-spaced typed pages that clearly and specifically demonstrates how the applicant meets each of the four (4) elements set forth as selection criteria, above.

7. A proposed budget outlining all direct and indirect costs for personnel, fringe benefits, travel, supplies, subcontracts, and a short narrative justification of each budgeted line item cost. If an indirect cost rate is used in the budget, then a copy of a current fully executed agreement between the

applicant and the cognizant federal agency must accompany the budget.

Note: Program budgets must include the travel, lodging and other expenses necessary for not more than two program staff members to attend the mandatory OSC grantee training (2 days) that will be held in Washington, DC by the end of September 2006.

8. Copies of resumes of the professional staff proposed in the budget.

Application forms may be obtained by writing or telephoning: U.S. Department of Justice, Civil Rights Division, Office of Special Counsel for Immigration Related Unfair Employment Practices, 950 Pennsylvania Avenue, NW., Washington, DC 20530. Tel. (202) 616–5594, or (202) 616–5525 (TDD for the hearing impaired). This announcement and the required forms will also appear on the World Wide Web at: *http://www.usdoj.gov/crt/osc.* In order to facilitate handling, please do not use covers, binders or tabs.

Dated: February 16, 2006.

Katherine A. Baldwin,

Deputy Special Counsel for Immigration-Related Unfair Employment Practices.

[FR Doc. 06–1736 Filed 2–23–06; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

Notice of Lodging of Settlement Agreement Under the Comprehensive Environmental Response, Compensation and Liability Act

Under 28 CFR 50.7, notice is hereby given that on February 10, 2006, a proposed settlement agreement in *In re Imperial Home Decor Group, Inc., et al.,* Case No. 00–19 (Bktcy Del.), was lodged with the United States Bankruptcy Court for the District of Delaware.

The settlement agreement resolves the United States' proof of claim in the Chapter 11 reorganization of Imperial Home Decor Group, Inc. and its affiliates (''Debtors''). The United States' proof of claim sought recovery of cleanup costs pursuant to Section 107(a) of the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9607(a), at the SRS Superfund Site in Southington, Connecticut (''Site''). Predecessors of Debtors allegedly arranged for the treatment or disposal of hazardous substances at the Site. The settlement provides for the United States to have an allowed unsecured claim of $919,705. The claim will be paid in the ordinary course of the bankruptcy proceeding.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the settlement agreement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *In re Imperial Home Decor Group, Inc., et al.,* D.J. No. 90–7–1–23/1.

The settlement agreement may be examined at the Office of the United States Attorney, Nemours Building, 1007 Orange Street, Suite 700, Wilmington, DE 19801, and at the Region I Office of the U.S. Environmental Protection Agency, One Congress Street, Suite 1100, Boston, MA 02114. During the public comment period, the settlement agreement also may be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/open.html.* A copy of the settlement agreement may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwoor@usdoj.gov*), fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $1.00 (25 cents per page reproduction cost) payable to the U.S. Treasury.

Ronald G. Gluck,

Assistant Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 06–1700 Filed 2–23–06; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act

In accordance with Departmental policy, 28 CFR 50.7, notice is hereby given that a proposed consent decree in *United States* v. *Ryder System, Inc.,* Civil Action No. C06–5072RJB, was lodged on February 8, 2006, with the United States District Court for the Western District of Washington. The consent decree requires defendant Ryder System, Inc. to compensate natural resources trustees for natural resource damages in Commencement Bay, Washington, resulting from releases of hazardous substances. The trustees are the State of Washington, the Puyallup Tribe of Indians, the Muckleshoot Indian Tribe, the National Oceanic and Atmospheric Administration of the United States Department of Commerce, and the United States Department of the Interior. Under the consent decree, defendant will pay $25,838.61 for natural resource damages and assessment costs.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General for the Environment and Natural Resources Division, Department of Justice, Washington, DC 20530, and should refer to *United States* v. *Ryder System, Inc.,* DOJ Ref. #90–11–2–1049/5.

The proposed consent decree may be examined at the office of the United States Attorney, 601 Union Street, Seattle, WA 98101. During the public comment period, the Consent Decree may be examined on the following Department of Justice Web site: *http://www.usdoj.gov/enrd/open.html,* and at the Consent Decree Library, PO Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing a request to Tonia Fleetwood, fax no. (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy please refer to the referenced case and enclose a check in the amount of $7.75 (25 cents per page reproduction costs), payable to the U.S. Treasury.

Robert E. Maher, Jr.,

Ass't Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 06–1698 Filed 2–23–06; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Antitrust Division

[Civil Action No. 2:06–0091]

United States v. Charleston Area Medical Center, Inc.; Complaint, Proposed Final Judgment and Competitive Impact Statement

Notice is hereby given pursuant to the Antitrust Procedures and Penalties Act, 15 U.S.C. 16(b) through (h), that a proposed Final Judgment, Stipulation, and Competitive Impact Statement have been filed with the United States District Court for the Southern District of West Virginia in *United States* v. *Charleston Area Medical Center, Inc.,* Civil Case No. 2:06–0091. On February 6, 2006, the United States filed a

Complaint alleging that, on April 17, 2002, Charleston Area Medical Center, Inc. (CAMC) entered into an agreement with HCA Inc. (HCA) that prevented HCA from developing a cardiac-surgery program in Raleigh County, West Virginia, in violation of Section One of the Sherman Act, 15 U.S.C. 1. The Complaint alleges that the agreement unreasonably restrained competition by effectively ensuring that no hospital in Raleigh County, West Virginia, would compete with CAMC to provide cardiac-surgery services. The proposed Final Judgment filed with the Complaint annuls the anticompetitive agreement and prohibits CAMC from entering into other agreements that allocate any cardiac-surgery service, market, territory, or customer. In addition, the proposed consent decree prevents CAMC from entering into any agreement that prohibits or restricts a healthcare facility from developing cardiac-surgery services unless CAMC receives the prior approval of the United States.

Copies of the Complaint, proposed Final Judgment, and Competitive Impact Statement are available for inspection at the Department of Justice, Antitrust Division, 325 7th Street, NW., Room 215, Washington, DC 20530 (telephone: 202/514–2481), on the Department of Justice's Web site at *http://www.usdoj.gov/atr,* and at the Office of the Clerk of the United States District Court for the Southern District of West Virginia, 300 Virginia Street E., Charleston, WV 25301.

Public comment is invited within 60 days of the date of this notice. Such comments, and responses thereto, will be published in the **Federal Register** and filed with the Court. Comments should be directed to Mark J. Botti, Chief, Litigation I Section, Antitrust Division, U.S. Department of Justice, 1401 H Street, NW., Suite 4000, Washington, DC 20530 (telephone: 202/307–0001).

Dorothy B. Fountain,

Deputy Director of Operations, Antitrust Division.

Complaint

The United States of America, by its attorneys and acting under the direction of the Attorney General of the United States, brings this civil antitrust action to obtain equitable relief against Defendant Charleston Area Medical Center, Inc. (CAMC). The United States alleges as follows:

I. Introduction

1. CAMC operates the largest cardiac-surgery program in West Virginia, the sixth largest such program in the United States, through facilities located in the city of Charleston, Kanawha County, West Virginia. At all times relevant to the matters alleged in this complaint, HCA Inc. (HCA) owned and operated Raleigh General Hospital (Raleigh General), located in the city of Beckley, Raleigh County, West Virginia. Raleigh General is located about 55 miles south of CAMC's cardiac-surgery facilities.

2. In an April 17, 2002 memorandum of understanding (the CAMC–HCA MOU), CAMC persuaded HCA to agree not to develop a competing cardiac-surgery program at Raleigh General. The CAMC–HCA MOU unreasonably restrained competition to the detriment of consumers by effectively ensuring that one of the most significant potential competitors in southern West Virginia would not compete with CAMC to provide cardiac-surgery services. The United States, through this suit, asks this court to enjoin the defendant from enforcing the anticompetitive provisions of the CAMC–HCA MOU and taking other actions that would restrain competition and injure consumers in violation of Section 1 of the Sherman Act, 15 U.S.C. 1.

II. Defendant

3. Charleston Area Medical Center, Inc. (CAMC) is a nonprofit corporation, organized and existing under the laws of the state of West Virginia, with its headquarters in Charleston, Kanawha County, West Virginia. CAMC owns and operates a 913-bed, tertiary, regional referral, teaching medical center located in Charleston, West Virginia. CAMC transacts business and offers health-care services to patients located in the Southern District of West Virginia.

II. Jurisdiction and Venue

4. The United States brings this action to prevent and restrain Defendant from continuing to violate Section 1 of the Sherman Act, 15 U.S.C. 1. The Court has subject-matter jurisdiction over this action pursuant to 15 U.S.C. 4 and 28 U.S.C. 1331, 1337, and 1345.

5. Defendant transacts business and has committed the unlawful act at issue in West Virginia. Consequently, this Court has jurisdiction over Defendants, and venue is proper in this District pursuant to 28 U.S.C. 1391(c) and 15 U.S.C. 22.

IV. Effects on Interestate Commerce

6. CAMC provides health-care services to individuals who reside outside of West Virginia. In addition, it contracts with managed-care and health-insurance providers located outside West Virginia to be included in their networks. These individuals and businesses remit substantial payments to CAMC. CAMC is engaged in, and its activities substantially affect, interstate commerce.

V. West Virginia's Certificate-of-Need Standards

7. The State of West Virginia requires that a hospital obtain a certificate of need (''CON'') from the West Virginia Health Care Authority before a hospital may provide cardiac-surgery services. The West Virginia Health Care Authority was formerly known as the West Virginia Health Care Cost Review Authoriy (collectively, ''WVHCA'').

8. On February 22, 2002, West Virginia revised the state standards for qualifying for a cardiac-surgery CON. These new standards (the ''February 2002 standards'') made it easier for hospitals to qualify for a cardiac-surgery CON by lowering the minimum number of medical procedures that a hospital needed to demonstrate that it had perfomed or would perform.

9. The February 2002 standards were structured in a way such that the WVHCA would most likely approve only one location for a cardiac-surgery program in a ''Southern West Virginia region'' defined to conist of six counties: McDowell, Mercer, Monroe, Raleigh, Summers, and Wyoming Counties. In February 2002, no hospital from this region competed against CAMC in offering cardiac-surgery services.

10. Under the February 2002 standards, the likely location of a new cardiac-surgery program in the Southern West Virginia region was one of Raleigh General, Princeton Community Hospital Association, Inc. (''Princeton Community Hospital''), or Bluefield Regional Medical Center, Inc. (''BRMC''). Princeton Community Hospital is located in Princeton, Mercer County, West Virginia, about 95 miles south of CAMC. BRMC is located in Bluefield, Mercer County, West Virginia about 105 miles south of CAMC.

VI. CAMC Persuades HCA Not To Compete

A. CAMC Acted To Prevent Raleigh General From Developing a Competing Cardiac-Surgery Program

11. After the February 2002 standards were issued, CAMC recognized that the WVHCA would likely approve a new cardiac-surgery program to be located either in Raleigh County at Raleigh General or in Mercer County at BRMC or Princeton Community Hospital.

12. CAMC wanted the new cardiac-surgery program to be located in Mercer County because a program in nearby Raleigh County would compete with

and take revenue away from CAMC to a much greater extent than a program in more distant Mercer County. CAMC's cardiac program was its most profitable program, contributing about $20 million in net profits per year, and the counties south of Charleston accounted for a large percentage of CAMC's cardiac-surgery business. In an April 2002 strategic plan, CAMC estimated that a cardiac-surgery program in Raleigh County would lower CAMC's net profits from $7 million to $12 million more per year than would a similar program in Mercer County. The same strategic plan estimated that a cardiac-surgery program in Raleigh County would draw 935 to 1780 patient procedures per year away from CAMC. Due to this potential loss in patients and profits, a 2001 CAMC strategic plan concluded that CAMC should ''fight aggressively'' to prevent a cardiac-surgery program in Raleigh County.

13. Preventing a competing cardiac-surgery program at Raleigh General was one of CAMC's key objectives. A June 7, 2001 presentation entitled ''Cardiovascular Network Project Executive Steering Group Meeting #1'' said that a possible CAMC market strategy for the Beckley area was to ''[f]ocus efforts on obtaining [an] open-heart CON for Bluefield/Princeton, and averting [a] CON for Raleigh General Hospital.'' A June 22, 2001 document entitled ''Open Heart Strategy Meeting'' said that one of CAMC's goals was to ''[p]revent open heart programs as our first priority; delay (except for Mercer County); maintain; then have the configuration we want for open heart services. If Parkersburg becomes inevitable, support Bluefield; *absolutely not* Beckley.'' (emphasis in original). Similarly, an August 2001 document entitled ''Cardiovascular Network Project Draft Report'' said that a possible market strategy for the ''Close-in South'' area was to ''fight [a] Beckley CON * * * [and] support [a] Princeton/Bluefield CON as a blocking strategy.''

14. If Raleigh General did obtain a cardiac-surgery CON, CAMC planned to compete more aggressively for cardiac-surgery patients in the Raleigh County area. One CAMC document says that CAMC planned to respond with ''aggressive strategies'' to compete with a Raleigh General cardiac-surgery program including placing CAMC cardiologists in Berkley. A CAMC executive has said that if Raleigh General ''were granted a certificate of need, we would be down there—it's only an hour away—we would be down there advertising and facilitating and probably even putting physicians down there to ensure that those patients came to Charleston instead of going to Raleigh General.'' CAMC did not plan to take similar measures in response to a new cardiac-surgery program in Mercer County.

15. In February 2002, CAMC initiated talks with HCA about a possible agreement relating to cardiac-surgery services in West Virginia. CAMC pursued an agreement with HCA to ensure that HCA would not develop a cardiac-surgery program at Raleigh General.

16. During these talks, HCA told CAMC that it desired CAMC's help to develop a cardiac-surgery program at HCA's St. Joseph's Hospital in Parkersburg, West Virginia and a therapeutic cardiac-catherization program at HCA's St. Francis Hospital in Charleston, West Virginia.

17. HCA's desire to obtain CAMC's support for the St. Joseph's and St. Francis programs presented CAMC with a strategic opportunity. CAMC realized that its support for the HCA St. Joseph's and St.Francis programs would make it significantly more likely that HCA would be able to attain the necessary CONs for those programs from the WVHCA. In negotiating the MOU, CAMC was able to induce HCA to agree not to develop a cardiac-surgery program at Raleigh General by making that non-competition agreement a condition for its support of HCA's St. Joseph's and St. Francis programs.

18. During the MOU negotiations, CAMC also rejected proposed language that would have reduced the time period during which Raleigh General could not develop a cardiac-surgery program.

19. CAMC's and HCA's talks resulted in the CAMC–HCA MOU, section 3 of which prevented HCA from developing a cardiac-surgery program at Raleigh General by committing HCA to develop a single cardiac surgery program in the Southern West Virginia region at either Princeton Community Hospital or BRMC for a period of three years. In exchange for HCA's agreement not to compete in Raleigh County, CAMC agreed to provide valuable support for HCA's efforts to provide cardiac-surgery services at HCA's St. Joseph's Hospital in Parkersburg and therapeutic cardiac-catheterization services at HCA's St. Francis Hospital in Charleston. CAMC did not need HCA's agreement not to compete in Raleigh County in order to agree to support HCA's programs at St. Joseph's and St. Francis.

20. CAMC wanted a program at Bluefield rather than Raleigh General because, as one CAMC executive stated, ''Raleigh General would pull more patients from Charleston Area Medical Center than a program in Bluefield.'' Another CAMC executive testified that the basic reason why CAMC obtained HCA's agreement not to apply for a CON at Raleigh General was because of the threat to CAMC of losing open-heart surgery patients coming from southern West Virginia.

B. Raleigh General Has Been a Significant Potential Competitor in Cardiac-Surgery Services

21. As discussed below, until Raleigh General signed the CAMC–HCA MOU, Raleigh General had been a significant potential competitor to CAMC in the market for cardiac-surgery services. Raleigh General has maintained a consistent and active interest in pursuing, and taken steps to secure, a cardiac-surgery program.

22. Hospitals often provide diagnostic cardiac-catherization services as a precursor to providing cardiac-surgery services. Raleigh General received a CON to provide diagnostic cardiac-catheterization services in January 1987 and has provided those services at all times relevant to the anticompetitive conduct alleged in this Complaint.

23. Raleigh General sought to offer cardiac-surgery services as early as July 1992, when it applied for a cardiac-surgery CON with the WVHCA. The WVHCA denied that application in July 1995 because Raleigh General was unable to show that it would perform the minimum number of procedures required by the then-existing state standards for granting cardiac-surgery CONs.

24. In 1999, representatives from Raleigh General continued their pursuit of a cardiac-surgery program by exploring the possibility of a joint venture with Princeton Community Hospital to provide cardiac-surgery services.

25. Raleigh General and Princeton Community Hospital engaged a consultant to determine whether Raleigh General or Princeton Community Hospital was a better location for a cardiac-surgery program. In a January 2000 report, the consultant concluded that ''[based upon the market, geographical location, physician support and referral patterns and clinical infrastructure and culture, Raleigh General Hospital is the recommended location for the cardiovascular surgical program.'' The two hospitals were ultimately unable to finalize a strategy for jointly pursuing a cardiac-surgery CON.

26. In the period leading up to the February 2002 changes to the state cardiac-surgery standards, Raleigh General remained interested in pursuing

a cardiac-surgery program and actively lobbied state officials to change the standards in such a way as to enable it to qualify for a cardiac-surgery CON.

27. After the February 2002 standards were revised to make it easier to obtain a cardiac-surgery CON, Raleigh General did not apply for a cardiac-surgery CON—despite its earlier active pursuit of such a CON—but instead entered into the CAMC–HCA MOU, which precluded Raleigh General from applying for a CON for three years.

28. In January 2003, BRMC and Princeton Community Hospital entered into two agreements that allocated cardiac surgery and cancer programs between themselves in violation of Section 1 of the Sherman Act, 15 U.S.C. 1. Also in January 2003, BRMC applied for a cardiac-surgery CON with CAMC and Princeton Community Hospital as joint applicants. The WVHCA approved BRMC's application in August 2003. Despite receiving a CON to offer cardiac-surgery services, BRMC has yet to begin offering cardiac-surgery services.

29. The United States challenged the BRMC and Princeton Community Hospital agreements in *United States* v. *Bluefield Regional Medical Center, Inc.,* Civil Action No. 1:05–0234 (S.D.W.V.) (Chief Judge Faber). The Final Judgment in that matter, entered on September 12, 2005, annulled BRMC's and Princeton Community Hospital's market-allocation agreements and enjoined the hospitals from agreeing to allocate any cancer or cardiac-surgery service, market, territory, or customer.

C. Future Anticompetitive Effects

30. The incentives that led CAMC to seek HCA's agreement not to compete at Raleigh General continue to exist today and may motivate CAMC to pursue similar anticompetitive agreements that would restrict or prevent potential or actual competition from area hospitals. CAMC remains the dominant provider of cardiac-surgery services for Kanawha, Raleigh, and other nearby counties and stands to lose significant patient revenue if area hospitals develop cardiac-surgery programs or expand existing programs. To protect this revenue, CAMC will likely oppose any future efforts of nearby hospitals to develop competing cardiac-surgery programs.

31. In particular, CAMC could again seek an agreement with HCA not to pursue a CON for cardiac surgery at Raleigh General. Raleigh General has retained an active interest in developing cardiac-surgery services in Beckley and continues to believe that Beckley is a better location for a cardiac-surgery center than Mercer County because Beckley is more accessible for the greatest number of patients. In the event that BRMC does not pursue its cardiac-surgery program or the State of West Virginia again amends its CON standards to permit another cardiac-surgery program in southern West Virginia, Raleigh General would again be a significant potential competitor for such a program. Fearing the loss of revenue from such a competing program, CAMC could again seek to prevent HCA from establishing a cardiac-surgery program at Raleigh General.

32. CAMC's use of the CAMC–HAC MOU to eliminate Raleigh General as a potential competitor prevented benefits that would have resulted from a cardiac-surgery program at Raleigh General. Those potential benefits to patients, managed-care plans, and employers include increased price competition resulting in lower prices, improved quality of cardiac-surgery services, the ability to choose Raleigh General as a provider of cardiac-surgery services, and increased innovation in cardiac-surgery services.

VII. Violation Alleged

33. The United States incorporates paragraphs 1 through 32.

34. The agreement between CAMC and HCA, embodied in the CAMC–HCA–MOU, constituted an agreement not to compete between an existing competitor and the most significant potential competitor after the February 2002 revisions to West Virginia's CON laws. The agreement unreasonably and unlawfully restrained trade and commerce in violation of Section 1 of the Sherman, Act 15 U.S.C. § 1.

VIII. Request for Relief

35. The United States requests that:

(a) The Court declare that section 3 of the CAMC–HCA–MOU violates Section 1 of the Sherman Act, 15 U.S.C. 1;

(b) The Court enter an order enjoining the Defendant from

(1) Enforcing section 3 of the CAMC–HCA–MOU;

(2) Entering into, continuing, maintaining, or enforcing any agreement to allocate any cardiac-surgery service, market, territory, or customer; and

(3) Entering into, continuing, maintaining, or enforcing any agreement that

(i) Prohibits or restricts a health-care facility from obtaining a certificate of need relating to cardiac surgery or

(ii) Otherwise prohibits or restricts a health-care facility from taking actions related to providing cardiac surgery;

(c) The United States recover the cost of this action; and

(d) The United States have such other relief as the Court may deem just and proper to redress, and prevent recurrence of, the alleged violation and to dissipate the anticompetitive effects of the Defendant's actions.

Dated: February 6, 2006.

For the Plaintiff United States of America

Thomas O. Barnett,
Acting Assistant Attorney General.

J. Bruce McDonald,
Deputy Assistant Attorney General.

Dorothy B. Fountain,
Deputy Director of Operations.

Mark J. Botti,
Chief, Litigation I Section.

Peter J. Mucchetti, Mitchell H. Glende,
Attorneys for the United States, Antitrust Division, United States Department of Justice, 1401 H Street, NW., Suite 4000. Washington, DC 20530. Telephone: (202) 353–4211. Facsimile: (202) 307–5802.

Charles T. Miller,
Acting United States Attorney.

By: Kelly R. Curry,
Assistant United States Attorney.

Certificate of Service

I hereby certify that I served a copy of the foregoing Complaint, Competitive Impact Statement, Explanation of Consent Decree Procedures, Stipulation, and Proposed Final Judgment via first class, United States mail on February 6, 2006.

For Defendant Charleston Area Medical center, Inc.,

Robert McCann, Esq.
Gardner Carton & Douglas, LLP, 1301 K Street, NW., Suite 900, East Tower, Washington, DC 20005.

Kelly R. Curry,
Assistant United States Attorney.

Final Judgment

Whereas, Plaintiff, the United States of America, filed its Complaint on February 6, 2006 alleging that Defendant, Charleston Area Medical Center, Inc. entered into an agreement with HCA Inc. in violation of Section I of the Sherman Act, 15 U.S.C. 1, and Plaintiff and Defendant, by their respective attorneys, have consented to the entry of this Final Judgment without trial or adjudication of any issue of fact or law, and without this Final Judgment constituting any evidence against, or any admission by, any party regarding any such issue of fact or law;

And Whereas, Defendant agrees to be bound by this Final Judgment pending its approval by this Court;

And Whereas, the essence of this Final Judgment is to enjoin the Defendant from entering into

agreements that prevent actual or potential competitors from providing certain medical services;

And Whereas, the United States requires Defendant to agree to certain procedures and prohibitions for the purpose of preventing the loss of competition alleged in the Complaint;

Now therefore, before any testimony is taken, without trial or adjudication of any issue of fact or law, and upon consent of the parties, it is Ordered, Adjudged and Decreed:

I. Jurisdiction

This Court has jurisdiction over the Defendant and subject matter of this action. The Complaint states a claim upon which relief may be granted against Defendant under Section 1 of the Sherman Act, as amended (15 U.S.C. 1).

II. Definitions

As used in this Final Judgment (whether or not such terms are capitalized herein):

A. ''Agreement'' means any kind of formal or informal agreement, arrangement, contract, understanding, memorandum of understanding, interim contract, contract appendix, addendum, attachment, amendment, waiver, or modification. Agreements that solely concern patient-treatment protocols or the transfer of patients as necessary to obtain patient care that is unavailable at the transferring health-care facility shall not be deemed an agreement within the scope of this Final Judgment.

B. ''CAMC'' means Defendant, Charleston Area Medical Center, Inc., a non-profit corporation organized and existing under the laws of the State of West Virginia with its headquarters in Charleston, Virginia, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

C. ''CAMC–HCA MOU'' means the document dated April 17, 2002 between CAMC and HCA entitled ''Memorandum of Understanding.''

D. ''Cardiac Surgery'' means surgery on the heart or major blood vessels of the heart (including both open and closed heart surgery) and therapeutic cardiac catheterization. This term includes any service, equipment, technology, or modality relating to the provision of cardiac surgery, but does not include any diagnostic cardiac service (including diagnostic cardiac catheterization). This term does not include any service, equipment, technology, or modality generally provided to hospital patients, such as laboratory, nursing, or social services.

E. ''Certificate of Need'' means certificate of need as recognized by the State of West Virginia (W. Va. Code § 16–2D–1 *et seq.*).

F. ''HCA'' means HCA Inc., a for-profit corporation organized and existing under the laws of the State of Delaware with its headquarters in Nashville, Tennessee, its successors and assigns, and its subsidiaries, divisions, groups, affiliates, partnerships and joint ventures, and their directors, officers, managers, agents, and employees.

G. ''Health-Care Facility'' means any facility providing health-care services, including hospitals, hospital-owned or managed physician practices, ambulatory-care centers, clinics, urgent-care centers, free-standing emergency-care centers, and ambulatory-surgery centers.

H. ''Right of First Offer'' means an agreement in which a health-care facility grants CAMC the exclusive right, for a period not exceeding ninety days in duration, to make and negotiate an offer to provide cardiac-surgery services under a joint venture or other cooperative arrangement with such facility, provided that the health-care facility is not (a) obligated to accept any offer from CAMC and (b) prohibited from providing cardiac-surgery services in the event it declines an offer from CAMC.

I. The terms ''and'' and ''or'' have both conjunctive and disjunctive meanings.

III. Applicability

This Final Judgment applies to CAMC, as defined above, and all other persons in active concert or participation with any of them who receive actual notice of this Final Judgment by personal service or otherwise.

IV. Prohibited Conduct

A. CAMC is enjoined from enforcing all or any part of section 3 of the CAMC–HCA MOU, which section is entitled ''Cooperative Development of Cardiac Surgery in the Southern West Virginia Region.'' CAMC's obligations under this Final Judgment supersede its obligations under section 3 of the CAMC–HCA MOU, and CAMC shall not object to the performance of its obligations under this Final Judgment on the grounds that those obligations would cause it to breach section 3 of the MOU.

B. Without prior notice to and prior written approval of the United States, which approval will not be withheld or delayed unreasonably, CAMC is enjoined from, in any manner, directly or indirectly, entering into, continuing, maintaining, or enforcing any agreement with a health-care facility that (1) Allocates any cardiac-surgery service, market, territory, or customer; (2) prohibits or restricts such health-care facility from applying for a certificate of need to offer, maintain, or expand cardiac-surgery services; or (3) otherwise prohibits or restricts such health-care facility from providing cardiac surgery. Nothing in this Final Judgment, however, shall require CAMC to provide separate notice with respect to any agreement for which notice is given to the United States pursuant to the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended, 15 U.S.C. 18a.

V. Permitted Conduct

Nothing in this Final Judgment shall prohibit CAMC from:

A. Entering into, continuing, maintaining, or enforcing an agreement for a right of first offer;

B. Agreeing to collaborate with a health-care facility to enable such facility to provide therapeutic cardiac catherization services pursuant to a Demonstration Pilot Project, as authorized by and approved under the certificate of need standards of the State of West Virginia;

C. Lobbying petitioning, or otherwise seeking to influence the decisions or actions of any member or agency of the legislative or executive branches of the government of the State of West Virginia or the United States;

D. Opposing the certificate of need application or rate filing of another health-care facility relating to the provision of cardiac-surgery services or formally challenging the decision to approve such a certificate of need or rate filing; or

E. Making public or private statements about the provision of cardiac-surgery services.

VI. Compliance Inspection

A. For the purposes of determining or securing compliance with this Final Judgment, or of determining whether the Final Judgment should be modified or vacated, and subject to any legally recognized privilege, from time to time duly authorized representatives of the United States Department of Justice, including consultants and other persons retained or designated thereby, shall, upon written request of a duly authorized representative of the Assistant Attorney General in charge of the Antitrust Division and on reasonable notice to Defendant, be permitted:

1. Access during Defendant's office hours to inspect and copy, or at the United States' option, to require that

Defendant provide copies of, all books, ledgers, accounts, records and documents in their possession, custody, or control relating to any matters contained in this Final Judgment; and

2. To interview, either informally or on the record, Defendant's officers, employees, or agents, who may have their individual counsel present, regarding such matters. The interviews shall be subject to the reasonable convenience of the interviewee and without restraint or interference by Defendant.

B. Upon the written request of a duly authorized representative of the Assistant Attorney General in charge of the Antitrust Division, Defendant shall submit written reports and interrogatory responses, under oath if requested, relating to any of the matters contained in this Final Judgment as may be requested.

C. No information or documents obtained by the means provided in this section shall be divulged by Plaintiff to any person other than an authorized representative of the executive branch of the United States except in the course of legal proceedings to which the United States is a party (including grand jury proceedings), or for the purpose of securing compliance with this Final Judgment, or as otherwise required by law.

D. If at the time Defendant furnishes information or documents to the United States, Defendant represents and identifies in writing the material in any such information or documents to which a claim of protection may be asserted under Rule 26(c)(7) of the Federal Rules of Civil Procedure, and marks each pertinent page of such material, ''Subject to claim of protection under Rule 26(c)(7) of the Federal Rules of civil Procedure,'' then the United States shall give Defendant ten calendar days notice prior to divulging such material in any legal proceeding (other than a grand jury proceeding).

VII. Retention of Jurisdiction

This Court retains jurisdiction to enable any party to this Final Judgment to apply to this Court at any time for further orders and directions as may be necessary or appropriate to carry out or construe this Final Judgment, to modify any of its provisions, to enforce compliance, and to punish violations of its provisions.

VIII. Expiration of Final Judgment

Unless this Court grants an extension, this Final Judgment shall expire ten years from the date of its entry.

IX. Correspondence

CAMC shall provide notice and seek prior written approval as contemplated by this Final Judgment by sending correspondence to Chief, Litigation I, Antitrust Division, United States Department of Justice, 1401 H Street, NW., Suite 4000, Washington, DC 20530, or such other address as the United States shall designate.

X. Public Interest Determination

Entry of this Final Judgment is in the public interest.

Court approval subject to procedures of Antitrust Procedures and Penalties Act, 15 U.S.C. 16

United States District Judge

Competitive Impact Statement

The United States of America, pursuant to Section 2(b) of the Antitrust Procedures and Penalties Act, (''APPA''), 15 U.S.C. 16(b)(–(h), files this Competitive Impact Statement relating to the proposed Final Judgment submitted for entry in this civil antitrust proceeding.

I. Nature and Purpose of the Proceeding

On February 6, 2006, the United States field a civil antitrust Complaint alleging that Charleston Area Medical Center, Inc. (CAMC) had violated Section 1 of the Sherman Act, 15 U.S.C. 1. CAMC operates the largest cardiac-surgery program in West Virginia, and the sixth largest such program in the United States, through facilities located in Charleston, West Virginia. HCA Inc. (HCA) owns and operates Raleigh General Hospital (Raleigh General), located in the city of Beckley, Raleigh County, West Virginia. Raleigh General is located about 55 miles south of CAMC's cardiac-surgery facilities.

The Complaint alleges that, in an April 17, 2002 memorandum of understanding (the CAMC–HCA MOU), CAMC persuaded HCa to agree not to develop a competing cardiac-surgery program at Raleigh General. The CAMC–HCA MOU unreasonably restrained competition to the detriment of consumers by effectively ensuring that no hospital in Raleigh County, West Virginia would compete with CAMC to provide cardiac-surgery services. With the Complaint, the United States and CAMC filed an agreed-upon proposed Final Judgment that prohibits CAMC from enforcing the anticompetitive portion of the CAMC–HCA MOU and forming new agreements that would reduce competition in cardiac-surgery services.

The United States and CAMC have agreed that the proposed Final Judgment may be entered after compliance with the APPA, provided that the United States has not withdrawn its consent. Entry of the Final Judgment would terminate the action, except that the Court would retain jurisdiction to construe, modify, or enforce the Final Judgment's provisions and to punish violations thereof.

II. Description of Practices and Events Giving Rise to the Alleged Violations of the Antitrust Laws

A. West Virginia's Certificate-of-Need Standards

The State of West Virginia requires that a hospital obtain a certificate of need (''CON'') from the West Virginia Health Care Authority before a hospital may provide cardiac-surgery services. The West Virginia Health Care Authority was formerly known as the West Virginia Health Care Cost Review Authority (collectively, ''WVHCA)''.

On February 22, 2002, West Virginia revised the state standards for qualifying for a cardiac-surgery CON. The4se new standards (the February 2002 standards) made it easier for hospitals to qualify for a cardiac-surgery CON by lowering the minimum number of medical procedures that a hospital needed to demonstrate that it had performed or would perform.

The February 2002 standards were structured in a way such that the WVHCA would most likely approve one and only one location for a cardiac-surgery program in a ''''Southern Western Virginia region'' defined to consist of six counties. At this time, no hospital from this region competed against CAMC in offering cardiac surgery services.

Under the February 202 standards, the only likely location of a new cardiac-surgery program in the Southern West Virginia region was at eigther Raleigh General, Princeton Community Hospital Association, Inc. (Princeton Community Hospital), or Bluefield Regional Medical Center, Inc. (BRMC). Princeton Community Hospital is located in Princeton, Mercer County, West Virginia, about 40 miles south of Raleigh General. BRMC is located in Bluefield, Mercer County, West Virginia, abuot 50 miles south of Raleigh General.

B. CAMC Acted To Prevent Raleigh Geneal From Developing a Competing Cardiac-Surgery Program

After the February 2002 standards were issued, CAMC recognized that the WVHCA would likely approve a new

cardiac-surgery program to be located either in Raleigh County at Raleigh General or in Mercer Cuonty at BRMC or Princeton Community Hospital. CAMC wated the new cardiac-surgery program to be located in Mercer County and not at Raleigh General because a program in Raleigh County wuold compete with and take revenue away from CAMC to a much greater extent than a program in Mercer County.

In February 2002, CAMC initiated talks with HCA about a possible agreement relating to cardiac-surgery services in West Virginia. A significant reason why CAMC pursued an agreement with HCA was to ensure that HCA would not develop a Cardiac-surgery program at Raleigh General. During the MOU negotiations with HCA, CAMC insisted on including language in the CAMC–HCA MOU that was designed to prevent Raleigh General from developing a cardiac-surgery program. CAMC also rejected proposed language that would have reduced the time period during which Raleigh General could not develop a cardiac-surgery program.

CAMC's and HCA's discussions resulted in the CAMC–HCA MOU, which prevented HCA from developing a cardiac-surgery program at Raleigh General by committing HCA to develop a single cardiac-surgery program in the Southern West Virginia region at either Princeton Community Hospital or BRMC for a period of three years. In exchange for HCA's agreement not to compete in Raleigh County, CAMC agreed to provide valuable support for HCA's efforts to provide cardiac-surgery services at HCA's St. Joseph's Hospital in Parkersburg, West Virginia and therapeutic cardiac-catheterization services at HCA's St. Francis Hospital in Charleston, West Virginia. CAMC did not need HCA's agreement not to compete in Raleigh County in order to agree to support HCA's programs at St. Joseph's and St. Francis.

CAMC wanted a program at BRMC rather than Raleigh General because, as one CAMC executive stated, ''Raleigh General would pull more patients from Charleston Area Medical Center than a program in Bluefield.'' Another CAMC executive testified that the basic reason why CAMC obtained HCA's agreement not to apply for a CON at Raleigh General was because of the threat to CAMC of losing open-heart surgery patients coming from southern West Virginia.

C. Raleigh General Had Been a Significant Potential Competitor in Cardiac-Surgery Services

Until Raleigh General signed the CAMC–HCA MOU, Raleigh General had been a significant potential competitor to CAMC in the market for cardiac-surgery services. Raleigh General had maintained a consistent and active interest in pursuing, and had taken steps to pursue, a cardiac-surgery program.

Raleigh General sought to offer cardiac-surgery services as early as July 1992, when it applied for a cardiac-surgery CON with the WVHCA. The WVHCA denied that application in July 1995 because Raleigh General was unable to show that it would perform the minimum number of procedures required by the then-existing state standards for granting cardiac-surgery CONs.

Despite the WVHCA's denial of Raleigh General's CON application, representatives from Raleigh General continued their pursuit of a cardiac-surgery program by exploring the possibility of a joint venture with Princeton Community Hospital to provide cardiac-surgery services. Raleigh General and Princeton Community Hospital engaged a consultant to determine whether Raleigh General or Princeton Community Hospital was a better location for a cardiac-surgery program. In a January 2000 report, the consultant concluded that ''[b]ased upon the market, geographical location, physician support and referral patterns and clinical infrastructure and culture, Raleigh General Hospital is the recommended location for the cardiovascular surgical program.'' The two hospitals were ultimately unable to finalize a strategy for jointly pursuing a cardiac-surgery CON.

In the period leading up to the February 2002 changes to the state cardiac-surgery standards, Raleigh General remained interested in pursuing a cardiac-surgery program and actively lobbied state officials to change the standards in such a way as to enable it to qualify for a cardiac-surgery CON. After the February 2002 standards were revised to make it easier to obtain a cardiac-surgery CON, Raleigh General did not apply for a cardiac-surgery CON—despite its earlier active pursuit of such a CON—but instead entered into the CAMC–HCA MOU, which precluded Raleigh General from applying for a cardiac-surgery CON for three years.

III. Explanation of the Proposed Final Judgment

The proposed Final Judgment would enjoin CAMC from enforcing the portion of the CAMC–HCA MOU that prevents HCA from developing a cardiac-surgery program in Raleigh County. Unless CAMC gives prior notice to and receives the prior written approval of the United States, CAMC also would be enjoined from entering into, continuing, maintaining, or enforcing any agreement with a health-care facility that (1) Allocates any cardiac-surgery service, market, territory, or customer; (2) prohibits or restricts such health-care facility from applying for a certificate of need to offer, maintain, or expand cardiac-surgery services; or (3) otherwise prohibits or restricts such health-care facility from providing cardiac surgery. The effect of the proposed Final Judgment would be to restore competition between CAMC and Raleigh General that the CAMC–HCA MOU eliminated, and to prevent CAMC from engaging in similar anticompetitive conduct in the future.

IV. Remedies Available to Potential Private Litigants

Section 4 of the Clayton Act, 15 U.S.C. 15, provides that any person who has been injured as a result of conduct prohibited by the antitrust laws may bring suit in federal court to recover three times the damages suffered, as well as costs and reasonable attorney's fees. Entry of the proposed Final Judgment will neither impair nor assist the bringing of such actions. Under the provisions of Section 5(a) of the Clayton Act, 15 U.S.C. 16(a), the Final Judgment has no prima facie effect in any subsequent lawsuits that may be brought against the Defendant.

V. Procedures Available for Modifications of the Proposed Final Judgment

The United States and the Defendant have stipulated that the proposed Final Judgment may be entered by the Court after compliance with the provisions of the APPA, provided that the United States has not withdrawn its consent. The APPA conditions entry upon the Court's determination that the proposed Final Judgment is in the public interest.

The APPA provides a period of at least sixty days preceding the effective date of the proposed Final Judgment within which any person may submit to the United States written comments regarding the proposed Final Judgment. Any person who wishes to comment should do so within sixty days of the date of publication of this Competitive

Impact Statement in the Federal Register. All comments received during this period will be considered by the Department of Justice, which remains free to withdraw its consent to the proposed Final Judgment at any time prior to the Court's entry of judgment. The comments and the response of the United States will be filed with the Court and published in the **Federal Register**.

Written comments should be submitted to: Mark J. Botti, Chief, Litigation I Section, Antitrust Division, United States Department of Justice, 1401 H Street, NW., Suite 4000, Washington, DC 20530.

The proposed Final Judgment provides that the Court retains jurisdiction over this action, and the parties may apply to the Court for any order necessary or appropriate for the modification, interpretation, or enforcement of the Final Judgment.

VI. Alternatives to the Proposed Final Judgment

The United States considered, as an alternative to the proposed Final Judgment, a full trial on the merits against defendant CAMC. The United States is satisfied, however, that the Final Judgment, with its prohibition on anticompetitive conduct, will more quickly achieve the primary objectives of a trial on the merits—reestablishing competition between CAMC and HCA.

VII. Standard of Review Under the APPA for the Proposed Final Judgment

The APPA requires that proposed consent judgments in antitrust cases brought by the United States be subject to a sixty-day comment period, after which the Court shall determine whether entry of the proposed Final Judgment ''is in the public interest.'' 15 U.S.C. 16(e)(1). In making that determination, the Court shall consider:

(A) The competitive impact of such judgment, including termination of alleged violations, provisions for enforcement and modification, duration of relief sought, anticipated effects of alternative remedies actually considered, whether its terms are ambiguous, and any other competitive considerations bearing upon the adequacy of such judgment that the court deems necessary to a determination of whether the consent judgment is in the public interest; and

(B) The impact of entry of such judgment upon competition in the relevant market or markets, upon the public generally and individuals alleging specific injury from the violations set forth in the complaint including consideration of the public benefit, if any, to be derived from a determination of the issues at trial.

15 U.S.C. 16(e)(1)(A) and (B). As the United States Court of Appeals for the District of Columbia Circuit has held, the APPA permits a court to consider, among other things, the relationship between the remedy secured and the specific allegations set forth in the government's complaint, whether the decree is sufficiently clear, whether enforcement mechanisms are sufficient, and whether the decree may positively harm third parties. *See United States* v. *Microsoft Corp.,* 56 F.3d 1448, 1458–62 (D.C. Cir. 1995).

''Nothing in this section shall be construed to require the court to conduct an evidentiary hearing or to require the court to permit anyone to intervene.'' 15 U.S.C. 16(e)(2). Thus, in conducting this inquiry, ''[t]he court is nowhere compelled to go to trial or to engage in extended proceedings which might have the effect of vitiating the benefits of prompt and less costly settlement through the consent decree process.'' 119 Cong. Rec. 24,598 (1973) (statement of Senator Tunney) [1] Rather:

[a]bsent a showing of corrupt failure of the government to discharge its duty, the Court, in making its public interest finding, should * * * carefully consider the explanations of the government in the competitive impact statement and its responses to comments in order to determine whether those explanations are reasonable under the circumstances.

United States v. *Mid-America Dairymen, Inc.* 1977–1 Trade Cas. (CCH) ¶ 61,508, at 71, 980 (W.D. Mo. 1977).

Accordingly, with respect to the adequacy of the relief secured by the decree, a court may not ''engage in an unrestricted evaluation of what relief would best serve the public.'' *United States* v. *BNS, Inc.,* 858 F.2d 456, 462 (9th Cir. 1988) (citing *United States* v. *Bechtel Corp.,* 648 F.2d 660, 666 (9th Cir. 1981)); *see* also *Microsoft,* 56 F.3d at 1460–62. Courts have held that:

[t]he balance of competing social and political interests affected by a proposed antitrust consent decree must be left, in the first instance, to the discretion of the Attorney General. The court's role in protecting the public interest is one of insuring that the government has not breached its duty to the public in consenting to the decree. The court is required to determine not whether a particular decree is the one that will best serve society, but whether the settlement is *''within the reaches of the public interest.''* More elaborate requirements might undermine the effectiveness of antitrust enforcement by consent decree.

Bechtel, 648 F.2d at 666 (emphasis added) (citations omitted) [2]

The proposed Final Judgment, therefore, should not be reviewed under a standard of whether it is certain to eliminate every anticompetitive effect of a particular practice or whether it mandates certainty of free competition in the future. Court approval of a final judgment requires a standard more flexible and less strict than the standard required for a finding of liability. ''[A] proposed decree must be approved even if it falls short of the remedy the court would impose on its own, as long as it falls within the range of acceptability or is 'within the reaches of public interest.' '' *United States* v. *AT&T,* 552 F. Supp. 131, 151 (D.D.C. 1982) (citations omitted) (quoting *Gillette,* 406 F. Supp. at 716), *aff'd sub nom. Maryland* v. *United States,* 460 U.S. 1001 (1983); *see* also *United States* v. *Alcan Aluminum Ltd.,* 605 F. Supp. 619, 622 (W.D. Ky. 1985) (approving the consent decree even though the court would have imposed a greater remedy).

Moreover, the Court's role under the APPA is limited to reviewing the remedy in relationship to the violations that the United States has alleged in its Complaint; the APPA does not authorize the Court to ''construct [its] own hypothetical case and then evaluate the decree against that case.'' *Microsoft,* 56 F.3d at 1459. Because the ''court's authority to review the decree depends entirely on the government's exercising its prosecutorial discretion by bringing a case in the first place,'' it follows that ''the court is only authorized to review the decree itself,'' and not to ''effectively redraft the complaint'' to inquire into other matters that the United States did not pursue. *Id.* at 1459–60.

VIII. Determinative Documents

There are no determinative materials or documents within the meaning of the

[1] *See United States* v. *Gillette Co.,* 406 F. Supp. 713, 716 (D. Mass. 1975) (recognizing it was not the court's duty to settle; rather, the court must only answer ''whether the settlement achieved [was] within the reaches of the public interest''). A ''public interest'' determination can be made properly on the basis of the Competitive Impact Statement and Response to Comments filed by the Department of Justice pursuant to the APPA. Although the APPA authorizes the use of additional procedures, 15 U.S.C. 16(f), those procedures are discretionary. A court need not invoke any of them unless it believes that the comments have raised significant issues and that further proceedings would aid the court in resolving those issues. See H.R. Rep. No. 93–1463, 93rd Cong., 2d Sess. 8–9 (1974), *reprinted* in 1974 U.S.C.C.A.N. 6535, 6538.

[2] Cf. *BNS,* 858 F.2d at 464 (holding that the court's ''ultimate authority under the [APPA] is limited to approving or disapproving the consent decree''); *Gillette,* 406 F. Supp. at 716 (noting that, in this way, the court is constrained to ''look at the overall picture not hypercritically, nor with a microscope, but with an artist's reducing glass''). *See generally Microsoft,* 56 F.3d at 1461 (discussing whether ''the remedies [obtained in the decree are] so inconsonant with the allegations charged as to fall outside of the 'reaches of the public interest' '').

APPA that were considered by the United States in formulating the proposed Final Judgment.

Dated: February 6, 2006.

Respectfully submitted,

Peter J. Mucchetti,
Mitchell H. Glende,
Attorneys for the United States, United States Department of Justice, 1401 H Street, NW., Suite 4000, Washington, DC 20530. Telephone: (202) 353–4211. Facsimile: (202) 307–5802.

Charles T. Miller,
Acting United States Attorney.

Kelly R. Curry,
Assistant United States Attorney.

[FR Doc. 06–1696 Filed 2–23–06; 8:45am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Application

Pursuant to 21 U.S.C. 958(i), the Attorney General shall, prior to issuing a registration under this Section to a bulk manufacturer of a controlled substance in Schedules I or II and prior to issuing a regulation under 21 U.S.C. 952(a)(2)(B) authorizing the importation of such a substance, provide manufacturers holding registrations for the bulk manufacture of the substance an opportunity for a hearing.

Therefore, in accordance with 21 CFR 1301.34(a), this is notice that on September 2, 2005, JFC Technologies, LLC., 100 West Main Street, P.O. Box 669, Bound Brook, New Jersey 08805, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of Meperidine intermediate-B (9233), a basic class of controlled substance listed in Schedule II.

The company plans to import the basic class of controlled substance for the production of other controlled substances for distribution to its customers.

Any manufacturer who is presently, or is applying to be, registered with DEA to manufacture such basic classes of controlled substances may file comments or objections to the issuance of the proposed registration and may, at the same time, file a written request for a hearing on such application pursuant to 21 CFR 1301.43 and in such form as prescribed by 21 CFR 1316.47.

Any such written comments or objections being sent via regular mail may be addressed, in quintuplicate, to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, Washington, DC 20537, Attention: DEA Federal Register Representative, Liaison and Policy Section (ODL); or any being sent via express mail should be sent to DEA Headquarters, Attention: DEA Federal Register Representative/ODL, 2401 Jefferson-Davis Highway, Alexandria, Virginia 22301; and must be filed no later than March 27, 2006.

This procedure is to be conducted simultaneously with and independent of the procedures described in 21 CFR 1301.34(b), (c), (d), (e) and (f). As noted in a previous notice published in the **Federal Register** on September 23, 1975, (40 FR 43745–46), all applicants for registration to import a basic class of any controlled substance listed in Schedules I or II are, and will continue to be required to demonstrate to the Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration, that the requirements for such registration pursuant to 21 U.S.C. 958(a), 21 U.S.C. 823(a), and 21 CFR 1301.34(b), (c), (d), (e) and (f) are satisfied.

Dated: February 16, 2006.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E6–2645 Filed 2–23–06; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Bureau of Prisons

[AAG/A Order No. 001–2006]

Privacy Act of 1974; Modification to System of Records

Pursuant to the Privacy Act of 1974 (5 U.S.C. 552a), notice is given that the Federal Bureau of Prisons (BOP) is making a minor modification to its system of records notice entitled ''Telephone Activity Record System, JUSTICE/BOP–011''. This system notice was last published on April 8, 2002 (67 FR 16762).

The BOP is revising the system's provision for ''Retention and Disposal'' to include retention and disposal of digital recordings. This minor change does not require an opportunity for public comment or notification of Congress and the Office of Management and Budget. The modification will be effective on the date of publication in the **Federal Register**.

The language of the minor modification is provided below.

February 15, 2006.

Michael H. Allen,

Acting Assistant Attorney General for Administration.

JUSTICE/BOP–011

SYSTEM NAME:

Telephone Activity Record System.

* * * * *

RETENTION AND DISPOSAL:

With the exception of audiotapes and digital recordings, automated records in this system are maintained on magnetic medium ordinarily for six years from the date created, at which time they will be overwritten with new data. Paper documents are maintained for a period of 30 years from expiration of sentence of the inmate, at which time they are destroyed by shredding. Audiotapes and digital recordings are maintained ordinarily for six months from the date created, at which time they are overwritten with new data.

* * * * *

[FR Doc. E6–2678 Filed 2–23–06; 8:45 am]

BILLING CODE 4410–05–P

DEPARTMENT OF LABOR

Office of the Secretary

Submission for OMB Review: Comment Request

February 16, 2006.

The Department of Labor (DOL) has submitted the following public information collection requests (ICR) to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. chapter 35). A copy of 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 Occupational Safety and Health Administration (OSHA), 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: Occupational Safety and Health Administration.
Type of Review: Extension of currently approved collection.
Title: Hazardous Waste Operations and Emergency Response (Hazwoper) (29 CFR 1910.120).
OMB Number: 1218–0202.
Frequency: On occasion.
Type of Response: Recordkeeping and Third party disclosure.
Affected Public: Business or other for-profit; Not-for-profit institutions; Federal Government; and State, local, or tribal government.
Number of Respondents: 35,529.
Number of Annual Responses: 1,198,868.
Estimated Time per Response: Varies from one minute to maintain a certification record to 24 hours for initial employee training.
Total Burden Hours: 1,235,602.
Total Annualized capital/startup costs: $0.
Total Annual Costs (operating/maintaining systems or purchasing services): $3,350,750.
Description: The standard specifies a number of collection of information (paperwork) requirements. Employers can use the information collected under the HAZWOPER rule to develop the various programs the standard requires and to ensure that their employees are trained properly about the safety and health hazards associated with hazardous waste operations and emergency response to hazardous waste releases. OSHA uses the records developed in response to this standard to find adequate compliance with the safety and health provisions. The employer's failure to collect and distribute the information required in this standard will affect significantly OSHA's effort to control and reduce injuries and fatalities.

Ira L. Mills,
Departmental Clearance Officer.
[FR Doc. E6–2665 Filed 2–23–06; 8:45 am]
BILLING CODE 4510–26–P

DEPARTMENT OF LABOR

Office of the Secretary

Correction Notice; Submission for OMB Review: Comment Request

February 16, 2006.

The Department of Labor (DOL) has submitted the following public information collection request (ICR) to the Office of Management and Budget (OMB) on February 8, 2005 for review and approval in accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, 44 U.S.C. Chapter 35). This notice corrects the title and ETA Form numbers previously incorrectly referenced in the **Federal Register** Notice of February 14, 2006. The new ETA forms are the ETA 9060 and the ETA 9061. A copy of this ICR, with applicable supporting documentation, may be obtained by calling the Department of Labor. To obtain documentation contact Ira Mills on 202–693–4122 (this is not a toll-free number) or E-Mail: *Mills.Ira@dol.gov.*

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: New Collection.
Title: Reemployment and Eligibility Assessment Program
OMB Number: 1205–NEW.
Frequency: Quarterly.
Affected Public: State, Local or Tribal governments.
Type of Response: Reporting.
Number of Respondents: 53.
Annual Responses: 424.
Average Response time: 30 minutes.
Total Annual Burden Hours: 212.
Total Annualized Capital/Startup Costs: 0.
Total Annual Costs (operating/maintaining systems or purchasing services): 0.
Description: The Secretary has interpreted the law to authorize DOL to prescribe standard definitions, methods and procedures, and reporting requirements for the collection of information on benefit payment accuracy and the reemployment of UI benefit recipients to ensure the verification of these data. The ETA 9060 report provides a count of the claimants who were referred to the Reemployment and Eligibility Assessment (REA) program and a count of those who completed the services. The ETA 9061 report provides the subsequent collection of outcome data which is a useful management tool for monitoring the success of the REA program in the state.

Ira L. Mills,
Departmental Clearance Officer.
[FR Doc. E6–2668 Filed 2–23–06; 8:45 am]
BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. ICR–1218–0170(2006)]

Standard on 1,3–Butadiene; Extension of the Office of Management and Budget's Approval of Information Collection Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.
ACTION: Request for public comment.

SUMMARY: OSHA solicits public comment concerning its request for an extension of the information collection (paperwork) requirements contained in the 1,3–Butadiene Standard (29 CFR 1910.1051).

DATES: Comments must be submitted by the following dates:
Hard copy: You comments must be submitted (postmarked or received) by April 25, 2006.
Facsimile and electronic transmission: Your comments must be received by April 25, 2006.

ADDRESSES: You may submit comments, identified by OSHA Docket No. ICR–1218–0170(2006), by any of the following methods.

Regular mail, express delivery, hand delivery, and messenger service: Submit your comments and attachments to the OSHA Docket Office, Room N–2625, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2350 (OSHA's TTY number is (877) 889–5627). OSHA Docket Office and Department of Labor hours are 8:15 a.m. to 4:45 p.m., e.t.

Facsimile: If your comments are 10 or fewer pages, including attachments, you may fax them to the OSHA Docket Office at (202) 693–1648.

Electronic: You may submit comments through the Internet at *http://ecomments.osha.gov.* Follow instructions on the OSHA Web page for submitting comments.

Docket: For access to the docket to read or download comments or background materials, such as the complete Information Collection Request (ICR) (containing the Supporting Statement, OMB–83–I Form, and attachments), go to OSHA's Web page at *http://www.OSHA.gov.* In addition, the ICR, comments and submissions are available for inspection and copying at the OSHA Docket Office at the address above. You may also contact Todd Owen at the address below to obtain a copy of the ICR. (For additional information on submitting comments, please see the ''Public Participation'' heading in the **SUPPLEMENTARY INFORMATION** section of this document.)

FOR FURTHER INFORMATION CONTACT: Jamaa Hill, Directorate of Standards and Guidance, OSHA, Room N–3609, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210, telephone: (202) 693–2222.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (i.e., employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (PRA–95) (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSHA Act) (29 U.S.C. 651 *et seq.*) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657). In this regard, the 1,3–Butadiene Standard requires employers to monitor employee exposure to 1,3–Butadiene; development and maintain compliance and exposure-goal programs if employee exposures to 1,3–Butadiene are above the Standard's permissable exposure limits or action level; label respirator filter elements to indicate the date and time it is first installed on the respirator; establish medical surveillance programs to monitor employee health, and to provide employees with information about their exposures and the health effects of exposure to 1,3–Butadiene.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information will have practical utility;
- The accuracy of OSHA's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who 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.

III. Proposed Actions

OSHA is requesting OMB to extend their approval of the information collection requirements contained in the 1,3 Butadiene Standard. OSHA will summarize the comments submitted in response to this notice, and will include this summary in it's request to OMB.

Type of Review: Extension of currently approved information collection requirements.

Title: 1,3 Butadiene Standard (29 CFR 1910.1051).

OMB Number: 1218–0170.

Affected Public: Business or other for-profits; Federal government; State, local and tribal governments.

Number of Respondents: 115.

Frequency: On occasion.

Total Responses: 3,532.

Average Time per Response: Time per response ranges from 15 seconds (.004 hour) to write the date and time on each new cartridge label to 2 hours to complete a referral medical examination.

Estimated Total Burden Hours: 955.

Estimated Cost (Operation and Maintenance): $90,552.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments and supporting materials in response to this notice by (1) hard copy, (2) FAX transmission (facsimile), or (3) electronically through the OSHA Web page. Because of security-related problems, there may be a significant delay in the receipt of comments sent by regular mail. Please contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627) for information about security procedures concerning the delivery of submissions by express delivery, hand delivery and courier service.

All comments, submissions and background documents are available for inspection and copying at the OSHA Docket Office at the above address. Comments and submissions posted on OSHA's Web page are available at *http://www.OSHA.gov.* Contact the OSHA Docket Office for information about materials not available through the OSHA Web page and for assistance using the Web page to locate docket submissions.

Electronic copies of this **Federal Register** notice as well as other relevant documents are available on OSHA's Web page. Because submissions become public, private information such as social security numbers should not be submitted.

V. Authority and Signature

Jonathan L. Snare, Acting Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction act of 1995 (44 U.S.C. *et seq.*), and Secretary of Labor's Order No. 5–2002 (67 FR 65008).

Signed at Washington, DC, on February 21, 2006.

Jonathan L. Snare,

Acting Assistant Secretary of Labor.

[FR Doc. 06–1747 Filed 2–23–06; 8:45 am]

BILLING CODE 4510–26–M

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

Sunshine Act Meeting

February 15, 2006.

TIME AND DATE: 10 a.m., Thursday, February 23, 2006.

PLACE: The Richard V. Backley Hearing Room, 9th Floor, 601 New Jersey Avenue, NW., Washington, DC.

STATUS: Open.

MATTERS TO BE CONSIDERED: The Commission will consider and act upon the following in open session: *Secretary of Labor* v. *Plateau Mining Corp.*, Docket Nos. WEST 2002–207 and WEST 2002–278. (Issues include whether the judge correctly determined that Plateau's bleeder system was not functioning in accordance with the requirements of 30 CFR 75.334(b)(1); that Plateau's alleged violation of section 75.334(b)(1) was of a significant and substantial nature; that Plateau violated 30 CFR 75.370(a) because its ventilation plan did not include a breached undercast; and that an operator may be held to have violated section 75.334(b)(1) even if it has complied with the terms of its ventilation plan.)

Any persons attending this meeting who requires special accessibility features and/or auxiliary aids, such as sign language interpreters, must inform the Commission in advance of those needs, subject to 29 CFR 2706.150(a)(3) and § 2706.160(d).

CONTACT PERSON FOR MORE INFO: Jean Ellen, (202) 434–9950 / (202) 708–9300 for TDD Relay / 1–800–877–8339 for toll free.

Jean H. Ellen,

Chief Docket Clerk.

[FR Doc. 06–1782 Filed 2–22–06; 11:18 am]

BILLING CODE 6735–01–M

NATIONAL ARCHIVES AND RECORDS ADMINISTRATION

Office of Presidential Libraries; Proposed Disposal of Clinton Administration Electronic Backup Tapes

AGENCY: National Archives and Records Administration (NARA).

ACTION: Presidential Records Act notice of proposed disposal of Clinton Administration PROFS backup tapes; final agency action.

SUMMARY: The National Archives and Records Administration (NARA) has identified an obsolete series of Clinton PROFS backup tapes maintained by the National Security Council, housed at the National Archives at College Park, Maryland, as appropriate for disposal under the provisions of 44 U.S.C. 2203(f)(3). This notice describes the Presidential record information on these backup tapes and our reasons for determining that these backup tapes have insufficient administrative, historical, informational, or evidentiary value to warrant their continued preservation. This decision is made in light of the fact that there has been an extensive tape restoration project done on these backup tapes and the recovered record information is being maintained by NARA in a separate set of permanent tapes.

DATES: *Effective Date:* The disposal will occur on or after April 25, 2006.

FOR FURTHER INFORMATION CONTACT: Assistant Archivist for Presidential Libraries Sharon K. Fawcett, National Archives and Records Administration, Suite 2200, 8601 Adelphi Road, College Park, Maryland 20740–6001; tel. 301–837–3250, or by fax to 301–837–3199; or by e-mail to *sharon.fawcett@nara.gov*.

SUPPLEMENTARY INFORMATION: NARA published a ''Presidential Records Act notice of proposed disposal of Clinton Administration PROFS backup tapes containing redundant information'' on May 3, 2005, in the **Federal Register** (70 FR 22926) for a 45 day comment period. NARA received four written comments from representatives of the Maryland State Archives, The Information Trust, Public Citizen Litigation Group, and the National Security Archive. In addition, NARA staff met with representatives of the latter three organizations on May 25, 2005, to discuss the FR notice. The following is a summary of the comments and NARA's response.

Summary of Comments

Three of the commenters found the original notice confusing as to what materials are being proposed for disposition, and asked that NARA more precisely clarify the scope of the proposed disposition action in a further notice. In particular, these commenters asked for confirmation of the following in the second notice:

1. Clarification that the notice for disposal applies only to PROFS back up tapes maintained by the National Security Council (NSC), and that another series of Clinton Administration NSC e-mail, the main system used during the Clinton Administration for archiving Clinton NSC emails, as well as the email backups for this system will continue to be preserved;

2. NARA specify at greater length what applications were used on the PROFS system during the Clinton Administration and by whom; and

3. That NARA describe the appraisal that staff conducted to determine whether the material was appropriate for disposition, including whatever comparisons were made of the data subject to this notice with data otherwise being permanently preserved at NARA.

4. Finally, one commenter also asked for technical information, including the type of tape media used, the nature of the tape restoration project, as well as the contents of any inventories of the tapes.

NARA Response

In response to the questions that were raised, NARA wishes to clarify that:

1. *Clarification on disposal notice:*

NARA proposes only the disposition of Clinton Presidential electronic records on 9,193 class 3480 magnetic tape cartridges, containing backup formatted records of calendars, call logs, notes and documents created using IBM proprietary Professional/Office Vision software (PROFS). This series includes calendars and call logs from January 20, 1993 through January 2001 created by a limited number of NSC staff persons who had access to the PROFS software. Further, this series includes notes and documents from January 20, 1993 through June 30, 1993 created by those NSC staff members who had access to and used the PROFS software.

The PROFS system was not the primary email application available to NSC staff during the Clinton administration. Most staff used the NSC Classified Email System known as ''A–1'' or ''All-in-One,'' later migrated to Microsoft Mail and Microsoft Schedule. NARA retains official record copies in electronic form of an estimated 2–3 million classified e-mails from the A–1 and Microsoft Mail system. The body of e-mail and backup tapes that correspond to this separate email system are being maintained by NARA and are not affected by the proposed notice.

NARA proposes this disposal because NARA continues to maintain 45 tapes created through an extensive NSC Tape Restoration Project (TRP) undertaken as a result of the *Armstrong* litigation. These tapes include all PROFS notes and documents created between January 20, 1993 and June 30, 1993, as well as all PROFS calendar and call log information for the period of time between January 20, 1993 and March 28, 1994. Further, the TRP also restored PROFS calendar and call log information for all PROFS calendar users through calendar year 1995.

NARA is also retaining what was described in the first FR notice as an electronic ''snapshot'' of PROFS calendar data and call logs corresponding to the records of five high-level NSC officials, namely: Anthony Lake, National Security Advisor; Samuel Berger, Deputy and later National Security Advisor; Nancy Soderberg, Staff Director and later Deputy National Security Advisor; Donald Kerrick, Deputy National Security Advisor; and James Steinberg, Deputy National Security Advisor. This snapshot consists of cumulative calendar and call log entries (in a logical file format that can be read), corresponding to the entire eight year span of the Clinton Administration. An analysis made by NARA staff of the restored calendars and call logs indicates that the overwhelming majority of such data (approximately 94%) represents entries by three users, namely: Anthony Lake, Samuel Berger, and Nancy Soderberg.

Additionally, NARA will permanently retain multiple preservation copies of the January 19, 2001 backup tape created by WHCA, containing cumulative calendar data from all PROFS calendar users during the entire span of the Clinton Administration.

Finally, the original, unrestored set of Clinton PROFS backup tape cartridges remain in an unacceptable format for continued NARA preservation and access purposes.

2. *Applications used on PROFS and by whom:*

For the period of January 20, 1993 through June 30, 1993, the PROFS notes and documents functions were available to staff members with accounts on the system. The notes and documents functions of PROFS were disabled on June 30, 1993 and hence were no longer available to staff.

In addition, during the entire Clinton Administration, the PROFS system was available to a small number of staff members to use the calendar and call log functions. Throughout the Administration the calendar and call log functions were used, primarily, by the five high-level NSC officials identified above, namely: Anthony Lake, Samuel Berger, Nancy Soderberg, Donald Kerrick, and James Steinberg. In addition, members of NSC's Office of the Executive Secretary and certain other NSC staff used the calendar function of PROFS for the scheduling of routine staff meetings, personal leave and noting Federal holidays.

3. *Information on the appraisal done by NARA to reach this decision:*

Starting in 2003, a year long appraisal process was undertaken by two NARA archivists. This appraisal was completed in accordance with NARA's guidance for the disposal of Presidential Records, NARA Directive 1461. The purpose of the appraisal was to establish the redundancy of the information on the backup tapes being proposed for disposal and to confirm that record information on the backup tapes was captured and preserved in a separate series of permanent tapes. This appraisal included a careful review of the contents of the PROFS backup tapes subject to this disposition notice and a comparison of information residing on the backup tapes against what was restored in the TRP process. Further, staff compared the content of the back up tapes with the above-described end of Administration ''snapshot.''

NARA archivists found in doing this appraisal that, as a result of the cumulative backup process, the PROFS backup tapes contain multiple copies of all records created on the PROFS system. In addition, NARA archivists confirmed, in an analysis of the restored TRP data, that 1,869 PROFS notes and 128 PROFS documents, all created prior to June 30, 1993, solely consist of requests for password changes, the setting up of new accounts, and other systems-related questions posed by NSC staff. Notwithstanding the routine, administrative nature of this data, all of it is being preserved, in a separate series, as the product of the *Armstrong* TRP.

NARA archivists separately sampled calendar and call log data in two different ways to ensure the completeness of the data preserved for high-level NSC officials. First, NARA archivists sampled calendar and call log data for random days in 1993 and 1994 during the period of the *Armstrong* TRP. Calendar and call log data from the PROFS backup tapes was compared with the restored series of tapes resulting from the *Armstrong* TRP. Based on a review of the restored calendars of Lake, Berger, Soderberg, and others who were staff members in the early Clinton Administration, NARA archivists confirmed that the calendar and call log data on PROFS backups matched the entries on the restored media. Again, this TRP data is being preserved in a separate series.

Second, NARA archivists compared calendar and call log entries on the PROFS backups with similar entries on the end of Administration ''snapshot'' from January 19, 2001, for the five high-level NSC staff members referenced in the previous paragraph (Lake, Berger, Soderberg, Kerrick and Steinberg). NARA was able to confirm that data from the PROFS backup tapes matched data captured on the end of Administration ''snapshot.'' Therefore, there was no indication based on NARA's review that calendar or call log entries had been modified or deleted by individual NSC staff members after the initial time of their entry. This ''snapshot'' data is being preserved in a separate series.

Finally, NARA archivists sampled individual accounts on the PROFS backups looking for data that would not have been restored as part of the *Armstrong* TRP process. NARA staff, working with WHCA staff, examined file extensions to backup files looking for additional user created files that would not have been captured during the TRP process. Only one user-created file was found that based on its file extension was determined not to have been subject to the TRP. This consisted of a tickler file reminder, dated May 1993 for a clerical staff member, of a purely routine and administrative nature. (The reminder is still being retained on the cumulative backup tape.) Archivists found no evidence of user-generated content on the PROFS system after June 30, 1993, when PROFS applications were disabled except for calendar and call log data.

Given this extensive appraisal, NARA was able to determine that these records no longer retain sufficient administrative, historical, informational, or evidentiary value.

4. *Additional technical information in response to comments received.*

Tape format. In further response to technical questions raised by the commenters, the PROFS backup tapes which are subject to disposition were originally created on 3480 tape cartridges, for the purpose of emergency disaster recovery. The TRP consisted of a multi-stage process using a variety of IBM proprietary software designed to recover user created data from the backup tapes. The output of the TRP and the end of Administration snapshot tape is structured in a NARA-approved EBCDIC format. Because the preservation copies of the January 19, 2001 cumulative backup tape are in a backup tape format, further restoration would be necessary to provide for future access.

Documentation. NARA will retain documentation consisting of the inventories of PROFS tapes transferred to NARA at the end of the Clinton Administration. The inventory of the backup tapes consists of tape numbers and dates; the inventory of the ''snapshot'' tape contains the list of individuals represented on the tape; and the inventory of the TRP resulting tapes contains tape numbers, dates, and the

type of information contained on the tape (*i.e.,* calendar files, index files, documents files, note files, and residual files).

NARA Action

NARA will proceed to dispose of 9,193 PROFS backup tapes created during the Clinton Administration by WHCA staff as specified in the **EFFECTIVE DATE** of this notice, because NARA has determined that they lack sufficient administrative, historical, informational, or evidentiary value. This notice constitutes NARA's final agency action pursuant to 44 U.S.C. 2203(f)(3).

Dated: February 17, 2006.

Allen Weinstein,

Archivist of the United States.

[FR Doc. E6–2641 Filed 2–23–06; 8:45 am]

BILLING CODE 7515–01–P

NATIONAL SCIENCE FOUNDATION

Astronomy and Astrophysics Advisory Committee #13883; Notice of Meeting

In accordance with the Federal Advisory Committee Act (Pub. L. 92–463, as amended), the National Science Foundation announces the following Astronomy and Astrophysics Advisory Committee (#13883) meeting:

DATE AND TIME: March 10, 2006. 11 a.m.–6 p.m. EST.

PLACE: Teleconference. National Science Foundation, Room 1045, Stafford I Building, 4121 Wilson Blvd., Arlington, VA, 22230.

TYPE OF MEETING: Open.

CONTACT PERSON: Dr. G. Wayne Van Citters, Director, Division of Astronomical Sciences, Suite 1045, National Science Foundation, 4201 Wilson Blvd., Arlington, VA 22230. Telephone: 703–292–4908.

PURPOSE OF MEETING: To provide advice and recommendations to the National Science Foundation (NSF), the National Aeronautics and Space Administration (NASA) and the U.S. Department of Energy (DOE) on issues within the field of astronomy and astrophysics that are of mutual interest and concern to the agencies.

AGENDA: To discuss the Committee's draft annual report due 15 March 2006.

Dated: February 17, 2006.

Susanne E. Bolton,

Committee Management Officer.

[FR Doc. 06–1705 Filed 2–23–06; 8:45 am]

BILLING CODE 7555–01–M

NUCLEAR REGULATORY COMMISSION

Advisory Committee on Reactor Safeguards; Meeting Notice

In accordance with the purposes of Sections 29 and 182b. of the Atomic Energy Act (42 U.S.C. 2039, 2232b), the Advisory Committee on Reactor Safeguards (ACRS) will hold a meeting on March 9–11, 2006, 11545 Rockville Pike, Rockville, Maryland. The date of this meeting was previously published in the **Federal Register** on Tuesday, November 22, 2005 (70 FR 70638).

Thursday, March 9, 2006, Conference Room T–2b3, Two White Flint North, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10:30 a.m.: Final Review of the Clinton Early site Permit Application (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and Exelon Generation Company, LLC, regarding the early site permit application for the Clinton site and the associated NRC staff's Final Safety Evaluation Report.

10:45 a.m.–11:45 a.m.: Staff's Evaluation of the Licensees' Responses to Generic Letter 2004–02, ''Potential Impact of Debris Blockage on Emergency Recirculation During Design Basis Accidents at Pressurized Water Reactors'' (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the staff's evaluation of the licensees' responses to Generic Letter 2004–02 on PWR sumps.

1 p.m.–3 p.m.: Results of the Chemical Effects Tests Associated with PWR Sump Performance (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and its contractor regarding results of the chemical effects tests related to PWR sump performance.

3:15 p.m.–5:15 p.m.: Final Review of the License Renewal Application for Browns Ferry Units 1, 2, and 3 (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff and the Tennessee Valley Authority regarding the license renewal application for Browns Ferry Units 1, 2, and 3 and the associated NRC staff's Final Safety Evaluation Report.

5:30 p.m.–7 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports on matters considered during this meeting.

Friday, March 10, 2006, Conference Room T–2b3, Two White Flint North, Rockville, Maryland

8:30 a.m.–8:35 a.m.: Opening Remarks by the ACRS Chairman (Open)—The ACRS Chairman will make opening remarks regarding the conduct of the meeting.

8:35 a.m.–10 a.m.: Draft Final Revision 4 (DG–1128) to Regulatory Guide 1.97, ''Criteria for Accident Monitoring Instrumentation for Nuclear Power Plants'' (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the draft final revision 4 to Regulatory Guide 1.97.

10:15 a.m.–11:45 a.m.: Evaluation of Precursor Data to Identify Significant Operating Events (Open)—The Committee will hear presentations by and hold discussions with representatives of the NRC staff regarding the staff's evaluation of precursor data to identify significant operating events.

1 p.m.–2 p.m.: Future ACRS Activities/Report of the Planning and Procedures Subcommittee (Open)—The Committee will discuss the recommendations of the Planning and Procedures Subcommittee regarding items proposed for consideration by the full Committee during future meetings. Also, it will hear a report of the Planning and Procedures Subcommittee on matters related to the conduct of ACRS business, including anticipated workload and member assignments.

2 p.m.–2:15 p.m.: Reconciliation of ACRS Comments and Recommendations (Open)—The Committee will discuss the responses from the NRC Executive Director for Operations to comments and recommendations included in recent ACRS reports and letters.

2:30 p.m.–4:30 p.m.: Draft Final ACRS Report on the NRC Safety Research Program (Open)—The Committee will discuss the draft ACRS report to the Commission on the NRC Safety Research Program.

4:45 p.m.–7 p.m.: Preparation of ACRS Reports (Open)—The Committee will discuss proposed ACRS reports.

Saturday, March 11, 2006, Conference Room T–2b3, Two White Flint North, Rockville, Maryland

8:30 a.m.–1:00 p.m.: Preparation of ACRS Reports (Open)—The Committee will continue its discussion of proposed ACRS reports.

1 p.m.–1:30 p.m.: Miscellaneous (Open)—The Committee will discuss

matters related to the conduct of Committee activities and matters and specific issues that were not completed during previous meetings, as time and availability of information permit.

Procedures for the conduct of and participation in ACRS meetings were published in the **Federal Register** on September 29, 2005 (70 FR 56936). In accordance with those procedures, oral or written views may be presented by members of the public, including representatives of the nuclear industry. Electronic recordings will be permitted only during the open portions of the meeting. Persons desiring to make oral statements should notify the Cognizant ACRS staff named below five days before the meeting, if possible, so that appropriate arrangements can be made to allow necessary time during the meeting for such statements. Use of still, motion picture, and television cameras during the meeting may be limited to selected portions of the meeting as determined by the Chairman. Information regarding the time to be set aside for this purpose may be obtained by contacting the Cognizant ACRS staff prior to the meeting. In view of the possibility that the schedule for ACRS meetings may be adjusted by the Chairman as necessary to facilitate the conduct of the meeting, persons planning to attend should check with the Cognizant ACRS staff if such rescheduling would result in major inconvenience.

Further information regarding topics to be discussed, whether the meeting has been canceled or rescheduled, as well as the Chairman's ruling on requests for the opportunity to present oral statements and the time allotted therefor can be obtained by contacting Mr. Sam Duraiswamy, Cognizant ACRS staff (301–415–7364), between 7:30 a.m. and 4:15 p.m., ET.

ACRS meeting agenda, meeting transcripts, and letter reports are available through the NRC Public Document Room at *pdr@nrc.gov,* or by calling the PDR at 1–800–397–4209, or from the Publicly Available Records System (PARS) component of NRC's document system (ADAMS) which is accessible from the NRC Web site at *http://www.nrc.gov/reading-rm/adams.html* or *http://www.nrc.gov/reading-rm/doc-collections/*(ACRS & ACNW Mtg schedules/agendas).

Videoteleconferencing service is available for observing open sessions of ACRS meetings. Those wishing to use this service for observing ACRS meetings should contact Mr. Theron Brown, ACRS Audio Visual Technician (301–415–8066), between 7:30 a.m. and 3:45 p.m., ET, at least 10 days before the meeting to ensure the availability of this service. Individuals or organizations requesting this service will be responsible for telephone line charges and for providing the equipment and facilities that they use to establish the videoteleconferencing link. The availability of videoteleconferencing services is not guaranteed.

Dated: February 17, 2006.

Annette L. Vietti-Cook,

Secretary of the Commission.

[FR Doc. E6–2664 Filed 2–23–06; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

Notice of Availability of Documents Regarding Spent Fuel Transportation Package Response to the Caldecott Tunnel Fire Scenario

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability.

FOR FURTHER INFORMATION CONTACT: Allen Hansen, Thermal Engineer, Criticality, Shielding and Heat Transfer Section, Spent Fuel Project Office, Office of Nuclear Material Safety and Safeguards, U.S. Nuclear Regulatory Commission, Washington, DC 20005–0001. Telephone: (301) 415–1390; fax number: (301) 415–8555; e-mail: *agh@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

Under contract with the Nuclear Regulatory Commission (NRC), The Pacific Northwest National Laboratory prepared a draft NUREG/CR report, ''Spent Fuel Transportation Package Response to the Caldecott Tunnel Fire (CTF) Scenario.'' Highway tunnel fire accidents are very low frequency events, but can be severe, in terms of fire duration and peak temperatures. The CTF was chosen for the study because it represents a severe historical highway tunnel accident, even though it is a very low frequency event. This NUREG/CR documents the thermal analysis of one spent fuel transportation package, the NAC International Model No. LWT (''NAC LWT''), exposed to boundary conditions simulating the CTF scenario.

The results of this study strongly indicate that no spent nuclear fuel (SNF) particles or fission products would be released from the NAC LWT or a similar spent fuel shipping cask involved in a severe tunnel fire such as the Caldecott highway tunnel fire. The peak internal temperatures predicted for the NAC LWT in the analysis of the CTF scenario were not high enough to result in rupture of the fuel cladding. Therefore, it would not be expected that any radioactive material (*i.e,* SNF particles or fission products) would be released from within the fuel rods.

The maximum NAC LWT temperatures experienced in the regions of the lid, vent and drain ports exceeded the seals' rated service temperatures, making it theoretically possible for a small release to occur, due to CRUD that might spall off of the surfaces of the fuel rods. However, any release is expected to be very small due to a number of factors. These include: (1) The tight clearances maintained between the lid and cask body by the lid closure bolts; (2) the low pressure differential between the cask interior and the outside; (3) the tendency of the small clearances to plug; and (4) the tendency of CRUD particles to settle or plate out. The potential releases calculated in Chapter 8 of this report for the NAC LWT truck cask indicate that the release of CRUD from the cask, if any, would be very small—less than an A_2 quantity.

II. Summary

The purpose of this notice is to provide the public an opportunity to review and comment on the Draft NUREG/CR thermal analysis, the consequence analyses and the conclusions.

III. Further Information

The document related to this action is available on-line at *http://www.nrc.gov/reading-rm/doc-collections/nuregs/docs4comment.html.* In addition, a copy of this document has been posted electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The ADAMS accession number for the document related to this notice is ML060330028. If you do not have access to ADAMS or if there are problems in accessing the document located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov.*

This document may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee. Comments and questions on the draft NUREG/CR can be entered on-line or directed to the

NRC contact listed above by May 30, 2006. Comments received after this date will be considered if it is practical to do so, but assurance of consideration cannot be given to comments received after this date.

Dated at Rockville, Maryland this 17 day of February, 2006.

For the Nuclear Regulatory Commission.

Larry Campbell,

Chief, Criticality, Shielding and Heat Transfer Section, Spent Fuel Project Office, Office of Nuclear Material Safety, and Safeguards.

[FR Doc. E6–2663 Filed 2–23–06; 8:45 am]

BILLING CODE 7590–01–P

POSTAL RATE COMMISSION

[Docket No. N2006–1; Order No. 1453]

Postal Service Network Realignment

AGENCY: Postal Rate Commission.

ACTION: Order.

SUMMARY: This order informs the public that the Postal Service has filed a case with the Commission on the proposed realignment of the Nation's mail processing and transportation network. The realignment is expected to have an impact on delivery service standards. The order, among other things, addresses initial steps in the case, identifies key dates, and directs interested parties to the Commission's Web site for pertinent documents.

DATES: 1. March 17, 2006: Deadline for filing notices of intervention, answers to a combined motion on scheduling and special rules of practice, and requests for a hearing.

2. March 24, 2006: Prehearing conference (9:30 a.m.)

ADDRESSES: Submit documents electronically via the Commission's Filing Online system at *http://www.prc.gov.*

FOR FURTHER INFORMATION CONTACT: Stephen L. Sharfman, general counsel, at 202–789–6818.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on February 14, 2006, the United States Postal Service filed a request with the Postal Rate Commission pursuant to section 3661 of the Postal Reorganization Act, 39 U.S.C. 101 *et seq.*, for an advisory opinion on anticipated changes in the application of current service standards to numerous 3-digit ZIP Code service area origin-destination pairs for different classes of mail.[1] The Postal Service states that these changes ''are expected to result from a system-wide review and realignment of the Postal Service's mail processing and transportation networks.'' [2]

The Postal Service's request states that it has determined to adopt a process for conducting an in-depth examination and reconfiguration of its mail processing and transportation networks during the next several years. As part of a centrally directed program, the Service anticipates that numerous mail processing and transportation changes will be proposed at the local level and submitted to Postal Service headquarters for approval. Because current service standards for mail delivery are based on logistical considerations, the Service expects that its planned network and transportation changes will result in determinations to adjust some of the service standards that now apply to numerous 3-digit ZIP Code area origin-destination pairs for various classes of mail. However, the Postal Service does not propose to change the ranges of days to delivery incorporated in current service standards for any class or subclass of mail.

The Postal Service's request is accompanied and supported by two pieces of testimony and eight library references. The request and all supporting materials are on file in the Commission's docket room for inspection during regular business hours, and are available on the Commission's Web site at *http://www.prc.gov.*

Proposed procedural schedule and special rules of practice. Also accompanying the Postal Service request is a motion for adoption of an expedited procedural schedule and of special rules of practice that would shorten procedural deadlines for interrogatory response, objections to interrogatories, and replies to motions.[3] The Service proposes a sequence of expedited deadlines for discovery, hearings, responsive testimony, and briefs in order to enable the Commission to issue an advisory opinion on its request no later than May 5, 2006. The earliest deadline in the proposed schedule would require a much shorter deadline for interventions that the norm in Commission proceedings. The Postal Service states that it proposes this procedural timetable because it ''presently intends to implement the service changes resulting from the initial wave of operational changes produced by its network realignment review program'' on or about May 15, 2006.[4]

Further procedures. Section 3661(c) of title 39 requires that the Commission afford an opportunity for a formal, on-the-record hearing on the Postal Service's request under the terms specified in sections 556 and 557 of title 5 of the United States Code before issuing its advisory opinion. All interested parties are hereby notified that notices of intervention in this proceedings shall be due on March 17, 2006. Any participant requesting a hearing in this matter shall so state in conformance with 39 CFR 3001.20(b).

At this time, the Commission cannot anticipate the duration, or even the exact form, appropriate for proceedings on this matter. Participants who wish to offer their views on these issues may do so in their interventions. Additionally, responses to the Postal Service's motion for adoption of its proposed procedural schedule and special rules of practice shall be due on March 17, 2006. The Commission will hold a prehearing conference in this docket on March 24, 2006.

Public participation. Section 3661(c) of title 39 requires the participation of an ''officer of the Commission who shall be required to represent the interest of the general public'' in these proceedings. The Commission will designate an individual to perform this function in a separate order to be issued in the near future.

Ordering Paragraphs

It is ordered:

1. The Commission establishes Docket No. N2006–1 to consider the Postal Service request referred to in the body of this order.

2. The Commission will act *en banc* in this proceeding.

3. Notices of interventions shall be filed no later than March 17, 2006.

4. Answers to the Postal Service's Motion for the Adoption of Proposed Procedural Schedule and Special Rules of Practice are due on March 17, 2006.

5. A prehearing conference is scheduled for March 24, 2006, at 9:30 a.m., in the Commission's hearing room.

6. Participants who wish to request a hearing on the Postal Service's request in this docket shall submit such a request, together with statements in conformance with 39 CFR 3001.20(b), on or before March 17, 2006.

7. The Secretary shall cause this notice and order to be published in the **Federal Register.**

By the Commission.

[1] Request of the United States Postal Service for an Advisory Opinion on Changes in Postal Services, February 14, 2006.

[2] Id. at 1. (Footnote omitted.)

[3] Motion of the United States Postal Service for the Adoption of Proposed Procedural Schedule and Special Rules of Practice, February 14, 2006.

[4] Id. at 2.

Issued: February 17, 2006.

Steven W. Williams,

Secretary.

[FR Doc. 06–1706 Filed 2–23–06; 8:45 am]

BILLING CODE 7710–FW–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53324; File No. SR–Amex–2005–127]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing of a Proposed Rule Change, and Amendment Nos. 1 and 2 Thereto, Relating to the Listing and Trading of Units of the United States Oil Fund, LP

February 16, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 6, 2005, the American Stock Exchange LLC (''Amex'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared by the Exchange. On January 20, 2006, the Exchange filed Amendment No. 1 to the proposed rule change.[3] On February 15, 2006, the Exchange filed Amendment No. 2 to the proposed rule change.[4] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to add new Rules 1500 *et seq.* to permit the listing and trading of units in a partnership that is a commodity pool under the Commodity Exchange Act (''CEA'')[5] that are designed to track a specified commodity or index of commodities by holding any combination of investments (i) comprised of or based on futures contracts, options on futures contracts, forward contracts, swaps, and over-the-counter (''OTC'') contracts for commodities or based on price changes in commodities, and (ii) in securities that may be required to satisfy margin or collateral requirements associated with investments in the financial instruments listed in item (i) above. Pursuant to these proposed rules, the Amex proposes to list and trade units (the ''Units'') of the United States Oil Fund, LP (''USOF'' or the ''Partnership'').

The text of the proposed rule change is set forth below. Proposed new language is *italicized.*

* * * * *

Trading of Partnership Units

Rule 1500. (a) Applicability. The Rules in this Chapter (Trading of Partnership Units) are applicable only to Partnership Units. Except to the extent that specific Rules in this Chapter govern, or unless the context otherwise requires, the provisions of the Constitution and all other rules and policies of the Board of Governors shall be applicable to the trading on the Exchange of such securities. Pursuant to the provisions of Article I, Section 3(i) of the Constitution, Partnership Units are included within the definitions of ''security'' or ''securities'' as such terms are used in the Constitution and Rules of the Exchange.

(b) Definitions. The following terms as used in the Rules shall, unless the context otherwise requires, have the meanings herein specified:

(i) Commodity. The term ''commodity'' is defined in Section 1(a)(4) of the Commodity Exchange Act.

(ii) Partnership Units. The term ''Partnership Units'' for purposes of this Rule means a security (a) that is issued by a partnership that invests in any combination of futures contracts, options on futures contracts, forward contracts, commodities and/or securities; and (b) that is issued and redeemed daily in specified aggregate amounts at net asset value.

Commentary

.01 The Exchange requires that members and member organizations provide to all purchasers of newly issued Partnership Units a prospectus for the series of Partnership Units.

.02 Transactions in Partnership Units will occur between 9:30 a.m. and either 4 p.m. or 4:15 p.m. for each series, as specified by the Exchange.

.03 (a) Limit Orders—Members and member organizations shall not enter orders into the Exchange's order routing system, as principal or agent, limit orders in the same partnership, for the account or accounts of the same or related beneficial owner, in such a manner that the member or beneficial owner(s) effectively is operating as a market maker by holding itself out as willing to buy and sell such Partnership Units on a regular or continuous basis. In determining whether a member or beneficial owner effectively is operating as a market maker, the Exchange will consider, among other things, the simultaneous or near-simultaneous entry of limit orders to buy and sell the same Partnership Units; the multiple acquisition and liquidation of positions in the same Partnership Units during the same day; and the entry of multiple limit orders at different prices in the same Partnership Units.

(b) Members and member organizations may not enter, nor permit the entry of, orders into the Exchange's order routing system if those orders are (i) created and communicated electronically without manual input (i.e., order entry by public customers or associated persons of members must involve manual input such as entering the terms of an order into an order-entry screen or manually selecting a displayed order against which an off-setting order should be sent) and (ii) eligible for execution through the Exchange's automatic execution system for Partnership Units. Nothing in this paragraph, however, prohibits members from electronically communicating to the Exchange orders manually entered by customers into front-end communication systems (e.g., Internet gateways, on-line networks, etc.).

Designation

Rule 1501. The Exchange may list and trade Partnership Units based on an underlying asset, commodity or security. Each issue of a Partnership Unit shall be designated as a separate series and shall be identified by a unique symbol.

Initial and Continued Listing

Rule 1502. Partnership Units will be listed and/or traded on the Exchange subject to application of the following criteria:

(a) Initial Listing—The Exchange will establish a minimum number of Partnership Units required to be outstanding at the time of commencement of trading on the Exchange.

(b) Continued Listing—The Exchange will remove from listing Partnership Units under any of the following circumstances:

(i) If following the initial twelve month period following the commencement of trading of Partnership Units, (A) the partnership has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of Partnership Units for 30 or more consecutive trading days; (B) if the partnership has fewer than 50,000

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[1] 15 U.S.C. 78s(b)(l).

[2] 17 CFR 240.19b–4.

[3] *See* Partial Amendment dated January 20, 2006 (''Amendment No. 1''). In Amendment No. 1, the Amex made clarifying changes to the purpose section.

[4] *See id.*

[5] The offering of the units of the partnership is registered with the Commission under the Securities Act of 1933 (''the 1933 Act'').

Partnership Units issued and outstanding; or (C) if the market value of all Partnership Units issued and outstanding is less than $1,000,000;

(ii) If the value of the underlying benchmark investment, commodity or asset is no longer calculated or available on at least a 15-second delayed basis or the Exchange stops providing a hyperlink on its Web site to any such investment, commodity, or asset value;

(iii) If the Indicative Partnership Value is no longer made available on at least a 15-second delayed basis; or

(iv) If such other event shall occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

Upon termination of a partnership, the Exchange requires that Partnership Units issued in connection with such partnership be removed from Exchange listing. A partnership will terminate in accordance with the provisions of the partnership prospectus.

(c) Term—The stated term of the partnership shall be as stated in the prospectus. However, such entity may be terminated under such earlier circumstances as may be specified in the partnership prospectus.

(d) General Partner—The following requirements apply:

(i) The general partner of a partnership must be an entity having substantial capital and surplus and the experience and facilities for handling partnership business. In cases where, for any reason, an individual has been appointed as general partner, a qualified entity must also be appointed as general partner.

(ii) No change is to be made in the general partner of a listed issue without prior notice to and approval of the Exchange.

(e) Voting—Voting rights shall be as set forth in the applicable partnership prospectus.

Commentary

.01 The Exchange will file separate proposals under Section 19(b) of the Securities Exchange Act of 1934 before listing and trading separate and distinct Partnership Units designated on different underlying investments, commodities and/or assets.

Specialist Prohibitions

Rule 1503. Rule 175(c) shall be deemed to prohibit an equity specialist, his member organization, or any other member, limited partner, officer, or approved person thereof from acting as a market maker or functioning in any capacity involving market-making responsibilities in an underlying asset or commodity, related futures or options on futures, or any other related derivatives. However, an approved person of an equity specialist that has established and obtained Exchange approval of procedures restricting the flow of material, non-public market information between itself and the specialist member organization pursuant to Rule 193, and any member, officer, or employee associated therewith, may act in a market making capacity, other than as a specialist in Partnership Units on another market center, in the underlying asset or commodity, related futures or options on futures, or any other related derivatives.

Commentary

.01 In connection with the Partnership Units, Commentaries .01, .02 and .07 of Rule 170 shall not apply to the trading of Partnership Units for the purpose of bringing the price of the Partnership Units into parity with the value of the underlying investment, commodity or asset on which the Partnership Units are based, with the net asset value of the Partnership Units or with a futures contract on the underlying investment, commodity or asset on which the Partnership Units are based. Such transactions must be effected in a manner that is consistent with the maintenance of a fair and orderly market and with the other requirements of this rule and the supplementary material herein.

Securities Accounts and Orders of Specialists

Rule 1504. (a) The member organization acting as specialist in Partnership Units is obligated to conduct all trading in the Partnership Units in its specialist account, subject only to the ability to have one or more investment accounts, all of which must be reported to the Exchange (See Rule 170). In addition, the member organization acting as specialist in the Partnership Units must file, with the Exchange, in a manner prescribed by the Exchange, and keep current a list identifying all accounts for trading the underlying physical asset or commodity, related futures or options on futures, or any other related derivatives, which the member organization acting as specialist may have or over which it may exercise investment discretion. No member organization acting as specialist in the Partnership Units shall trade in the underlying physical asset or commodity, related futures or options on futures, or any other related derivatives, in an account in which a member organization acting as specialist, directly or indirectly, controls trading activities, or has a direct interest in the profits or losses thereof, which has not been reported to the Exchange as required by this Rule.

(b) In addition to the existing obligations under Exchange rules regarding the production of books and records (See, e.g. Rule 31), the member organization acting as a specialist in Partnership Units shall make available to the Exchange such books, records or other information pertaining to transactions by such entity or any member, member organization, limited partner, officer or approved person thereof, registered or non-registered employee affiliated with such entity for its or their own accounts in the underlying physical asset or commodity, related futures or options on futures, or any other related derivatives, as may be requested by the Exchange.

(c) In connection with trading the underlying physical asset or commodity, related futures or options on futures or any other related derivative (including Partnership Units), the specialist registered as such in Partnership Units shall not use any material nonpublic information received from any person associated with a member, member organization or employee of such person regarding trading by such person or employee in the physical asset or commodity, futures or options on futures, or any other related derivatives.

Limitation on Exchange Liability

Rule 1505. Neither the Exchange nor any agent of the Exchange shall have any liability for damages, claims, losses or expenses caused by any errors, omissions, or delays in calculating or disseminating any underlying asset or commodity value, the current value of the underlying asset or commodity if required to be deposited to the partnership in connection with issuance of Partnership Units; net asset value; or other information relating to the purchase, redemption or trading of Partnership Units, resulting from any negligent act or omission by the Exchange or any agent of the Exchange, or any act, condition or cause beyond the reasonable control of the Exchange or its agent, including, but not limited to, an act of God; fire; flood; extraordinary weather conditions; war; insurrection; riot; strike; accident; action of government; communications or power failure; equipment or software malfunction; or any error, omission or delay in the reports of transactions in an underlying asset or commodity.

* * * * *

The revision to Sections 140 and 141 of the Amex *Company Guide* is provided below. [Bracketing] indicates

text to be deleted and *Italics* indicate new text.

Original Listing Fees

Section 140. Stock Issues—No Change.

Issues Listed Under Section 106 (Currency and Index Warrants) and Section 107

(Other Securities)—No Change.

Warrants—No Change.

Bonds—No Change.

Index Fund Shares, Trust Issued Receipts, Commodity-Based Trust Shares, Currency Trust Shares, *Partnership Units* and Closed-End Funds—The original listing fee for Index Fund Shares listed under Rule 1000A, Trust Issued Receipts listed under Rule 1200, Commodity-Based Trust Shares listed under Rule 1200A, Currency Trust Shares listed under Rule 1200B, *Partnership Units listed under Rule 1500* and Closed-End Funds listed under Section 101 of the Company Guide is $5,000 for each series or Fund, with no application processing fee. The Board of Governors or its designee may, in its discretion defer, waive or rebate all or any part of the initial listing fee applicable to Closed-End Funds when such funds transfer to the Amex from another marketplace.

Special Shareholder Rights Plans—No Change.

Annual Fees

Sec. 141. Stock Issues; Issues Listed Under Sections 106 and 107; Rules 1200 (Trust Issued Receipts) and 1200A (Commodity-Based Trust Shares); Rule 1200B (Currency Trust Shares); *Rule 1500 (Partnership Units);* and Closed-End Funds

Shares *or Units* outstanding	Fees
5,000,000 shares (*units*) or less.	$15,000 (minimum)
5,000,001 to 10,000,000 shares (*units*).	17,500
10,000,001 to 25,000,000 shares (*units*).	20,000
25,000,001 to 50,000,000 shares (*units*).	22,500
In excess of 50,000,000 shares (*units*).	30,000 (maximum)

[The Board of Governors or its designee may, in its discretion, defer, waive or rebate all or any part of the applicable annual listing fee specified above excluding the fees applicable to issues listed under Sections 106 and 107 and rule 1200 (Trust Issued Receipts); and Closed-End Funds.]

Issues Listed Under Rule 1000A (Index Fund Shares)—No Change.

The annual fee is payable in January of each year and is based on the total number of all classes of shares (excluding treasury shares) and warrants according to information available on Exchange records as of December 31 of the preceding year. (The above fee schedule also applies to companies whose securities are admitted to unlisted trading privileges.)

In the calendar year in which a company first lists, the annual fee will be prorated to reflect only that portion of the year during which the security has been admitted to dealings and will be payable within 30 days of the date the company receives the invoice, based on the total number of outstanding shares of all classes of stock at the time of original listing.

The annual fee for issues listed under Rule 1000A (Index Fund Shares), [and] Rule 1200 (Trust Issued Receipts), Rule 1200A (Commodity-Based Trust Shares), Rule 1200B (Currency Trust Shares), *and Rule 1500 (Partnership Units)* is based upon the number of shares of a series of Index Fund Shares, Trust Issued Receipts, [or] Commodity-Based Trust Shares, Currency Trust Shares *or Partnership Units* outstanding at the end of each calendar year. For multiple series of Index Fund Shares issued by an open-end management investment company, [or] for multiple series of Trust Issued Receipts and/or Commodity-Based Trust Shares, for multiple series of Currency Trust Shares *or for multiple series of Partnership Units,* the annual listing fee is based on the aggregate number of shares in all series outstanding at the end of each calendar year.

The annual fee for a Closed-End Fund listed under Section 101 of the Company Guide is based upon the number of shares outstanding of such Fund at the end of each calendar year. For multiple Closed-End Funds of the same sponsor, the annual listing fee is based on the aggregate number of shares outstanding of all such Funds at the end of each calendar year.

Bond Issues—No Change.

Late Fee—No Change.

Note: No Change.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Amex included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Amex has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to add new Rules 1500 *et seq.* so that it may list and/or trade units in a partnership that holds commodity-based or linked investments. The Amex initially proposes to list and trade the Units, which represent ownership of a fractional undivided beneficial interest in the net assets of USOF. The assets of USOF will consist of futures contracts for light, sweet crude oil and other petroleum based fuels that are traded on the New York Mercantile Exchange (''NYMEX'') or other U.S. and foreign exchanges (collectively, ''Oil Futures Contracts'') and other oil interests, such as cash-settled options on Oil Futures Contracts, forward contracts for oil, and OTC transactions that are based on the price of oil, other petroleum-based fuels, and indices based on the foregoing (collectively, ''Other Oil Interests'') (Oil Futures Contracts and Other Oil Interests are collectively referred to as ''Oil Interests''). USOF will also invest in short term obligations of the United States Government (''Treasuries'') to be used to satisfy its current or future margin and collateral requirements and to otherwise satisfy its obligations with respect to its investments in Oil Interests.

The investment objective of the USOF is for its net asset value (''NAV'')[6] to reflect the performance of the spot price of West Texas Intermediate light, sweet crude oil[7] delivered to Cushing, Oklahoma (the ''WTI light, sweet crude oil''),[8] less the expense of operation of

[6] NAV is the total assets, less total liabilities of USOF, determined on the basis of generally accepted accounting principles. NAV per Unit is the NAV of USOF divided by the number of outstanding Units.

[7] USOF will attempt to manage its investments so that its NAV closely tracks the price of the NYMEX traded near-month (*i.e.*, spot month) future contract for delivery of West Texas Intermediate light, sweet crude oil.

[8] The types of crude oil are typically described by a combination of their physical attributes and their place of origin. A few of these types of crude oil are widely traded and their prices serve as benchmarks in determining the spot and forward prices of the other types of crude oil. The three most important types of crude oil that are used as benchmarks are the light, sweet crude from the United States known as ''West Texas Intermediate,'' a light, sweet crude from Europe's North Sea known as ''Brent Crude,'' and a medium crude oil from the Middle East known as ''Dubai Crude.'' These three types of crude oil are the ones used most frequently in the trading of listed futures contracts, listed

USOF. This ''neutral'' investment strategy, as stated by the Exchange, is expected to cause the Unit price to track the price of WTI light, sweet crude oil.

The Exchange states that WTI light, sweet crude oil is the world's most actively-traded commodity, and the markets for oil and financial instruments based on WTI light, sweet crude oil are well-developed, liquid, and efficient. An investment in the Units will allow both retail and institutional investors to easily gain exposure to the crude oil market in a cost-effective manner. In addition, the Exchange states that the Units are also expected to provide additional means for diversifying an investor's investments or hedging exposure to changes in oil prices.

In January 2005, the Commission approved Exchange rules (Amex Rule 1200A *et seq.*) for the listing and trading of Commodity-Based Trust Shares.[9] Commodity-Based Trust Shares are trust issued receipts (''TIRs'') based on the value of an underlying commodity or index of commodities held by a trust.[10] Because of USOF's structure as a partnership and the nature of its investments, the current Commodity-Based Trust Shares rules (Amex Rules 1200A *et seq.*) do not specifically permit the Exchange to list this product.[11] This proposal seeks to expand the ability of the Exchange to list and/or trade securities based on a portfolio of underlying investments that may not be ''securities'' in circumstances where the issuer is a partnership, organized as a commodities pool under the CEA.

Under proposed Amex Rule 1501, the Exchange would be able to list and trade the Units issued by USOF. For units issued by other commodity-based partnerships or other types of units issued by USOF, if any, the Exchange will submit a filing pursuant to Section 19(b) of the Act, subject to the review and approval of the Commission. The Exchange submits that the Units will conform to the initial and continued listing criteria under proposed Amex Rule 1502.[12]

Description of the Oil Market

The Exchange states that crude oil is the world's most actively traded commodity. The Oil Futures Contracts for light, sweet crude oil that are traded on the NYMEX are the world's most liquid forum for crude oil trading, as well as the most liquid futures contracts on a physical commodity. Due to the liquidity and price transparency of Oil Futures Contracts, they are used as a principal international pricing benchmark. Oil Futures Contracts for WTI light, sweet crude oil trade on the NYMEX in units of 1,000 U.S. barrels (42,000 gallons) and, if not closed out before maturity, will result in delivery of the oil to Cushing, Oklahoma, which is also accessible to the world market by two major interstate petroleum pipeline systems.[13] USOF will primarily purchase WTI light, sweet crude Oil Futures Contracts traded on the NYMEX, but may also purchase Oil Futures Contracts on other exchanges, including the Intercontinental Exchange, formerly known as the International Petroleum Exchange (''ICE Futures'') and the Singapore Oil Exchange.[14] In total, therefore, Oil Futures Contracts for light, sweet crude oil provide for delivery of several grades of domestic and internationally traded foreign crude oils, which makes them a hedging and trading instrument for the international oil industry, and they serve the diverse needs of the physical market.

The price of crude oil is established by the supply and demand conditions in the global market overall, and more particularly, in the main refining centers: Singapore, Northwest Europe, and the U.S. Gulf Coast. These oil markets essentially constitute a global auction—the highest bidder will win the supply. When markets are ''strong'' (when demand is high and/or supply is low), a bidder must be willing to pay a higher premium to capture the supply. When markets are ''weak'' (demand low and/or supply high), a bidder may choose not to outbid competitors, waiting instead for later, possibly lower priced, supplies. NYMEX is the world's largest physical commodity futures exchange and the dominant market for the trading of energy and precious metals.

Demand for petroleum products by consumers, as well as agricultural, manufacturing and transportation industries, determines demand for crude oil by refiners. The Exchange states that since the precursors of product demand are linked to economic activity, crude oil demand will tend to reflect economic conditions. However, other factors such as weather also influence product and crude oil demand.

Crude oil supply is determined by both economic and political factors. Oil prices (along with drilling costs, availability of attractive prospects for drilling, taxes and technology) determine exploration and development spending, which influence output capacity with a lag. In the short run, production decisions by the Organization of Petroleum Exporting Countries (''OPEC'') also affect supply and prices. Oil export embargoes and the current conflicts in Iraq represent other routes through which political developments move the market.

Oil prices are a result of thousands of transactions taking place simultaneously around the world, at all levels of the distribution. Contract arrangements in the oil market cover most oil that changes hands. Oil is also sold in ''spot transactions,'' that is, cargo-by-cargo, transaction-by-transaction arrangements. In addition,

options, and non-exchange listed derivative contracts based on crude oil.

[9] *See* Securities Exchange Act Release No. 51058 (January 19, 2005), 70 FR 3749 (January 26, 2005).

[10] *See* Securities Exchange Act Release No. 51446 (March 29, 2005), 70 FR 17272 (April 5, 2005). The Exchange listed and traded the iShares(r) COMEX Gold Trust under Amex Rule 1200A as the first Commodity Based Trust Share. Recently, the Exchange commenced the trading of shares of the streetTRACKS(r) Gold Trust (GLD) pursuant to Amex Rule 1000B on an unlisted trading privileges (''UTP'') basis. *See also* Securities Exchange Act Release No. 53105 (January 11, 2006), 71 FR 3129 (January 19, 2006) (order approving listing and trading of DB Commodity Index Tracking Fund).

[11] As noted above, the Commission has permitted the listing and trading of products linked to the performance of an underlying commodity or commodities. *See* Securities Exchange Act Release Nos. 51058 (January 19, 2005), 70 FR 3749 (January 26, 2005) (approving the listing and trading of iShares(r) COMEX Gold Trust); 50603 (October 28, 2004), 69 FR 64614 (November 5, 2004) (approving the listing and trading of streetTRACKS(r) Gold Shares); 39402 (December 4, 1997), 62 FR 65459 (December 12, 1997) (approving the listing and trading of commodity index preferred or debt securities (ComPS) on various agricultural futures contracts and commodities indexes); 36885 (February 26, 1996), 61 FR 8315 (March 4, 1996) (approving the listing and trading of ComPS linked to the value of single commodity); 35518 (March 21, 1995), 60 FR 15804 (March 27, 1995) (approving the listing and trading of commodity indexed notes or COINs); and 43427 (October 10, 2000), 65 FR 62783 (October 19, 2000) (approving the listing and trading of inflation indexed securities). *See also* Central Fund of Canada (Registration No. 033–15180) (closed-end fund listed and traded on the Amex that invests in gold) and Salomon Phibro Oil Trust (Registration No. 033–33823) (trust units listed and traded on the Amex that held the right to a forward contract for the delivery of crude oil).

[12] Proposed Amex Rule 1502 for listing the Units is substantially similar to current Amex Rule 1202A relating to Commodity-Based Trust Shares. As set forth in the section ''Initial and Continued Listing'' of proposed Amex Rule 1502, the Exchange expects the minimum number of Units required to be outstanding at the time of trading to be 100,000. This section of the proposed rule specifically details the initial and continued listing standards for the Units.

[13] In practice, few Oil Futures Contracts result in delivery of the underlying oil.

[14] The Commission would expect the Exchange to have entered into the appropriate comprehensive surveillance sharing arrangements with such exchanges. Telephone conversation between Jeffrey Burns, Senior Associate General Counsel, Amex, Florence Harmon, Senior Special Counsel, Division, Commission and Johnna B. Dumler, Attorney, Division, Commission, on February 13, 2006.

oil is traded in the futures markets. Both spot markets and futures markets provide critical price information for contract markets.

The Exchange states that prices in spot markets send a clear signal about the supply/demand balance. Rising prices indicate that more supply is needed, and falling prices indicate that there is too much supply for the prevailing demand level. Furthermore, while most oil flows under contract, its price varies with the spot markets. Futures markets also provide information about the physical supply/demand balance as well as the market's expectations.

Additional underlying influences in the supply/demand balance, and hence in price fluctuations, include seasonal swings, level of inventories, regional cost differences, transportation and storage costs, and ease of refining. With regard to the refining process, light, sweet crude oil is preferred by refiners because of the low sulfur content and relatively high yields of high-value products such as gasoline, diesel fuel, heating oil and jet fuel. The denser crude oils require additional processing to produce the desired range of products.

Domestic Oil

The price of WTI light, sweet crude oil has historically exhibited periods of significant volatility. The spot price per barrel price of WTI light, sweet crude oil during the period January 1995 through November 2005, ranged from a high of $70.85 in August 2005 to a low of $10.35 in December 1998. As of December 2, 2005, the spot price per barrel was $59.32 per barrel.[15] The WTI light, sweet crude oil contract, listed and traded at the NYMEX trades in units of 42,000 gallons (1,000 barrels). Annual daily contract volume on the NYMEX from 2001 through October 2005 was 149,028, 182,718, 181,748, 212,382 and 242,262, respectively.

International Oil

In Europe, Brent crude oil is the standard for futures contracts traded on the ICE Futures, an electronic marketplace for energy trading and price discovery. Brent crude oil is the price reference for two-thirds of the world's traded oil. The spot price per barrel price of Brent crude oil during the period January 1995 through November 2005, ranged from a high of $68.89 in August 2005 to a low of $9.55 in December 1998. As of December 2, 2005, the spot price per barrel was $55.58. Annual daily contract volume on the ICE Futures from 2001 through October 2005 was 74,011, 86,499, 96,767, 102,361 and 120,695 respectively.[16]

Heating Oil

Heating oil, also known as No. 2 fuel oil, accounts for 25% of the yield of a barrel of crude oil, the second largest ''cut'' from oil after gasoline. The heating oil futures contracts, listed and traded at the NYMEX, trade in units of 42,000 gallons (1,000 barrels) and are based on delivery in New York harbor, the principal cash market center. The price of heating oil is volatile. The price of heating oil during the period January 1995 through November 2005, ranged from a high of $221.00 per barrel in September 2005 to a low of $29.20 in February 1999. As of December 2, 2005, the spot price per barrel was $166.47. Annual daily contract volume on the NYMEX from 2001 through October 2005 was 41,710, 42,781, 46,327, 51,745 and 52,334, respectively.[17]

Natural Gas

Natural gas accounts for almost a quarter of U.S. energy consumption. The natural gas futures contracts, listed and traded on the NYMEX, trade in units of 10,000 million British Thermal Units (''BTUs'') and are based on delivery at the Henry Hub in Louisiana, the nexus of 16 intra- and inter-state natural gas pipeline systems that draw supplies from the region's prolific gas deposits. The pipelines serve markets throughout the U.S. East Coast, the Gulf Coast, the Midwest, and up to the Canadian border. The price of natural gas is volatile.

The price of natural gas (in BTUs) during the period January 1995 through November 2005, ranged from a high of $14.75 in October 2005 to a low of $1.25 in January 1995. As of December 2, 2005, the spot price per BTU was $12.56. Annual daily contract volume on the NYMEX from 2001 through October 2005 was 47,457, 97,431, 76,148, 70,048 and 77,149, respectively.

Gasoline

Gasoline is the largest single volume refined product sold in the U.S. and accounts for almost half of the national oil consumption. The natural gas futures contracts, listed and traded on the NYMEX, trade in units of 42,000 gallons (1,000 barrels) and are based on delivery at petroleum products terminals in the New York harbor, the major East Coast trading center for imports and domestic shipments from refineries in the New York harbor area or from the Gulf Coast refining centers. The price of gasoline is volatile.

The per gallon price of gasoline during the period January 1995 through November 2005, ranged from a high of $2.92 in August 2005 to a low of $0.3258 in November 1998. As of December 2, 2005, the spot price per gallon was $2.124. Annual daily contract volume on the NYMEX from 2001 through October 2005 was 38,033, 43,919, 44,688, 51,315 and 53,577, respectively.[18]

Futures Regulation

The CEA [19] governs the regulation of commodity interest transactions, markets, and intermediaries. The Exchange states that the CEA, as amended by the Commodity Futures Modernization Act of 2000 (''CFMA''),[20] requires commodity futures exchanges to have rules and procedures to prevent market manipulation, abusive trade practices, and fraud. The Commodity Futures Trading Commission (''CFTC'') administers the CEA and conducts regular review and inspection of the futures exchanges' enforcement programs.

The CEA provides for varying degrees of regulation of commodity interest transactions, depending upon the variables of the transaction. In general, these variables include (1) the type of instrument being traded (*e.g.*, contracts for future delivery, options, swaps, or spot contracts); (2) the type of commodity underlying the instrument (distinctions are made between instruments based on agricultural commodities, energy and metals commodities, and financial commodities); (3) the nature of the parties to the transaction (retail, eligible contract participant, or eligible commercial entity); (4) whether the transaction is entered into on a principal-to-principal or intermediated basis; (5) the type of market on which the transaction occurs; and (6) whether the transaction is subject to clearing through a clearing organization.

The Exchange states that the function of the CFTC is to implement the objectives of the CEA of preventing price manipulation and other disruptions to market integrity, avoiding

[15] Amex clarified that quantitative references in this paragraph were intended to reflect the per barrel price. Telephone conversation between Jeffrey Burns, Senior Associate General Counsel, Amex, and Florence Harmon, Senior Special Counsel, Division, Commission and Johnna B. Dumler, Attorney, Division, Commission, on February 8, 2006.

[16] *See supra* note 15.

[17] *See supra* note 15.

[18] *See supra* note 15.

[19] 7 U.S.C. 1 *et seq.*

[20] Pub. L. No. 106–554, 114 Stat. 2763 (2000).

systemic risk, preventing fraud, and promoting innovation, competition and financial integrity of transactions. Among other things, the CEA provides that the trading of commodity interest contracts generally must be upon exchanges designated as contract markets or derivatives transaction execution facilities and that all trading on those exchanges must be done by or through exchange members. Commodity interest trading between sophisticated persons may be traded on a trading facility not regulated by the CFTC. As a general matter, the Exchange states that trading in spot contracts, forward contracts, options on forward contracts or options on commodities, or swap contracts between eligible contract participants is not within the jurisdiction of the CFTC and may therefore be effectively unregulated.

Non-U.S. futures exchanges differ in certain respects from their U.S. counterparts. Importantly, non-U.S. futures exchanges are not subject to regulation by the CFTC, but rather are regulated by their home country regulator. In contrast to U.S. designated contract markets, some non-U.S. exchanges are principals' markets, where trades remain the liability of the traders involved, and the exchange or an affiliated clearing organization, if any, does not become substituted for any party. Due to the absence of a clearing system, the Exchange states that such exchanges are significantly more susceptible to disruptions. Further, participants in such markets must often satisfy themselves as to the individual creditworthiness of each entity with which they enter into a trade. Trading on non-U.S. exchanges is often in the currency of the exchange's home jurisdiction. Consequently, USOF may be subject to the additional risk of fluctuations in the exchange rate between such currencies and U.S. dollars and the possibility that exchange controls could be imposed in the future.

The CFTC and U.S. designated contract markets have established limits or position accountability rules (*i.e.*, speculative position limits or position limits) on the maximum net long or net short speculative position that any person or group of persons under common trading control (other than a hedger) may hold, own, or control in commodity interests. Among the purposes of speculative position limits is to prevent a corner or squeeze on a market or undue influence on prices by any single trader or group of traders.

Most U.S. futures exchanges limit the amount of fluctuation in some futures contracts or options on futures contract prices during a single trading session.[21] These regulations specify what are referred to as daily price fluctuation limits (*i.e.*, daily limits). The daily limits establish the maximum amount that the price of a futures contract or options on a futures contract may vary either up or down from the previous day's settlement price. Once the daily limit has been reached in a particular futures contract or options on a futures contract, no trades may be made at a price beyond the limit.

The Exchange states that commodity prices are volatile and, although ultimately determined by the interaction of supply and demand, are subject to many other influences, including the psychology of the marketplace and speculative assessments of future world and economic events. Political climate, interest rates, treaties, balance of payments, exchange controls and other governmental interventions, as well as numerous other variables, affect the commodity markets, and even with complete information it is impossible for any trader to reliably predict commodity prices.

The CFTC also possesses exclusive jurisdiction to regulate the activities of Commodity Pool Operators (''CPOs'') and has adopted regulations with respect to the activities of those persons and/or entities.[22]

A portion of USOF's assets may be employed to enter into OTC transactions based on oil. OTC transactions are subject to little, if any, regulation. OTC contracts are typically traded on a principal-to-principal basis through dealer markets that are dominated by the major money centers and investment banks and other institutions and are essentially unregulated by the CFTC. In connection with the trading of OTC instruments, USOF will not receive the protection of CFTC regulation or the CEA. The markets for OTC contracts rely upon the integrity of market participants, as well as contractual margin payments, collateral and/or credit supports in lieu of additional regulation that is imposed by the CFTC on the futures markets.

Structure and Regulation of USOF

USOF, a Delaware limited partnership formed in May of 2005, is a commodity pool that will invest in Oil Interests.[23] It is operated by Victoria Bay Asset Management, LLC, a single member Delaware limited liability company (the ''General Partner'' or ''Victoria Bay'') which is wholly owned by Wainwright Holdings, Inc. The General Partner was formed for the specific purpose of managing and controlling USOF and has registered as a CPO with the CFTC and has become a member of the National Futures Association (''NFA'').[24] As a CPO, the General Partner must comply with numerous provisions of the CEA and the rules and regulations thereunder, including provisions that require adequate disclosure to investors of the risks of investing in a commodity pool managed by the CPO, and provisions designed to protect investors from fraud. Both the CFTC and the NFA perform regular, periodic inspections of their members.

Information regarding USOF and the General Partner, as well as detailed descriptions of the manner in which the Units will be offered and sold, and the investment strategy of USOF, are included in the registration statement regarding the offering of the Units filed with the Commission under the 1933 Act.[25]

Clearing Broker

ABN AMRO, the clearing broker (''Clearing Broker''), is registered with the CFTC as a futures commission merchant (''FCM''). The Clearing Broker will execute and clear USOF's futures contract transactions, hold the margin related to its Oil Futures Contracts investments, and perform certain administrative services for USOF. USOF

[21] Amex clarified that this sentence was intended to reflect the limits on the amount of fluctuation during a single trading session. Telephone conversation between Jeffrey Burns, Senior Associate General Counsel, Amex, Florence Harmon, Senior Special Counsel, Division, Commission and Johnna B. Dumler, Attorney, Division, Commission, on February 8, 2006.

[22] *See* Part 4 of CFTC Regulation, 17 CFR Section 4.1 *et al.* A COP is any person engaged in a business that is of the nature of an investment trust, syndicate, or similar form of enterprise, and who, in connection therewith, solicits, accepts, or receives from others, funds, securities, or property, either directly or through capital contributions, the sale of stock or other forms of securities, or otherwise, for the purpose of trading in any commodity for future delivery on or subject to the rules of any contract market or derivatives transaction execution facility, except that the term does not include such persons not within the intent of the definition of the term as the CFTC may specify by rule, regulation, or order.

[23] The Exchange states that USOF is not an investment company as defined in Section 3(a) of the Investment Company Act of 1940.

[24] Telephone conversation between Jeffrey Burns, Senior Associate General Counsel, Amex, Florence Harmon, Senior Special Counsel, Division, Commission and Johnna B. Dumler, Attorney, Division, Commission, on February 15, 2006.

[25] *See* Pre-Effective Amendment No. 4 to Form S–1 filed with the Commission on January 19, 2006 (File No. 333–124950). Telephone conversation between Jeffrey Burns, Senior Associate General Counsel, Amex, Florence Harmon, Senior Special Counsel, Division, Commission and Johnna B. Dumler, Attorney, Division, Commission, on February 13, 2006 (changing reference from Amendment No. 3 to Amendment No. 4 to Form S–1).

may use other FCMs as its investments increase or as may be required to trade particular Oil Interests.

Administrator and Custodian

Under separate agreements with USOF, Brown Brothers Harriman & Co., a registered broker-dealer under the Act,[26] will serve as USOF's administrator, registrar, transfer agent, and custodian for USOF (the ''Administrator'' or ''Custodian''). The Administrator will perform or supervise the performance of services necessary for the operation and administration of USOF. These services include, but are not limited to, investment accounting, financial reporting, broker and trader reconciliation, calculation of the NAV, and valuation of Treasuries used to purchase or redeem Units and other USOF assets or liabilities. As Custodian, it will receive payments to USOF from purchasers of Creation Baskets and will make payments to Sellers for Redemption Baskets, as described below, and will hold the Treasuries and cash of USOF, as well as collateral posted by USOF's derivatives counterparties, and will make transfers of margin and collateral with respect to USOF's investments to and from its FCMs or counterparties.

Marketing Agent

ALPS Distributors, Inc., a registered broker-dealer under the Act,[27] will be the marketing agent for USOF (''Marketing Agent''). The Marketing Agent, on behalf of USOF, will continuously offer Creation and Redemption Baskets and will receive and process orders from Authorized Purchasers (as defined below) and coordinate the processing of orders for the creation or redemption of Units with the General Partner and the Depository Trust Company (''DTC'').

Investment Strategy

USOF will pursue its investment objective by investing its assets in Oil Interests to the fullest extent possible without being leveraged or unable to satisfy its current or potential margin or collateral obligations with respect to those investments. USOF will attempt to manage its investments so that its NAV closely tracks the price of a specified Oil Futures Contract (the ''Benchmark Oil Futures Contract'') that the General Partner believes has historically exhibited a close price correlation with the spot price of WTI light, sweet crude oil. Currently, the Benchmark Oil Futures Contract is the NYMEX traded near-month (*i.e.*, spot month) futures contract for delivery of WTI light, sweet crude oil.[28] In connection with tracking the price of the Benchmark Oil Futures contract, the General Partner will endeavor to place USOF's trades in Oil Futures Contracts and Other Oil Interests and otherwise manage USOF's investments so that ''A'' will be within +/−10 percent of ''B'', where:

- A is the average daily change in USOF's NAV for any period of 30 successive valuation days, *i.e.*, any day as of which USOF calculates its NAV; and
- B is the average daily change in the price of the Benchmark Oil Futures Contract over the same period.

Therefore, USOF's investment objective is to manage its assets so that the average daily change in the NAV for any period of 30 successive valuation days will be within 10% of the average daily change in the price of the Benchmark Oil Futures Contract over the same period.[29]

The Exchange believes that market arbitrage opportunities should cause USOF's Unit price to closely track USOF's per Unit NAV which is targeted at the current Benchmark Oil Futures Contract. The price of the Benchmark Oil Futures Contract has closely tracked the spot price of WTI light, sweet crude oil over time.[30] Accordingly, the General Partner expects that the price of USOF's Units on the Exchange will closely track the spot price of a barrel of WTI light, sweet crude oil, less USOF's expenses.

Investments

USOF believes that it will be able to use a combination of Oil Futures Contracts and Other Oil Interests to manage the portfolio to achieve its investment objective of tracking the price of the Benchmark Oil Futures Contract. USOF further anticipates that the exact mix of Oil Futures Contracts and Other Oil Interests held by the portfolio will vary over time depending on, among over things, the amount of invested assets in the portfolio, price movements of oil, the rules and regulations of the various futures and commodities exchanges and trading platforms that deal in Oil Interests, and innovations in the Oil Interests marketplace including both the creation of new Oil Interest investment vehicles and the creation of new trading venues that trade in Oil Interests. USOF's total portfolio composition will be disclosed, each business day that the Amex is open for trading, on its Web site at *http://www.unitedstatesoilfund.com* and/or the Exchange's Web site at *http://www.amex.com.* USOF expects that Web site disclosure of portfolio holdings will be made daily and will include, as applicable, the name and value of each Oil Interest, the specific types of Other Oil Interests and characteristics of such Other Oil Interests, Treasuries and amount of cash held in the portfolio of USOF.

Oil Futures Contracts

The principal Oil Interests to be invested in by USOF are Oil Futures Contracts. USOF expects to purchase Oil Futures Contracts traded on the NYMEX on the WTI light, sweet crude oil. USOF may also purchase Oil Futures Contracts traded on NYMEX based on Brent crude oil.[31] Brent crude oil futures contracts are also listed on the ICE Futures. In addition to the commodities and futures exchanges in New York and London, several other established futures exchanges currently offer, or have announced plans to offer, trading in futures contracts on light, medium, or heavy crude oils, including exchanges in Singapore, Tokyo, Shanghai and Dubai.[32]

As noted above, the NYMEX Oil Futures Contracts for WTI light, sweet crude oil have historically closely tracked the investment objective of USOF over both the short-term, medium-term, and the long-term. For that reason, USOF anticipates making significant investments in the current Benchmark Oil Futures Contract. The General Partner submits that Other Oil Futures Contracts, such as the Brent crude oil futures contract traded on the NYMEX and ICE Futures, the Dubai

[26] Telephone conversation between Jeffrey Burns, Senior Associate General Counsel, Amex, Florence Harmon, Senior Special Counsel, Division, Commission and Johnna B. Dumler, Attorney, Division, Commission, on February 15, 2006.

[27] *See id.*

[28] The Exchange will file a Form 19b–4 to obtain Commission approval for the continued listing and trading of the Units should the General Partner change the Benchmark Oil Futures Contract from this NYMEX WTI light, sweet crude oil futures contract. Telephone conversation between Jeffrey Burns, Senior Associate General Counsel, Amex, Florence Harmon, Senior Special Counsel, Division, Commission and Johnna B. Dumler, Attorney, Division, Commission, on February 13, 2006.

[29] Telephone conversation between Jeffrey Burns, Senior Associate General Counsel, Amex, Florence Harmon, Senior Sepcial Counsel, Division, Commission and Johnna B. Dumler, Attorney, Division, Commission, on February 13, 2006.

[30] *See* Exhibit A attached to the Form 19b–4 filed by the Exchange, showing the tracking of the Benchmark Oil Futures Contract and the WTI spot price.

[31] Brent crude oil is the price reference for two-thirds of the world's traded oil.

[32] *See* note 14, *supra.* The Exchange has represented that the USOF will only purchase Oil Futures Contracts on markets where the Exchange has entered into the appropriate comprehensive surveillance sharing arrangements. *See* note 49, *infra.*

crude oil futures contract traded in Singapore and elsewhere, and other NYMEX petroleum-based futures contracts such as heating oil and gasoline,[33] have also tended to track the investment objective of USOF, though not as closely as the NYMEX light, sweet crude (WTI) oil futures contract.[34]

Other Oil Interests

In addition to Oil Futures Contracts, there are also a number of listed options on Oil Futures Contracts on the principal commodities and futures exchanges. These option contracts offer investors and hedgers another vehicle for managing exposure to the crude oil market. USOF may purchase oil-related listed options on these exchanges in pursuing its investment objective.

In addition to the Oil Futures Contracts and related listed options, there also exists an active OTC market in derivatives linked to crude oil. These OTC derivative transactions are privately-negotiated agreements between two parties. Unlike most of the exchange-traded Oil Futures Contracts or related options, each party to an OTC contract bears the credit risk that the counterparty may not be able to perform its obligations.

Some oil-based derivatives transactions contain fairly generic terms and conditions and are available from a wide range of participants. Other oil-based derivatives have highly customized terms and conditions and are not as widely available. Many of these OTC contracts are cash-settled forwards for the future delivery of oil- or petroleum-based fuels that have terms similar to the Oil Futures Contracts. Others take the form of ''swaps'' in which the two parties exchange cash flows based on pre-determined formulas tied to the price of oil as determined by the spot, forward, or futures markets. USOF may enter into OTC derivative contracts whose value will be tied to changes in the difference between the WTI spot price, the price of Oil Futures Contracts traded on NYMEX, and the prices of non-NYMEX Oil Futures Contracts that may be invested in by USOF.

To protect itself from the credit risk that arises in connection with such contracts, USOF will enter into agreements with each counterparty that provide for the netting of its overall exposure to its counterparty and/or provide collateral or other credit support to address USOF's exposure.[35] The counterparties to an OTC contract will generally be major broker-dealers and banks or their affiliates, though certain institutions, such as large energy companies or other institutions active in oil commodities markets, may also be counterparties. The creditworthiness of each potential counterparty will be assessed by the General Partner. The General Partner will assess or review, as appropriate, the creditworthiness of each potential or existing counterparty to an OTC contract pursuant to guidelines approved by the General Partner's Board of Directors. Furthermore, the General Partner on behalf of USOF will only enter into OTC contracts with (a) members of the Federal Reserve System or foreign banks with branches regulated by the Federal Reserve Board; (b) primary dealers in U.S. government securities; (c) broker-dealers; (d) commodities futures merchants; or (e) affiliates of the foregoing. Existing counterparties will also be reviewed periodically by the General Partner.

USOF anticipates that the use of Other Oil Interests, together with its investments in Oil Futures Contracts, will produce price and total return results that closely track the investment objective of USOF.[36]

Treasuries and Cash

USOF will invest virtually all of its assets not invested in Oil Interests in Treasuries, currently anticipated to be those securities with a remaining maturity of two years or less. The Treasuries and any cash will be available to be used to meet USOF's current or potential margin and collateral requirements with respect to its investments in Oil Interests. USOF will not use Treasuries as margin for new investments unless it has a sufficient amount of Treasuries and cash to meet the margin or collateral requirements that may arise due to changes in the value of its currently held Oil Interests. Other than in connection with a redemption of Units, USOF does not intend to distribute cash or property to its Unit holders. Interest earned on Treasuries and cash held by USOF will be retained by it to pay its expenses, to make investments to satisfy its investment objectives, or to satisfy its margin or collateral requirements.

Impact of Speculative Position Limits

As stated above, the CFTC and U.S. designated contract markets such as the NYMEX have speculative position limits or position limits on the maximum net long or net short speculative position that any person or group of persons under common trading control (other than a hedger) may hold, own, or control in commodity interests.[37]

The foregoing speculative position limits will impact the mix of investments in Oil Interests by USOF, with such mix varying depending on the level of assets held by USOF. The following example illustrates how the mix will vary as assets increase, assuming the spot price of WTI light, sweet crude oil remains the same: Assuming the spot price for WTI light, sweet crude oil and the Unit price were each $60, USOF anticipates that it would invest the first $300 million of its daily net assets only in Oil Futures Contracts. The majority of those contracts will consist of the current Benchmark Oil Futures Contract. At this level, USOF could purchase 5,000 of such contacts or 25% of the NYMEX's speculative position limit for such contracts. When daily net assets exceed $300 million, USOF anticipates that it will invest the majority of its assets above that amount in the current Benchmark Oil Futures Contract with the balance of its net assets being invested in a mix of other Oil Futures Contracts, such as the Brent crude oil futures contract as traded on NYMEX or the ICE Futures, and other Oil Interests. At this level, USOF anticipates that it would also invest in various OTC derivative contracts to hedge the short-term price movements of Oil Futures Contracts against the current Benchmark Oil Futures Contract.

Once the daily net assets of the portfolio exceed approximately $1.2 billion, USOF anticipates that a majority of all further investments will be made in Oil Futures Contracts other than the current Benchmark Oil Futures Contract and in Other Oil Interests. Oil Futures

[33] USOF may also invest in futures contracts traded on the NYMEX that are based on gasoline and heating oil. Gasoline is the largest single volume refined product sold in the U.S. and accounts for almost half of national oil consumption. Heating oil accounts for 25% of the yield of a barrel of crude oil, the second largest ''cut'' from oil after gasoline.

[34] *See* Exhibit B attached to the Form 19b–4 filed by the Exchange, tracking the NYMEX futures contracts on light, sweet crude oil, heating oil, natural gas and gasoline from November 17, 1995 to November 11, 2005.

[35] The agreements published by the International Swap and Derivatives Association (''ISDA'') and used extensively in the OTC derivatives market provides ''netting'' provisions. As discussed above, USOF's total portfolio composition will be disclosed, each business day that the Amex is open for trading, on its Web site at *http://www.unitedstatesoilfund.com* and/or the Exchange's Web site at *http://www.amex.com*, with a valuation assigned to these instruments.

[36] *See* ''Investment Strategy,'' *supra.*

[37] Similarly, most U.S. futures exchanges also have ''daily limits'' to limit the amount of fluctuation in the prices of some futures contracts or options on futures contracts during a single trading day. *See* ''Futures Regulation,'' *supra.*

Contracts other than the current Benchmark Oil Futures Contract, would be purchased on the NYMEX and on other futures and commodities exchanges, including non-U.S. exchanges such as the ICE Futures.

USOF anticipates that once the daily net assets of the portfolio exceed approximately $2.4 billion, the ability of the portfolio to invest in additional current Benchmark Oil Futures Contracts may be sharply limited due to speculative position limit rules in effect on the NYMEX. Assuming the current Benchmark Oil Futures Contract is at the same price level and half of the USOF's assets were then fully invested in such contracts ($1.2 billion), the current NYMEX position limits for such contracts (20,000 contracts) would be met. Under that scenario, all additional investments above the $2.4 billion level would be required to be invested in other Oil Future Contracts and Other Oil Interests. USOF anticipates that at or above the $2.4 billion daily net asset level, the majority of the total portfolio holdings will be in other Oil Futures Contracts or Other Oil Interests.

The Markets for USOF Units

There will be two markets for investors to purchase and sell Units. New issuances of the Units will be made only in baskets of 100,000 Units or multiples thereof (a ''Basket''). USOF will issue and redeem Baskets of the Units on a continuous basis, by or through participants who have entered into authorized purchaser agreements (''Authorized Purchaser Agreement'' and each such participant, an ''Authorized Purchaser'')[38] with the General Partner, at the NAV per Unit next determined after an order to purchase the Units in a Basket is received in proper form. Baskets may be issued and redeemed on any Business day (defined as any day other than a day on which the Amex, the NYMEX or the New York Stock Exchange is closed for regular trading) through the Marketing Agent in exchange for cash and/or Treasuries, which the Custodian receives from Authorized Purchasers or transfers to Authorized Purchasers, in each case on behalf of USOF. Baskets are then separable upon issuance into identical Units that will be listed and traded on the Exchange.[39]

The Units will thereafter be traded on the Exchange similar to other equity securities. Units will be registered in book-entry form through DTC. Trading in the Units on the Exchange will be effected until 4:15 p.m. Eastern time (''ET'') each business day. The minimum trading increment for such units will be $.01.

Each Authorized Purchaser, and each distributor[40] offering and selling newly issued Units as part of the distribution of such Units, is required comply with the prospectus delivery and disclosure requirements of the 1933 Act, as well as the requirements under the CEA including, the requirement that prospective investors provide an acknowledgement of receipt of such disclosure materials prior to the payment for any newly issued Units.[41]

Calculation of the Basket Amount

Baskets will be issued in exchange for Treasuries and/or cash in an amount equal to the NAV per Unit times 100,000 Units (the ''Basket Amount''). Baskets will be delivered by the Marketing Agent to each Authorized Purchaser only after execution of the Authorized Purchaser Agreement. Units in a Basket are issued and redeemed in accordance with the Authorized Purchaser Agreement. Authorized Purchasers that wish to purchase a Basket must transfer the Basket Amount to the Administrator (the ''Deposit Amount''). Authorized Purchasers that wish to redeem a Basket will receive an amount of Treasuries and cash in exchange for each Basket surrendered in an amount equal to the NAV per Basket (the ''Redemption Amount'').

On each Business day, the Administrator will make available prior to the opening of trading on the Exchange, the estimated Basket Amount for the creation of a Basket based on the prior day's NAV.[42] The Exchange will disseminate at least every 15 seconds throughout the trading day, via the facilities of the Consolidated Tape Association (''CTA''), an amount representing, on a per Unit basis, the current indicative value of the Basket Amount (*See* ''Indicative Partnership Value'' below). Shortly after 4 p.m. ET, the Administrator will determine the NAV for USOF as described below. At or about 4 p.m. ET on each business day, the Administrator will determine the Actual Basket Amount (''Actual Basket Amount'') for orders placed by Authorized Purchasers received before 12 p.m. ET that day.[43] Thus, although Authorized Purchasers place orders to purchase Units during the trading day until 12 p.m. ET, the Actual Basket Amount is determined as of 4 p.m. ET

Shortly after 4 p.m. ET on each business day, the Administrator, Amex, and the General Partner will disseminate the NAV for the Units and the Actual Basket Amount (for orders placed during the day). The Basket Amount and the NAV are communicated by the Administrator to all Authorized Purchasers via facsimile or electronic mail message. The Amex will also disclose the NAV and the Actual Basket Amount on its Web site at *www.amex.com*.[44] The Basket Amount necessary for the creation of a Basket will change from day to day. On each day that the Amex is open for regular trading, the Administrator will adjust the Deposit Amount as appropriate to reflect the prior day's Partnership NAV and accrued expenses. The Administrator will then determine the Deposit Amount for a given business day.

Calculation of USOF's NAV

The Administrator will calculate NAV as follows: (1) Determine the current value of USOF assets and (2) subtract the liabilities of USOF. The NAV will be calculated at 4 p.m. ET using the

[38] An ''Authorized Purchaser'' is a person, who at the time of submitting to the General Partner an order to create or redeem one or more Baskets: (i) is a registered broker-dealer or other market participants, such as banks and other financial institutions, that are exempt from broker-dealer registration; (ii) is a DTC Participant; and (iii) has in effect a valid Authorized Participant Agreement Telephone conversation between Jeffrey Burns, Senior Associate General Counsel, Amex, Florence Harmon, Senior Special Counsel, Division, Commission and Johnna B. Dumler, Attorney, Division, Commission, on February 13, 2006 (clarifying that the reference to ''trustee'' in this sentence should be changed to ''General Partner'').

[39] The Exchange expects that the number of outstanding Units will increase and decrease as a result of creations and redemptions of Baskets.

[40] An Authorized Purchaser selling newly issued Units may be deemed a ''distributor''/underwriter under the 1933 Act.Telephone conversation between Jeffrey Burns, Senior Associate General Counsel, Amex, Florence Harmon, Senior Special Counsel, Division, Commission and Johnna B. Dumler, Attorney, Division, Commission, on February 16, 2006.

[41] USOF is seeking to obtain an exemption from this CFTC acknowledgement of receipt requirement. Telephone conversation between Jeffrey Burns, Senior Associate General Counsel, Amex, Florence Harmon, Senior Special Counsel, Division, Commission and Johnna B. Dumler, Attorney, Division, Commission, on February 15, 2006.

[42] Amex clarified that it intended for this sentence to indicate that the Administrator will make available an ''estimated'' Basket Amount prior to the opening of trading on the Exchange, rather than the Actual Basket Amount (as described below), which will not be available until shortly after the close of trading on each business day. Additionally, such information (NAV, Actual Basket Amount, Estimated Basket Amount, daily disclosure of portfolio holdings) will be available to all market participants at the same time. Telephone conversation between Jeffrey Burns, Senior Associate General Counsel, Amex, Florence Harmon, Senior Special Counsel, Division, Commission and Johnna B. Dumler, Attorney, Division, Commission, on February 8, 2006.

[43] *See* Amendment No. 2. *See also* ''Calculation and Payment of Deposit Amount'' and ''Calculation and Payment of Redemption Amount'' below.

[44] *See supra* note 42.

settlement value[45] of Oil Futures Contracts traded on the NYMEX as of the close of open-outcry trading on the NYMEX at 2:30 p.m. ET,[46] and for the value of other Oil Futures Interests and Treasuries, the value of such investments as of the earlier of 4 p.m. New York time or the close of trading on the New York Stock Exchange. The NAV is calculated by including any unrealized profit or loss on Oil Futures Contracts and other Oil Interests and any other credit or debit accruing to USOF but unpaid or not received by USOF. The NAV is then used to compute all fees (including the management and administrative fees) that are calculated from the value of Partnership assets. The Administrator will calculate the NAV per unit by dividing the NAV by the number of Units outstanding.

When calculating NAV for USOF, the Administrator will value Oil Futures Contracts based on the closing settlement prices quoted on the relevant commodities and futures exchange and obtained from various market data vendors such as Bloomberg or Reuters. The value of the Other Oil Interests for purposes of determining the NAV will be valued based upon the determination of the Administrator as to their fair market value. Certain types of Other Oil Interests, such as listed options on futures contracts, have closing prices that are available from the exchange upon which they are traded or from various market data vendors. If available from an exchange, Other Oil Interests will be valued based on the last sale price on the exchange or market where traded. If a contract fails to trade, the value shall be the most recent bid quotation from the third-party source.

Other types of Other Oil Interests, such as crude oil forward contracts do not trade on established exchanges, but typically have prices that are widely available from third-party sources. The Administrator may make use of such third-party sources in calculating a fair market value of these Other Oil Interests.

Certain types of Other Oil Interests, such as OTC derivative contracts such as ''swaps'' also do not have established exchanges upon which they trade and may not have readily available price quotes from third parties. Swaps and other similar derivative or contractual-type instruments will be first valued at a price provided by a single broker or dealer, typically the counterparty. If no such price is available, the contract will be valued at the price at which the counterparty to such contract would repurchase the instrument or terminate the contract. In determining the fair market value of such derivative contracts, the Administrator may make use of quotes from other providers of similar derivatives. If these are not available, the Administrator may calculate a fair market value of the derivative contract based on the terms of the contract and the movement of the underlying price factors of the contract.

Calculation and Payment of the Deposit Amount

The Deposit Amount of Treasuries and cash will be in the same proportion to the total net assets of USOF as the number of Units to be created is in proportion to the total number of Units outstanding. The General Partner will determine the requirements for the Treasuries that may be included in the Deposit Amount and will disseminate these requirements prior to the start of each business day. The amount of cash that is required is the difference between the aggregate market value of the Treasuries required to be included in the Deposit Amount as of 4 p.m. ET on the date of purchase and the total required deposit.

All purchase orders must be received by the Marketing Agent by 12 p.m. ET. Delivery of the Deposit Amount, *i.e.*, Treasuries and cash, to the Administrator must occur by the third Business day following the purchase order date.[47] Thus, the General Partner will disseminate shortly after 4 p.m. ET the amount of Treasuries and cash to be deposited with the Custodian for each Basket (100,000 Units) order properly submitted by Authorized Purchasers by 12 p.m. ET that business day, (*e.g.*, the Actual Basket Amount).

Calculation and Payment of the Redemption Amount

The Units will not be individually redeemable but will only be redeemable in Baskets. To redeem, an Authorized Purchaser will be required to accumulate enough Units to constitute a Basket (*i.e.*, 100,000 Units). An Authorized Purchaser redeeming a Basket will receive the Redemption Amount.

Upon the surrender of the Units and payment of applicable redemption transaction fee,[48] taxes or charges, the Custodian will deliver to the redeeming Authorized Purchaser the Redemption Amount. The Redemption Amount of Treasuries and cash will be in the same proportion to the total net assets of USOF as the number of Units to be redeemed is in proportion to the total number of Units outstanding. The General Partner will determine the Treasuries to be included in the Redemption Amount. The amount of cash that is required is the difference between the aggregate market value of the Treasuries required to be included in the Redemption Amount calculated as of 4 p.m. ET on the date of redemption and the total Redemption Amount. All redemption orders must be received by the Marketing Agent by 12 p.m. ET on the date redemption is requested. Delivery of the Basket to be redeemed to the Custodian and payment of Redemption Amount will occur by the third business day (T+3) following the redemption order date.

The Exchange believes that the Units will not trade at a material discount or premium to a Unit's NAV based on potential arbitrage opportunities. Due to the fact that the Units can be created and redeemed only in Baskets at the NAV, the Exchange submits that arbitrage opportunities should provide a mechanism to mitigate the effect of any premiums or discounts that may exist from time to time.

Dissemination and Availability of Information

Oil Futures Contracts

The daily settlement prices for the NYMEX traded Oil Futures Contracts held by USOF are publicly available on the NYMEX Web site at *http://www.nymex.com*. The Exchange's Web site at *http://www.amex.com* will also include a hyperlink to the NYMEX Web site for the purpose of disclosing futures contract pricing. In addition, various market data vendors and news publications publish futures prices and related data. The Exchange represents that quote and last sale information for the Oil Futures Contracts are widely disseminated through a variety of market data vendors worldwide, including Bloomberg and Reuters. In addition, the Exchange further represents that real-time futures data is available by subscription from Reuters and Bloomberg. The NYMEX also provides delayed futures information on current and past trading sessions and market news free of charge on its Web

[45] *See* Rule 6.52 of the NYMEX Rulebook.

[46] Telephone conversation between Jeffrey Burns, Senior Associate General Counsel, Amex, Florence Harmon, Senior Special Counsel, Division, Commission and Johnna B. Dumler, Attorney, Division, Commission, on February 8, 2006.

[47] Authorized Purchasers are required to pay a transaction fee of $1,000 for each order to create one or more Baskets.

[48] Authorized Purchasers are required to pay a transaction fee of $1,000 for each order to redeem one or more Baskets.

site. The specific contract specifications for the Oil Futures Contracts are also available on the NYMEX Web site and the ICE Futures Web site at *https://www.the ice.com*.[49]

USOF Units

The Web site for USOF, which will be publicly accessible at no charge, will contain the following information: (1) The prior business day's NAV and the reported closing price; (2) the mid-point of the bid-ask price[50] in relation to the NAV as of the time the NAV is calculated (the ''Bid-Ask Price''); (3) calculation of the premium or discount of such price against such NAV; (4) data in chart form displaying the frequency distribution of discounts and premiums of the Bid-Ask Price against the NAV, within appropriate ranges for each of the four (4) previous calendar quarters; (5) the prospectus and the most recent periodic reports filed with the Commission or required by the CFTC; and (6) other applicable quantitative information. In addition, information on USOF's portfolio holdings will be available on its Web site at *http://www.unitedstatesoilfund.com* and will be equally accessible to investors and Authorized Purchasers.

As described above, the NAV for USOF will be calculated and disseminated daily. The Amex also intends to disseminate for USOF on a daily basis by means of CTA/CQ High Speed Lines information with respect to the Indicative Partnership Value (as discussed below), recent NAV, Units outstanding, the estimated Basket Amount and the Deposit Amount (*e.g.*, the Actual Basket Amount). The Exchange will also make available on its Web site daily trading volume, closing prices and the NAV. The closing price and settlement prices of the Oil Futures Contracts held by USOF are also readily available from the NYMEX, automated quotation systems, published or other public sources, or on-line information services such as Bloomberg or Reuters. In addition, the Exchange will provide a hyperlink on its Web site at *http://www.amex.com* to USOF's Web site.

Indicative Partnership Value

In order to provide updated information relating to USOF for use by investors, professionals and persons wishing to create or redeem the Units, the Exchange will disseminate through the facilities of the CTA an updated Indicative Partnership Value (the ''Indicative Partnership Value''). The Indicative Partnership Value will be disseminated on a per Unit basis at least every 15 seconds during the regular Amex trading hours of 9:30 a.m. to 4:15 p.m. ET. The Indicative Partnership Value will be calculated based on the Treasuries and cash required for creations and redemptions (*i.e.*, NAV per limit x 100,000) adjusted to reflect the price changes of the current Benchmark Oil Futures Contract.

The Indicative Partnership Value will not reflect price changes to the price of the current Benchmark Oil Futures Contract between the close of open-outcry trading of these oil futures contract on the NYMEX at 2:30 p.m. ET and the open of trading on the NYMEX ACCESS market at 3:15 p.m. ET. The Indicative Partnership Value after 3:15 p.m. ET[51] will reflect changes to the current Benchmark Oil Futures Contract as provided for through NYMEX ACCESS. The value of a Unit may accordingly be influenced by non-concurrent trading hours between the Amex and NYMEX. While the Units will trade on the Amex from 9:30 a.m. to 4:15 p.m. ET, the current Benchmark Oil Futures Contract will trade, in open-outcry, on the NYMEX from 10 a.m. ET to 2:30 p.m. ET and NYMEX ACCESS from 3:15 p.m. ET through the following morning 9:30 a.m. ET.

While the NYMEX (open outcry) is open for trading, the Indicative Partnership Value can be expected to closely approximate the value per unit of the Basket Amount. However, during Amex trading hours when the Oil Futures Contracts have ceased trading, spreads and resulting premiums or discounts may widen, and therefore, increase the difference between the price of the Units and the NAV of the Units. The Exchange submits that the Indicative Partnership Value on a per Unit basis disseminated during Amex trading hours should not be viewed as a real-time update of the NAV, which is calculated only once a day. The Exchange believes that dissemination of the Indicative Partnership Value based on the cash amount required for a Basket provides additional information that is not otherwise available to the public and is useful to professionals and investors in connection with the Units trading on the Exchange or the creation or redemption of the Units.

Partnership Termination Events

USOF will continue in effect from the date of its formation in perpetuity, unless sooner terminated upon the occurrence of any one or more of the following circumstances: (1) The death, adjudication of incompetence, bankruptcy, dissolution, withdrawal, or removal of a general partner who is the sole remaining general partner, unless a majority in interest of limited partners within ninety (90) days after such event elects to continue USOF and appoints a successor general partner; or (2) the affirmative vote to terminate USOF by a majority in interest of the limited partners subject to certain conditions.

Upon termination of USOF, holders of the Units will surrender their Units and the assets of USOF shall be distributed to the Unit holders pro rata in accordance with the value of the Units, in cash or in kind, as determined by the General Partner.

Criteria for Initial and Continued Exchange Listing

USOF will be subject to the criteria in proposed Amex Rule 1502 for initial and continued listing of the Units. The proposed continued listing criteria provides for the delisting or removal from listing of the Units under any of the following circumstances:

- Following the initial twelve month period from the date of commencement of trading of the Units: (i) If USOF has more than 60 days remaining until termination and there are fewer than 50 record and/or beneficial holders of the Units for 30 or more consecutive trading days; (ii) if USOF has fewer than 50,000 Units issued and outstanding; or (iii) if the market value of all Units issued and outstanding is less than $1,000,000.
- If the value of the underlying spot commodity or Oil Futures Contract is no longer calculated or available on at least a 15-second delayed basis or the Exchange stops providing a hyperlink on its Web site to any such investment commodity or asset value.
- The Indicative Partnership Value is no longer made available on at least a 15-second delayed basis.
- If such other event shall occur or condition exists which in the opinion of the Exchange makes further dealings on the Exchange inadvisable.

[49] The Amex confirmed that the pricing for the NAV also will be derived from the NYMEX futures contract nearest to settlement (spot month) for WTI light, sweet crude. Telephone conversation between Jeffrey Burns, Senior Associate General Counsel, Amex, and Florence Harmon, Senior Special Counsel, Division of Market Regulation, Commission and Johnna B. Dumler, Attorney, Division, Commission, on February 8, 2006. The General Partner on behalf of USOF represents that it will not enter into futures contracts traded on or through ICE Futures until the proposed Information Sharing Arrangement between the Exchange and ICE Futures is adequate to the Commission staff. *See id.*

[50] The Bid-Ask Price of Units is determined using the highest bid and lowest offer as of the time of calculation of the NAV.

[51] NYMEX ACCESS®, an electronic trading system, is open for price discovery on the NYMEX light, sweet crude oil futures contract each Monday through Thursday at 3:15 p.m. ET through the following morning at 9:30 a.m. ET, and from 7 p.m. Sunday night until Monday morning 9:30 a.m. ET.

It is anticipated that a minimum of 100,000 Units will be required to be outstanding at the start of trading. It is anticipated that the initial price of a Unit will be approximately $59.22 based upon the WTI light, sweet crude oil spot price on December 2, 2005. USOF expects that the initial Authorized Purchaser will purchase the initial Basket of 100,000 Units at the initial offering price per Unit equal to the closing price of the expiration month light, sweet crude (WTI) oil futures contract listed on the NYMEX on the first Business day prior to the launch date. On the date of the public offering and thereafter, USOF will continuously issue Units in Baskets of 100,000 Units to Authorized Purchasers at NAV. The Exchange believes that the anticipated minimum number of Units outstanding at the start of trading is sufficient to provide adequate market liquidity and to further USOF's objective to seek to provide a simple and cost effective means of accessing the commodity futures markets.

The Exchange represents that it prohibits the initial and/or continued listing of any security that is not in compliance with Rule 10A–3 under the Act.[52]

Original and Annual Listing Fees

The Amex original listing fee applicable to the listing of USOF is $5,000. In addition, the annual listing fee applicable under Section 141 of the Amex *Company Guide* will be based on the year-end aggregate number of Units in all series of USOF outstanding at the end of each calendar year.

Disclosure

The Exchange, in an Information Circular (described below) to Exchange members and member organizations, will inform members and member organizations, prior to commencement of trading, of the prospectus delivery requirements applicable to USOF. The Exchange notes that investors purchasing Units directly from USOF (by delivery of the Deposit Amount) will receive a prospectus. Amex members purchasing Units from USOF for resale to investors will deliver a prospectus to such investors.

Purchase and Redemptions in Baskets

In the Information Circular (described below), members and member organizations will be informed that procedures for purchases and redemptions of Units in Baskets are described in the Prospectus and that Units are not individually redeemable but are redeemable only in Baskets or multiples thereof.

Trading Rules

The Units are equity securities subject to Amex Rules governing the trading of equity securities, including, among others, rules governing priority, parity and precedence of orders, specialist responsibilities and account opening and customer suitability (Amex Rule 411). Initial equity margin requirements of 50% will apply to transactions in the Units. Units will trade on the Amex until 4:15 p.m. ET each business day and will trade in a minimum price variation of $0.01 pursuant to Amex Rule 127. Trading rules pertaining to odd-lot trading in Amex equities (Amex Rule 205) will also apply.

Amex Rule 154, Commentary .04(c) provides that stop and stop limit orders to buy or sell a security (other than an option, which is covered by Amex Rule 950(f) and Commentary thereto) the price of which is derivatively priced based upon another security or index of securities, may with the prior approval of a Floor Official, be elected by a quotation, as set forth in Commentary .04(c)(i–v). The Exchange has designated the Units as eligible for this treatment.[53]

The Units will be deemed ''Eligible Securities'', as defined in Amex Rule 230, for purposes of the Intermarket Trading System Plan and therefore will be subject to the trade-through provisions of Amex Rule 236 which require that Amex members avoid initiating trade-throughs for ITS securities.

Specialist transactions of the Units made in connection with the creation and redemption of Units will not be subject to the prohibitions of Amex Rule 190.[54] Unless exemptive or no-action relief is available, the Units will be subject to the short sale rule, Rule 10a–1 under the Act.[55] If exemptive or no-action relief is provided, the Exchange will issue a notice detailing the terms of the exemption or relief. The Units will generally be subject to the Exchange's stabilization rule, Amex Rule 170, except that specialists may buy on ''plus ticks'' and sell on ''minus ticks,'' in order to bring the Units into parity with the underlying commodity or commodities and/or futures contract price. Proposed Commentary .01 to Amex Rule 1503 sets forth this limited exception to Amex Rule 170.

The adoption of Amex Rule 1503 relating to certain specialist prohibitions will address potential conflicts of interest in connection with acting as a specialist in the Units. Specifically, Amex Rule 1503 provides that the prohibitions in Amex Rule 175(c) apply to a specialist in the Units so that the specialist or affiliated person may not act or function as a market-maker in an underlying asset, related futures contract or option or any other related derivative. An affiliated person of the specialist consistent with Amex Rule 193 may be afforded an exemption to act in a market making capacity, other than as a specialist in the Units on another market center, in the underlying asset, related futures or options or any other related derivative. In particular, proposed Amex Rule 1503 provides that an approved person of an equity specialist that has established and obtained Exchange approval for procedures restricting the flow of material, non-public market information between itself and the specialist member organization, and any member, officer, or employee associated therewith, may act in a market making capacity, other than as a specialist in the Units on another market center, in the underlying asset or commodity, related futures or options on futures, or any other related derivatives.

Adoption of Amex Rule 1504 will also ensure that specialists handling the Units provide the Exchange with all the necessary information relating to their trading in physical assets or commodities, related futures contracts and options thereon or any other derivative. As a general matter, the Exchange has regulatory jurisdiction over its members, member organizations and approved persons of a member

[52] *See* Rule 10A–3(c)(7), 17 CFR 240.10A–3(c)(7) (stating that a listed issuer is not subject to the requirements of Rule 10A–3 if the issuer is organized as a trust that does not have a board of directors or other unincorporated association and the activities of the issuer are limited to passively owning or holding securities or other assets on behalf of or for the benefit of the holders of the listed securities).

[53] *See* Securities Exchange Act Release No. 29063 (April 10, 1991), 56 FR 15652 (April 17, 1991) at note 9, regarding the Exchange's designation of equity derivative securities as eligible for such treatment under Amex Rule 154, Commentary .04(c).

[54] *See* Commentary .05 to Amex Rule 190.

[55] USOF expects to seek relief, in the near future, from the Commission in connection with the trading of the Units from the operation of the short sale rule, Rule 10a–1 under the Act. If granted, the Units would be exempt from Rule 10a–1 permitting sales without regard to the ''tick'' requirements of Rule 10a–1. Rule 10a–1(a)(1)(i) provides that a short sale of an exchange-traded security may not be effected (i) below the last regular-way sale price (an ''uptick'') or (ii) at such price unless such price is above the next preceding different price at which a sale was reported (a ''zero-plus tick''). See also Regulation SHO, Securities Exchange Act Release No. 50103 (July 28, 2004), 69 FR 48008 (August 6, 2004) (adoption of Regulation SHO).

organization. The Exchange also has regulatory jurisdiction over any person or entity controlling a member organization as well as a subsidiary or affiliate of a member organization that is in the securities business. A subsidiary or affiliate of a member organization that does business only in commodities or futures contracts would not be subject to Exchange jurisdiction, but the Exchange could obtain information regarding the activities of such subsidiary or affiliate through surveillance sharing agreements with regulatory organizations of which such subsidiary or affiliate is a member.

Trading Halts

Prior to the commencement of trading, the Exchange will issue an Information Circular (described below) to members informing them of, among other things, Exchange policies regarding trading halts in the Units. First, the Information Circular will advise that trading will be halted in the event the market volatility trading halt parameters set forth in Amex Rule 117 have been reached. Second, the Information Circular will advise that, in addition to the parameters set forth in Amex Rule 117, the Exchange will halt trading in the Units if trading in the current Benchmark Oil Futures Contract is halted or suspended. Third, with respect to a halt in trading that is not specified above, the Exchange may also consider other relevant factors and the existence of unusual conditions or circumstances that may be detrimental to the maintenance of a fair and orderly market. Additionally, the Exchange represents that it will cease trading the Units if the conditions in Amex Rule 1202(d)(2)(ii) or (iii) exist (*i.e.*, if there is a halt or disruption in the dissemination of the Indicative Fund Value and/or underlying Benchmark Futures Contract (spot commodity) value).[56]

Suitability

The Information Circular (described below) will inform members and member organizations of the characteristics of USOF Units and of applicable Exchange rules, as well as of the requirements of Amex Rule 411 (Duty to Know and Approve Customers).

The Exchange notes that pursuant to Amex Rule 411, members and member organizations are required in connection with recommending transactions in the Units to have a reasonable basis to believe that a customer is suitable for the particular investment given reasonable inquiry concerning the customer's investment objectives, financial situation, needs, and any other information known by such member.

Information Circular

The Amex will distribute an Information Circular to its members in connection with the trading of the Units. The Information Circular, will discuss the special characteristics of and risks of trading in the Units. Specifically, Information the Circular, among other things, will discuss what the Units are, how a basket is created and redeemed, the requirement that members and member firms deliver a prospectus to investors purchasing newly issued Units prior to or concurrently with the confirmation of a transaction, applicable Amex rules, dissemination information regarding the per unit Indicative Partnership Value, trading information and applicable suitability rules. The Information Circular will also explain that USOF is subject to various fees and expenses described in the Registration Statement. The Information Circular will also reference the fact that there is no regulated source of last sale information regarding physical commodities, that the Commission has no jurisdiction over the trading of WTI light, sweet crude oil, Brent crude oil, heating oil, gasoline, natural gas or other petroleum-based fuels, and that the CFTC has regulatory jurisdiction over the trading of oil-based futures contracts and related options.

The Information Circular will also notify members and member organizations about the procedures for purchases and redemptions of Units in Baskets, and that Units are not individually redeemable but are redeemable only in Baskets or multiples thereof.

The Information Circular will advise members of their suitability obligations with respect to recommended transactions to customers in the Units. The Information Circular will also discuss any relief, if granted, by the Commission or the staff from any rules under the Act.

The Information Circular will disclose that the NAV for Units will be calculated shortly after 4 p.m. ET each trading day.

Surveillance

The Exchange submits that its surveillance procedures are adequate to deter and detect violations of Exchange rules relating to the trading of the units. The surveillance procedures for the Units will be similar to those used for the iShares® COMEX Gold Trust and the streetTRACKS® Gold Trust Shares, as well as other TIRs and exchange-traded funds. In addition, the surveillance procedures will incorporate and rely on existing Amex surveillance procedures governing options and equities.[57]

The Exchange currently has in place an Information Sharing Agreement with the NYMEX for the purpose of providing information in connection with trading in or related to futures contracts traded on the NYMEX. In addition, the Exchange is also in the process of negotiating an Information Sharing Arrangement with ICE Futures for the purpose of providing information in connection with the trading in or related to futures contracts traded on the ICE Futures. To the extent that USOF invests in Oil Interests traded on other exchanges, the Amex will seek to enter into Information Sharing Arrangements, acceptable to the Commission staff, with those particular exchanges.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6 of the Act[58] in general and furthers the objectives of Section 6(b)(5)[59] in particular in that it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change, as amended, will impose any burden on competition.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

The Exchange has neither solicited nor received any written comments on the proposed rule change.

[56] In the event the Benchmark Futures Contract value or Indicative Value is no longer calculated or disseminated, the Exchange would immediately contact the Commission to discuss measures that may be appropriate under the circumstances. Telephone conversation between Jeffrey Burns, Associate General Counsel, Amex, Florence Harmon, Senior Special Counsel, Division, Commission and Johnna B. Dumler, Attorney, Division, Commission on February 8, 2006.

[57] Proposed Rule 1504 will aid the Exchange in conducting appropriate surveillance.

[58] 15 U.S.C. 78f(b).

[59] 15 U.S.C. 78f(b)(5).

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the Exchange consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change, as amended, is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form at *http://www.sec.gov/rules/sro.shtml* or
- Send an e-mail to *rule-comments@sec.gov*. Please include File No. SR–Amex–2005–127 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File No. SR–Amex–2005–127. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site at *http://www.sec.gov/rules/sro.shtml.* Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File No. SR–Amex–2005–127 and should be submitted on or before March 17, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[60]

Nancy M. Morris,

Secretary.

[FR Doc. E6–2642 Filed 2–23–06; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53328; File No. SR–Amex–2006–11]

Self-Regulatory Organizations; American Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to the Adoption of an Options Licensing Fee for Options on Certain SPDR ETFs

February 16, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 3, 2006, the American Stock Exchange LLC (''Amex'' or ''Exchange'') submitted to the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by Amex. Amex has designated this proposal as one establishing or changing a due, fee, or other charge imposed by the self-regulatory organization under Section 19(b)(3)(A)(ii) of the Act[3] and Rule 19b–4(f)(2) thereunder,[4] which renders it effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to modify its Options Fee Schedule by adopting a per contract license fee for the orders of specialists, registered options traders (''ROTs''), firms, non-member market makers, and broker-dealers in connection with options transactions in three new exchange-traded funds (''ETFs''): the SPDR Biotech ETF (symbol: XBI); the SPDR Homebuilders ETF (symbol: XHB); and the SPDR Semiconductor ETF (symbol: XSD).

The text of the proposed rule change is available on the Amex's Web site at *http://www.amex.com,* at the principal office of the Amex, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, Amex included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. Amex has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

Amex proposes to to adopt a per contract licensing fee for options on XBI, XHB, and XSD. These fee changes will be assessed on members commencing February 6, 2006. Amex also proposes to correct the Options Fee Schedule to reflect the elimination of the equity option fee discount for member firms facilitation customer orders.[5]

The Exchange has entered into numerous agreements with various index providers for the purpose of trading options on certain ETFs. This requirement to pay an index license fee to a third party is a condition to the listing and trading of these ETF options. In many cases, the Exchange is required to pay a significant licensing fee to the index provider that may not be reimbursed. In an effort to recoup the costs associated with certain index licenses, the Exchange has established a per contract licensing fee for the orders of specialists, ROTs, firms, non-member market makers and broker-dealers, which is collected on every option transaction in designated products in

[60] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] *See* Securities Exchange Act Release No. 52754 (November 9, 2005), 70 FR 69998 (November 18, 2005) (File No. SR–Amex–2005–113).

which such market participant is a party.[6]

The purpose of this proposal is to charge an options licensing fee in connection with options on XBI, XHB and XSD (collectively, the ''SPDR ETFs''). Specifically, Amex seeks to charge an options licensing fee of $0.09 per contract side for each SPDR ETF option for specialist, ROT, firm, non-member market maker and broker-dealer orders executed on the Exchange. In all cases, the fees will be charged only to the Exchange members through whom the orders are placed.

The proposed options licensing fee will allow the Exchange to recoup its costs in connection with the index license fee for the trading of the SPDR ETF options. The fees will be collected on every order of a specialist, ROT, firm, non-member market maker, and broker-dealer executed on the Exchange. The Exchange believes that the proposal to require payment of a per contract licensing fee in connection with the SPDR ETF options by those market participants that are the beneficiaries of Exchange index license agreements is justified and consistent with the rules of the Exchange.

The Exchange notes that the Amex, in recent years, has revised a number of fees to better align Exchange fees with the actual cost of delivering services and reduce Exchange subsidies of such services.[7] Amex believes that the implementation of this proposal is consistent with the reduction and/or elimination of these subsidies. Amex believes that these fees will help to allocate to those market participants engaging in SPDR ETF options, a fair share of the related costs of offering such options.

The Exchange asserts that the proposal is equitable as required by Section 6(b)(4) of the Act.[8] In connection with the adoption of an options licensing fee for SPDR ETF options, the Exchange believes that charging an options licensing fee, where applicable, to all market participant orders except for customer orders is reasonable, given the competitive pressures in the industry.[9] Accordingly, the Exchange seeks, through this proposal, to better align its transaction charges with the cost of providing products.

In addition, the Exchange recently eliminated the equity options transaction fee discount for member firms facilitating customer orders.[10] However, in a later filing, File No. SR–Amex–2005–126,[11] the Exchange inadvertently failed to incorporate in the Options Fee Schedule the elimination of the equity option transaction fee discount for members firms; therefore, the current fee schedule is inaccurate.[12] Accordingly, in this filing, the Exchange proposes to correct the Options Fee Schedule to once again reflect the elimination of the equity option transaction fee discount for member firms that was previously adopted by the Exchange.

2. Statutory Basis

Amex believes that the proposed fee change is consistent with Section 6(b)(4) of the Act[13] regarding the equitable allocation of reasonable dues, fees and other charges among exchange members and other persons using exchange facilities.

B. Self-Regulatory Organization's Statement on Burden on Competition

Amex believes that the proposed rule change does not impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing rule change was filed pursuant to Section 19(b)(3)(A)(ii) of the Act[14] and Rule 19b–4(f)(2) thereunder,[15] because it establishes or changes a due, fee, or other charge imposed by the self-regulatory organization.

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–Amex–2006–11 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC, 20549–1090.

All submissions should refer to File Number SR–Amex–2006–11. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the Amex. All comments received will be posted without change; the Commission does not edit personal identifying

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[6] *See, e.g.*, Securities Exchange Act Release No. 52493 (September 22, 2005), 70 FR 56941 (September 29, 2005).

[7] *See, e.g.*, Securities Exchange Act Release Nos. 45360 (January 29, 2002), 67 FR 5626 (February 6, 2002); and 44286 (May 9, 2001), 66 FR 27187 (May 16, 2001).

[8] Section 6(b)(4) states that the rules of a national securities exchange provide for the equitable allocation of reasonable dues, fees, and other charges among its members and issuers and other persons using its facilities.

[9] Telephone call between Jeffrey Burns, Vice President and Associate General Counsel, Amex, and Angela Muehr, Attorney, Division of Market Regulation (''Division''), Commission, on February 15, 2006.

[10] *See* Securities Exchange Act Release No. 52754, *supra* note 5. This proposal was immediately effective and was noticed in the **Federal Register** on November 18, 2005.

[11] *See* Securities Exchange Act Release No. 52925 (December 8, 2005), 70 FR 74065 (December 14, 2005).

[12] Telephone call between Jeffrey Burns, Vice President and Associate General Counsel, Amex, and Angela Muehr, Attorney, Division of Market Regulation (''Division''), Commission, on February 15, 2006.

[13] 15 U.S.C. 78f(b)(4).

[14] 15 U.S.C. 78s(b)(3)(A)(ii).

[15] 17 CFR 240.19b–4(f)(2).

information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–Amex–2006–11 and should be submitted on or before March 17, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[16]

Nancy M. Morris,

Secretary.

[FR Doc. E6–2644 Filed 2–23–06; 8:45 am]

BILLING CODE 8010–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–53327; File No. SR–NYSE–2005–86]

Self-Regulatory Organizations; New York Stock Exchange, Inc.; Notice of Filing of Proposed Rule Change and Amendment No. 1 Thereto To Conform NYSE Rules 123C and 476A with NYSE Rule 80A

February 16, 2006.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on December 7, 2005, the New York Stock Exchange, Inc. (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been prepared by the Exchange. On February 9, 2006, the Exchange filed Amendment No. 1 to the proposed rule change.[3] The Commission is publishing this notice to solicit comments on the proposed rule change, as amended, from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend: (a) NYSE Rule 123C (Market on the Close Policy and Expiration Procedures); and (b) the Supplementary Material to NYSE Rule 476A (Imposition of Fines for Minor Violation(s) of Rules), to conform such rules with the current provisions of NYSE Rule 80A (Index Arbitrage Trading Restrictions). The text of the proposed rule change is available on the Exchange's Internet Web site (*http://www.nyse.com*), at the Exchange's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and the Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend NYSE Rules 123C(7) and 476A to conform these rules with the provisions of NYSE Rule 80A. The Exchange amended NYSE Rule 80A on two earlier occasions to: (i) revise the trigger levels for the ''collar'' provisions, among others;[4] and (ii) replace the usage of the Dow Jones Industrial Average[5] (''DJIA'') as the basis for the calculation of the limitations on index arbitrage trading with the average closing value of the NYSE Composite Index® (also referred to as NYA).[6] NYSE Rules 123C(7) and 476A refer to the former provisions of NYSE Rule 80A and therefore must be conformed with NYSE Rule 80A, as amended.

NYSE Rule 80A currently requires that, for any component stock of the S&P 500® Stock Price Index,[7] whenever the NYSE Composite Index® declines from the previous day's close by an amount greater than or equal to two percent calculated pursuant to NYSE Rule 80A, all index arbitrage orders to sell must be marked ''sell plus,'' and, whenever the NYSE Composite Index® advances from the previous day's close by such amount, all index arbitrage orders to buy must be marked ''buy minus.'' The value at which tick restrictions are imposed is calculated quarterly. The two-percent value is based upon the average closing value of the NYSE Composite Index® for the last month of the previous calendar quarter, rounded down to the nearest ten points.

(a) *NYSE Rule 123C(7) Expiration Days: Exception to Rule 80A*

NYSE Rule 123C(7) currently refers to the former provisions of NYSE Rule 80A, which utilized the DJIA to calculate the limitations on index arbitrage trading. The Exchange proposes to amend NYSE Rule 123C(7) to reflect the current provisions of NYSE Rule 80A, which applies the NYSE Composite Index® for such calculation. NYSE Rule 123C(7) should have been amended along with the amendments to NYSE Rule 80A in August 2005,[8] but the Exchange inadvertently overlooked the amendment at that time.

NYSE Rule 123C(7) currently provides that when a market-on-close (''MOC'') index arbitrage order to establish or increase a position is entered in any component stock of the S&P 500® Stock Price Index and NYSE Rule 80A subsequently goes into effect, the MOC order must be handled differently depending upon when NYSE Rule 80A goes into effect. The tick restrictions are determined at the time NYSE Rule 80A goes into effect under the various conditions that exist in the market at that time. However, NYSE Rule 123C(7) also indicates that NYSE Rule 80A's provisions, which relate to the entry of index arbitrage orders when the DJIA is up or down 2.0% from its previous day's closing value, do not apply to index arbitrage MOC orders ''that are liquidating previously established stock positions against expiring derivative index products.'' The rule further provides that the two percent value is calculated at the beginning of each calendar quarter and is 2.0%, rounded down to the nearest 10 points, of the average closing value of the DJIA for the last month of the previous quarter. Further, the rule states that the NYSE Rule 80A exemption applies only on expiration days. Therefore, the orders that are entered before NYSE Rule 80A goes into effect cannot be cancelled between 3:40 p.m. and 3:50 p.m., except to correct a legitimate error or when a regulatory trading halt is in effect; after 3:50 p.m., cancellation or reduction in the size of MOC orders is not permitted for any reason.

(b) *NYSE Rule 476A Imposition of Fines for Minor Violation(s) of Rules*

[16] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] In Amendment No. 1, the Exchange made minor technical changes to the proposed rule text and revised the description of the proposal to clarify the general background of NYSE Rules 123C and 476A. Amendment No. 1 replaced NYSE's original filing in its entirety.

[4] *See infra* note 9.

[5] ''Dow Jones Industrial Average'' is a service mark of Dow Jones & Company, Inc.

[6] *See* Securities Exchange Act Release No. 52328 (August 24, 2005), 70 FR 51398 (August 30, 2005) (SR–NYSE–2005–45) (''NYSE Rule 80A Order''). NYSE Rule 80A currently calculates limitations on index arbitrage trading based on the NYSE Composite Index®, replacing the previous usage of the DJIA with respect to such calculation.

[7] ''Standard and Poor's 500 Stock Price Index® is a service mark of Standard and Poor's Corporation.

[8] *See* NYSE Rule 80A Order, *supra* note 6.

NYSE Rule 476A specifically provides that a violation of the NYSE Rules is committed when NYSE Rule 80A(c) and (d) tick requirements are not in place for certain orders when the DJIA has moved 50 points from the previous close. However, as discussed above, NYSE Rule 80A has been amended to reflect the utilization of the NYSE Composite Index®. In addition, the current language in NYSE Rule 476A does not conform to the amendments to NYSE Rule 80A made by the Exchange in February 1999.[9] Specifically, the Exchange amended, among others, NYSE Rule 80A's index arbitrage trigger, replacing the 50-point and 25-point limits with thresholds set at a two-percent value and a one-percent value of the DJIA.[10] The Exchange should have proposed to amend the provisions of NYSE Rule 476A when the NYSE Rule 80A arbitrage trigger was amended in 1999, but this amendment was inadvertently overlooked.

The Exchange proposes to amend NYSE Rule 476A to eliminate the specific reference to paragraphs (c) and (d), to refer instead to ''order entry requirements,'' to reflect the change to the utilization of the NYSE Composite Index®, and to delete the portion of the rule referring to ''50 points from the previous close'' and replace it with the current trigger calculation, which is a two-percent value of the NYSE Composite Index®.

2. Statutory Basis

The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[11] in general, and furthers the objectives of Section 6(b)(5) of the Act,[12] in particular, in that it is designed to promote just and equitable principles of trade; to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities; to remove impediments to and perfect the mechanism of a free and open market and a national market system; and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants or Others

No written comments were solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

(A) By order approve such proposed rule change, or

(B) institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–NYSE–2005–86 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSE–2005–86. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Section, 100 F Street, NE., Washington, DC 20549. Copies of such filing also will be available for inspection and copying at the principal offices of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–NYSE–2005–86 and should be submitted on or before March 17, 2006.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[13]

Nancy M. Morris,

Secretary.

[FR Doc. E6–2610 Filed 2–23–06; 8:45 am]

BILLING CODE 8010–01–P

[9] *See* Securities Exchange Act Release No. 41041 (February 11, 1999), 64 FR 8424 (February 19, 1999) (SR–NYSE–98–45).

[10] *See id.* As discussed earlier, the DJIA was subsequently replaced by the NYSE Composite Index® by subsequent amendment to NYSE Rule 80A.

[11] 15 U.S.C. 78f(b).

[12] 15 U.S.C. 78f(b)(5).

[13] 17 CFR 200.30–3(a)(12).

SMALL BUSINESS ADMINISTRATION

Small Business Size Standards: Waiver of the Nonmanufacturer Rule

AGENCY: U.S. Small Business Administration.

ACTION: Notice of denial to waive the Nonmanufacturer Rule for Forklifts Manufacturing.

SUMMARY: The U.S. Small Business Administration (SBA) is denying a request for a waiver of the Nonmanufacturer Rule for Forklifts Manufacturing based on our recent discovery of a small business manufacturer for this class of products. Denying this waiver will require recipients of contracts set aside for small businesses, service-disabled veteran-owned small businesses, or SBA's 8(a) Business Development Program to provide the products of small business manufacturers or processors on such contracts.

DATES: This notice of denial is effective March 13, 2006.

FOR FURTHER INFORMATI0N CONTACT: Edith Butler, Program Analyst, by telephone at (202) 619–0422; by FAX at (202) 481–1788; or by e-mail at *edith.butler@sba.gov.*

SUPPLEMENTARY INFORMATION: Section 8(a)(17) of the Small Business Act (Act),

15 U.S.C. 637(a)(17), requires that recipients of Federal contracts set aside for small businesses, service-disabled veteran-owned small businesses, or SBA's 8(a) Business Development Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule.

The SBA regulations imposing this requirement are found at 13 CFR 121.406(b). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any ''class of products'' for which there are no small business manufacturers or processors available to participate in the Federal market.

As implemented in SBA's regulations at 13 CFR 121.1202 (c), in order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. The SBA defines ''class of products'' based on a six digit coding system. The coding system is the Office of Management and Budget North American Industry Classification System (NAICS).

The SBA received a request on October 3, 2005 to waive the Nonmanufacturer Rule for Forklifts Manufacturing. In response, on November 3, 2005, SBA published in the **Federal Register** a notice of intent to waive the Nonmanufacturer Rule for Forklifts Manufacturing. SBA explained in the notice that it was soliciting comments and sources of small business manufacturers of this class of products. In response to that November 3, 2005 notice, SBA received a comment from a small business manufacturer indicating that it has furnished this product to the Federal government. Accordingly, based on the available information, SBA has determined that there is a small business manufacturer of this class of products, and, is therefore denying the class waiver of the Nonmanufacturer Rule for Forklifts Manufacturing, NAICS 333924.

Dated: February 14, 2006.

Karen C. Hontz,

Associate Administrator for Government Contracting.

[FR Doc. E6–2653 Filed 2–23–06; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Small Business Size Standards: Waiver of the Nonmanufacturer Rule

AGENCY: U.S. Small Business Administration.

ACTION: Notice of intent to waive the Nonmanufacturer Rule for Furniture.

SUMMARY: The U.S. Small Business Administration (SBA) is considering granting a request for a waiver of the Nonmanufacturer Rule for Furniture (except drafting tables, hospital beds, medical furniture) Merchant Wholesalers; Office Furniture Merchant Wholesalers; Furniture (except wood), Office-Type, Padded, Upholstered, or Plain, Manufacturing; Furniture Design Services; Furniture Frames and Parts, Metal, Manufacturing; Furniture Frames, Wood, Manufacturing; Furniture Parts, Finished Metal, Manufacturing; Furniture Parts, Finished Plastics, Manufacturing; Furniture Parts, Finished Wood, Manufacturing; Furniture, Factory-type (*e.g.*, cabinets, stools, tool stands, work benches), Manufacturing; Furniture, Hospital (*e.g.*, hospital beds, operating room furniture), Manufacturing; and Furniture, Laboratory-type (*e.g.*, benches, cabinets, stools, tables), Manufacturing. According to the request, no small business manufacturers are supplying this class of product to the Federal government. If granted, the waiver would allow otherwise qualified regular dealers to supply the products of any domestic manufacturer on a Federal contract set aside for small businesses; service-disabled veteran-owned small business or SBA's 8(a) Business Development Program.

DATES: Comments and source information must be submitted by March 13, 2006.

ADDRESSES: You may submit comments and source information to Edith Butler, Program Analyst, U.S. Small Business Administration, Office of Government Contracting, 409 3rd Street, SW., Suite 8800, Washington, DC 20416.

FOR FURTHER INFORMATI0N CONTACT: Edith Butler, Program Analyst, by telephone at (202) 619–0422; by FAX at (202) 481–1788; or by e-mail at *edith.butler@sba.gov.*

SUPPLEMENTARY INFORMATION: Section 8(a)(17) of the Small Business Act (Act), 15 U.S.C. 637(a)(17), requires that recipients of Federal contracts set aside for small businesses, service-disabled veteran-owned small businesses, or SBA's 8(a) Business Development Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.406(b). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any ''class of products'' for which there are no small business manufacturers or processors available to participate in the Federal market.

As implemented in SBA's regulations at 13 CFR 121.1202(c), in order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. The SBA defines ''class of products'' based on a six digit coding systems.

The coding system is the Office of Management and Budget North American Industry Classification System (NAICS).

The SBA is currently processing a request to waive the Nonmanufacturer Rule for Furniture (except drafting tables, hospital beds, medical furniture) merchant wholesalers; Office Furniture Merchant Wholesalers; Furniture (except wood), Office-Type, Padded, Upholstered, or Plain, Manufacturing; Furniture Design Services; Furniture Frames and Parts, Metal, Manufacturing; Furniture Frames, Wood, Manufacturing; Furniture Parts, Finished Metal, Manufacturing; Furniture Parts, Finished Plastics, Manufacturing; Furniture Parts, Finished Wood, Manufacturing; Furniture, Factory-type (*e.g.*, cabinets, stools, tool stands, work benches), Manufacturing; Furniture, Hospital (*e.g.*, hospital beds, operating room furniture), Manufacturing; and Furniture, Laboratory-type (*e.g.*, benches, cabinets, stools, tables), Manufacturing, North American Industry Classification System (NAICS) 423210. The public is invited to comment or provide source information to SBA on the proposed waiver of the Nonmanufacturer Rule for this class of NAICS code within 15 days after date of publication in the **Federal Register**.

Dated: February 14, 2006.

Karen C. Hontz,

Associate Administrator for Government Contracting.

[FR Doc. E6–2657 Filed 2–23–06; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Small Business Size Standards: Waiver of the Nonmanufacturer Rule

AGENCY: U.S. Small Business Administration.

ACTION: Notice of intent to Waive the Nonmanufacturer Rule for certain Petroleum Products.

SUMMARY: The U.S. Small Business Administration (SBA) is considering granting a request for a waiver of the Nonmanufacturer Rule for Industrial Gases Manufacturing; Refinery Gases made in Petroleum Refineries; Cyrogenic Tanks, Heavy Gauge Metal Manufacturing; Liquid Oxygen Tanks Manufacturing; Liquefied Petroleum Gases (LPG) Cylinders Manufacturing; Bulk Storage Tanks, Heavy Gauge Metal, Manufacturing; Gas Storage Tanks, Heavy Gauge Metal, Manufacturing; and Cylinders, Pressure, Heavy Gauge Metal, Manufacturing.

According to the request, no small business manufacturers supply these classes of products to the Federal government. If granted, the waiver would allow otherwise qualified regular dealers to supply the products of any domestic manufacturer on a Federal contract set aside for small businesses; service-disabled veteran-owned small business or SBA's 8(a) Business Development Program.

DATES: Comments and source information must be submitted by March 13, 2006.

ADDRESSES: You may submit comments and source information to Edith Butler, Program Analyst, U.S. Small Business Administration, Office of Government Contracting, 409 3rd Street, SW., Suite 8800, Washington, DC 20416.

FOR FURTHER INFORMATI0N CONTACT: Edith Butler, Program Analyst, by telephone at (202) 619–0422; by FAX at (202) 481–1788; or by e-mail at *edith.butler@sba.gov.*

SUPPLEMENTARY INFORMATION: Section 8(a)(17) of the Small Business Act (Act), 15 U.S.C. 637(a)(17), requires that recipients of Federal contracts set aside for small businesses, service-disabled veteran-owned small businesses, or SBA's 8(a) Business Development Program provide the product of a small business manufacturer or processor, if the recipient is other than the actual manufacturer or processor of the product. This requirement is commonly referred to as the Nonmanufacturer Rule. The SBA regulations imposing this requirement are found at 13 CFR 121.406(b). Section 8(a)(17)(b)(iv) of the Act authorizes SBA to waive the Nonmanufacturer Rule for any ''class of products'' for which there are no small business manufacturers or processors available to participate in the Federal market.

As implemented in SBA's regulations at 13 CFR 121.1202(c), in order to be considered available to participate in the Federal market for a class of products, a small business manufacturer must have submitted a proposal for a contract solicitation or received a contract from the Federal government within the last 24 months. The SBA defines ''class of products'' based on six digit coding systems. The coding system is the Office of Management and Budget North American Industry Classification System (NAICS).

The SBA is currently processing a request to waive the Nonmanufacturer Rule for Industrial Gases Manufacturing; Refinery Gases made in Petroleum Refineries; Cyrogenic Tanks, Heavy Gauge Metal Manufacturing; Liquid Oxygen Tanks Manufacturing; Liquefied Petroleum Gases (LPG) Cylinders Manufacturing; Bulk Storage Tanks, Heavy Gauge Metal, Manufacturing; Gas Storage Tanks, Heavy Gauge Metal, Manufacturing; and Cylinders, Pressure, Heavy Gauge Metal, Manufacturing. North American Industry Classification System (NAICS) codes 325120, 324110 and 332420. The public is invited to comment or provide source information to SBA on the proposed waivers of the Nonmanufacturer Rule for these classes of NAICS codes within 15 days after date of publication in the **Federal Register**.

Dated: February 17, 2006.

Arthur Collins,

Deputy Associate Administrator for Government Contracting.

[FR Doc. E6–2658 Filed 2–23–06; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

Surety Bond Guarantee Program Fee

AGENCY: Small Business Administration.

ACTION: Notice of change to fee increase.

SUMMARY: This notice amends the **Federal Register** notice published on September 28, 2005 regarding the guarantee fee charged under SBA's Surety Bond Guarantee (SBG) Program. Upon further review, and in the interest of mitigating the impact of the required fee increase on a single group (Surety companies), effective April 3, 2006, the following guarantee fees will be effective:

(1) The guarantee fee payable by Principals (small businesses) will be $7.29 per thousand dollars of the contract amount, in lieu of $6.00 per thousand dollars of the contract amount, as is currently required.

(2) The guarantee fee payable by Prior Approval Sureties and by Preferred Surety Bond (PSB) Sureties will be 26% of the bond premium, in lieu of 20% of the bond premium, as is currently required, or 32% of the bond premium as was announced in the prior **Federal Register** notice.

SBA has determined that the fee increases are necessary to supplement reserves in the SBG Program's revolving fund and offset unfunded program liabilities resulting from defaults under guaranteed bonds. SBA invites public comments on this fee change.

DATES: *Effective Date:* This fee increase is effective on April 3, 2006.

Comment Period: The Agency must receive comments on or before March 27, 2006.

ADDRESSES: You may submit comments by any of the following methods: Mail or Hand Delivery/Courier: Barbara Brannan, Special Assistant, U.S. Small Business Administration, Office of Surety Guarantees, 409 Third Street, SW., Washington, DC 20416; Fax (202) 205–7600; Email: *Barbara.Brannan@sba.gov.*

FOR FURTHER INFORMATION CONTACT: Barbara Brannan, Special Assistant, Office of Surety Guarantees, (202) 205–6545; E-mail: *Barbara.Brannan@sba.gov.*

SUPPLEMENTARY INFORMATION: Reserves in the SBG Program's revolving fund have declined significantly, and are currently not sufficient to cover projected, unfunded liabilities. An increase in fees is required to maintain the program. Initially, the required adjustment was to be covered by increasing the fees to Sureties from 20% of the bond premium, to 32% of the bond premium. This amounted to a 60% increase over the rate established in 1998.

Upon further review and analysis, distributing the required increase in fees among Surety companies and small businesses mitigates the impact that would otherwise fall on a single group (the Surety companies) and achieves a more balanced distribution of costs and benefits. In accordance with 13 CFR 115.32(b) and 115.66, the guarantee fee payable by Principals (small businesses) will be $7.29 per thousand dollars of the contract amount, in lieu of $6.00 per thousand dollars of the contract amount. The guarantee fee payable by Prior Approval Sureties addressed under 13 CFR 115.32(c) and Preferred Surety Bond (PSB) Sureties addressed under 13 CFR 115.66 will be 26% of the bond

premium, in lieu of 20% of the bond premium.

The proposed increase in fees to Surety companies and small businesses will take effect on April 3, 2006.

SBA invites public comments on the above stated fee increase. Please clearly identify paper and electronic comments as ''Public Comments on Fee Increases under the SBG Program,'' and send them to the contact person listed in the **ADDRESSES** section of the preamble.

Authority: 13 CFR 115.32(b) and (c) and 115.66.

Frank Lalumiere,

Associate Administrator, Office of Surety Guarantees.

[FR Doc. E6–2679 Filed 2–23–06; 8:45 am]

BILLING CODE 8025–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34834]

State of Texas, Acting by and Through the Texas Department of Transportation—Acquisition Exemption—Union Pacific Railroad Company

The State of Texas, acting by and through the Texas Department of Transportation (TXDOT), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to acquire the rights, title, and interest in certain personal and real property of a line of railroad from Union Pacific Railroad Company (UP). The line consists of a portion of the Bonham Subdivision extending between milepost 94.0 near Paris, and milepost 127.5 near Bonham, in Lamar and Fannin Counties, TX, a distance of approximately 33.5 miles.

The Board previously authorized the Fannin Rural Rail Transportation District (FRRTD), a political subdivision of the State of Texas, to acquire from UP and operate the above-described rail line through the offer of financial assistance process.[1] After having reached an agreement with UP for the sale of the line but before consummating the transaction, FRRTD sold its interests in the rail line to TXDOT. In consideration of FRRTD's agreement to sell its interests, TXDOT agreed to provide the funds to acquire the rail line from UP and to lease back the properties so that FRRTD, or its operator could perform freight rail service over the rail line.[2] The sale of the line by UP to TXDOT was consummated and closed on September 21, 2005.

TXDOT states that it will retain the residual common carrier obligation as part of its lease and operating agreement with FRRTD to ensure the viability of the corridor should FRRTD fail in its efforts to restore the line. TXDOT has filed this notice of exemption to cure its inadvertent failure to obtain prior Board approval of the sale to TXDOT rather than FRRTD.

The exemption authorized by this notice became effective on February 9, 2006 (7 days after the notice was filed).

TXDOT certifies that its projected revenues as a result of this transaction will not exceed those of a Class III rail carrier.

If the notice contains false or misleading information, the exemption is void *ab initio.* Petitions to revoke the exemption under 49 U.S.C. 10502(d) may be filed at any time. The filing of a petition to revoke will not automatically stay the transaction.

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34834, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Richard H. Streeter, Barnes & Thornburg LLP, 750 17th Street, NW., Suite 900, Washington, DC 20006.

Board decisions and notices are available on our Web site at ''*http://www.stb.dot.gov.*''

Decided: February 15, 2006.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. 06–1598 Filed 2–23–06; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34435]

Ameren Energy Generating Company—Construction and Operation Exemption—in Coffeen and Walshville, IL

By petition filed on February 5, 2004, Ameren Energy Generating Company (AEGC or petitioner), a wholly owned subsidiary of Ameren Corporation (Ameren), on behalf of itself and Coffeen and Western Railroad Company (CWRC), its railroad subsidiary,[1] seeks an exemption under 49 U.S.C. 10502 from the prior approval requirements of 49 U.S.C. 10901, to allow the construction and operation of approximately 13 miles of rail line. The line would run between AEGC's Coffeen Power Plant near Coffeen, IL, and separate connections with the Union Pacific Railroad Company (UP) and BNSF Railway Company (BNSF) near Walshville, IL.

In a decision served on May 5, 2004, the Board instituted a proceeding under 49 U.S.C. 10502(b). On May 26, 2004, Norfolk Southern Railway Company (NS) filed a notice of appearance and initial comments, to which AEGC and CWRC replied on June 22, 2004.[2]

The Board's Section of Environmental Analysis (SEA) conducted an environmental review of the proposed construction and alternatives to the proposal. A detailed Environmental Assessment (EA), prepared by SEA, was issued for public review and comment on May 25, 2005. SEA then prepared a Post Environmental Assessment (Post EA) dated January 13, 2006. The Post EA considers all the comments received on the EA, reflects SEA's further independent analysis, and sets forth SEA's final recommended environmental mitigation.

After considering the entire record, including both the transportation aspects of the petition and the potential environmental issues, we will grant the requested exemption, subject to the environmental mitigation measures recommended in the Post EA, which are set forth in the Appendix.

Background

Ameren's electric generating facilities provide energy services to 1.7 million electric customers and have a net generating capacity of more than 14,500 megawatts. The Coffeen Power Plant is a 900-megawatt facility and, at full capacity, can burn approximately 450 tons of coal to produce 6.7 million

[1] *See Union Pacific Railroad Company—Abandonment Exemption—In Lamar and Fannin Counties, TX*, STB Docket No. AB–33 (Sub-No. 163X) (STB served Aug. 19, 2003).

[2] TXDOT states that an appropriate notice will be filed in the event an operator is hired by FRRTD.

[1] Through a wholly owned subsidiary, Ameren ERC, Inc., Ameren controls the Missouri Central Railroad Company (MCRR). *See Ameren Corporation—Control Exemption—Missouri Central Railroad Company,* STB Finance Docket No. 33805 (STB served Nov. 5, 1999). In addition, Ameren owns a 60% interest in Electric Energy, Inc. (EEI), an exempt wholesale generator with 1,087 megawatts of capacity. Through EEI, Ameren controls the Joppa & Eastern Railroad (JERR). Ameren has obtained authority to control MCRR, JERR, and CWRC. *Ameren Corporation—Control Exemption—Coffeen and Western Railroad Company,* STB Finance Docket No. 34498 (STB served May 10, 2004).

[2] By decision served July 9, 2004, the Board denied a motion filed June 2, 2004, by CWRC to strike as irrelevant and inappropriate NS's initial comments.

pounds of steam per hour. The plant annually receives approximately 2.5 million tons of coal, most of which comes via NS from the Monterey Mine near Macoupin, IL.

NS currently transports the coal south from the Monterey Mine toward St. Louis, MO, and then north to a connection with BNSF at Litchfield, IL. From Litchfield, NS operates via trackage rights on BNSF track southeast to Sorento, IL, where it returns to its own track again for the last 12 miles east to the Coffeen Power Plant. AEGC states that the final 12-mile stretch of track is an island of NS track because NS has abandoned the sections of track to the east and the west. According to petitioner, NS does not serve any other shippers on this segment.

AEGC states that, since 2003, the coal mine currently supplying coal to the Coffeen Power Plant has had occasional difficulties providing the tonnage that Ameren needs. This concern, along with Ameren's overall desire to lower fuel costs by maximizing the fuel source and transportation options at its plants, led Ameren to investigate rail service alternatives that would provide more flexible and reliable service from a broader range of coal mine origins.

AEGC states that Ameren considered various potential routes that might be available to connect the Coffeen Power Plant to the lines of both UP and BNSF, each of which has access to numerous coal mines throughout the West. One route (referred to here as Route A) would consist of an approximately 13-mile line that starts at Coffeen and travels southwest and roughly parallel to the NS track for approximately 1 mile. It would then cross the NS line and closely follow existing transmission lines until near its end, where it would fork into two short segments that connect to the separate lines of UP and BNSF, both of which are near Walshville.

A second route (referred to here as Route B) would require NS to voluntarily agree to sell, lease, or otherwise allow Ameren to use the existing 12-mile island track. AEGC would then construct a 5-mile rail line from a point near the end of NS's line at Sorento north to connections with UP and BNSF lines near Walshville. AEGC considers Route B preferable, but states that, if construction and operation of that line is not possible, it would construct and operate the longer Route A line instead. Either of the proposed rail lines would provide the Coffeen Power Plant with direct access to rail lines of both UP and BNSF.

AEGC states that Ameren would finance the construction of the line and that CWRC would undertake the actual construction. The record indicates that CWRC might operate the line, or that Ameren might enter into a contract with another carrier to conduct the operations. In either case, the rail line would be operated as a common carrier rail line and other shippers could request service. AEGC states that, if another carrier were to operate the line, CWRC would retain a residual common carrier obligation to provide rail service.

AEGC states that the proposed build-out would increase competition by providing the Coffeen Power Plant with direct access to the services of two additional rail carriers. It explains that this increase in rail transportation options would increase the plant's fuel source options, thereby increasing plant reliability and decreasing the plant's total costs of operation. According to AEGC, this proposal is the kind of transaction that should qualify for an exemption from the prior approval requirements of 49 U.S.C. 10901. It notes that the ICC Termination Act of 1995 [3] liberalized the public convenience and necessity (PC&N) test of section 10901 so that there is now a presumption that a proposed rail construction project should be approved.[4]

NS has not directly opposed the proposed construction. However, it has raised concerns about the use of the Board's summary class exemption procedures at 49 CFR 1150.31 when CWRC was authorized to become a common carrier.[5] NS does not specifically ask for revocation of the exemption in that proceeding, but states that it is ''troubled'' by CWRC's creation through the filing of a notice of exemption, and asks the Board to consider reviewing the class exemption procedures generally.

Discussion and Conclusions

Rail Transportation Analysis

The construction and operation of railroad lines require prior Board authorization, either through issuance of a certificate under 49 U.S.C. 10901 or, as requested here, by granting an exemption under 49 U.S.C. 10502 from the formal application procedures of section 10901. Under section 10502, we must exempt a proposed rail line construction from the detailed application procedures of section 10901 when we find that: (1) Those procedures are not necessary to carry out the rail transportation policy (RTP) of 49 U.S.C. 10101; and (2) either (a) the proposal is of limited scope, or (b) the full application procedures are not necessary to protect shippers from an abuse of market power.

Here, based on the information provided, we conclude that detailed scrutiny of the proposed construction and operation under 49 U.S.C. 10901 is not necessary to carry out the RTP, and that therefore the proposed construction project is appropriate for handling under the exemption process. The proposed rail line will increase the rail transportation options available to Ameren and its subsidiaries, as well as other area shippers, and thus will enable shippers to realize the benefits of increased railroad competition [49 U.S.C. 10101(1) and (4)]. Moreover, exempting the proposed construction and operation from 49 U.S.C. 10901 will reduce the need for Federal regulation, ensure the development of a sound transportation system with effective competition among rail carriers, foster sound economic conditions, and reduce regulatory barriers to entry [49 U.S.C. 10101(2), (4), (5), and (7)]. Nothing in the record indicates that the proposal would adversely affect other aspects of the RTP.

Use of the formal application procedures here is not necessary to protect shippers from an abuse of market power. Rather, the proposed rail line will provide the area with additional transportation options and enhanced competition. Given our finding regarding the lack of need for shipper protection, we need not determine whether the transaction is limited in scope.

NS does not oppose this build-out proposal. Nor is there any evidence on the transportation related aspects of this case suggesting that the construction proposal does not qualify for our exemption procedures or is otherwise improper. NS has expressed concerns about the procedure by which CWRC was authorized to become a common carrier in a different proceeding. However, this proceeding is not the appropriate vehicle for reevaluating our procedures in that case or our class exemption procedures generally. Consequently, we see no need on this record to address NS's concerns further.[6]

[3] Pub. L. No. 104–88, 109 Stat. 803 (1995).

[4] Under 49 U.S.C. 10901, we must authorize the construction and operation of a new line ''unless the Board finds that such activities are inconsistent with the public convenience and necessity.''

[5] *Coffeen and Western Railroad Company—Lease and Operation Exemption—Near Coffeen, IL,* STB Finance Docket No. 34497 (STB served May 10, 2004). By that notice, CWRC obtained an exemption to lease from AEGC and operate approximately 0.2 miles of rail line near Coffeen, IL.

[6] We will not, as requested by NS (June 14, 2004 response at 8–9), make CWRC's authorization to be

Environmental Analysis

In reaching our decision, we have also analyzed the environmental impacts associated with this construction proposal by fully considering the EA, Post EA, and the entire environmental record. Based on the environmental record, we have also assessed the two alternative routes that could be constructed and what environmental mitigation to impose.

1. The Requirements of NEPA

The National Environmental Policy Act (NEPA), 42 U.S.C. 4321–43, requires Federal agencies to examine the environmental effects of proposed Federal actions and to inform the public concerning those effects. *Baltimore Gas & Elec. Co.* v. *Natural Resources Defense Council,* 462 U.S. 87, 97 (1983). Under NEPA and related environmental laws, we must consider significant potential beneficial and adverse environmental impacts in deciding whether to authorize a railroad construction as proposed, deny the proposal, or grant it with conditions (including environmental mitigation conditions). The purpose of NEPA is to focus the attention of the government and the public on the likely environmental consequences of a proposed action before it is implemented, in order to minimize or avoid potential adverse environmental impacts. *Marsh* v. *Oregon Natural Resources Council,* 490 U.S. 360, 371 (1989). While NEPA prescribes the process that must be followed, it does not mandate a particular result. *Mid States Coalition for Progress* v. *STB,* 345 F.3d 520, 533–34 (8th Cir. 2003). Thus, once the adverse environmental effects have been adequately identified and evaluated, we may conclude that other values outweigh the environmental costs. *Robertson* v. *Methow,* 490 U.S. 332, 350–51 (1989).

2. The Environmental Review Process

As noted above, in this case an EA was issued for public review and comment on May 25, 2005. In the EA, SEA preliminarily concluded, based on the information provided from all sources as of the date of the EA, as well as its independent analysis, that the construction and operation of AEGC's proposed rail line (using either Route A or Route B) would have no significant environmental impacts if the mitigation measures recommended in the EA were imposed. Prior to completion of the EA, AEGC had voluntarily proposed extensive environmental mitigation measures for the proposed project. SEA preliminarily recommended that we impose this mitigation, and some additional environmental conditions, on any decision granting the petition for exemption.

Comments on the EA were filed by: NS; the Illinois Environmental Protection Agency (IEPA); the United States Environmental Protection Agency, Region 5 (USEPA); the Natural Resources Conservation Service (NRCS); and the U.S. Fish and Wildlife Service (USFWS). AEGC replied to some of the comments. After considering the comments to the EA and the reply, SEA prepared a Post EA, dated January 13, 2006, in which it revised some of the mitigation recommended in the EA.[7] Specifically, SEA recommended the addition of the following mitigation: Mitigation measure 52, which addresses permitting requirements from IEPA; mitigation measure 50, which addresses Best Management Practices to prevent soil erosion; mitigation measure 28, which concerns drainage and potential erosion; mitigation measure 29, which addresses Best Management Practices for long-term maintenance of culverts and bridges; and mitigation measure 23, which imposes a 3-year mitigation monitoring and management program. Additionally, SEA recommends modifying its previously recommended mitigation measure 14, which concerns retention of woody debris and mulching. Finally, the Post EA states that the Illinois Historic Preservation Agency has completed its review under section 106 of the National Historic Preservation Act, 16 U.S.C. 470f, and has concluded that no historic properties would be affected by the proposed project. Accordingly, SEA recommends that the mitigation measure that pertains to that process (former mitigation measure 47) not be imposed.

SEA determined that, with its final recommended mitigation, neither Route A nor Route B would have significant environmental impacts. However, SEA designated Route B as environmentally preferable, because it would require only about 4.6 miles of new rail line construction, compared to Route A's approximately 13 miles of new line construction.

3. Our Conclusions on the Environmental Issues

After carefully reviewing the entire environmental record, we adopt all of SEA's analysis and conclusions, including those not specifically discussed here. We are satisfied that SEA took the requisite ''hard look'' at potential environmental impacts and accurately identified and independently evaluated the potential environmental effects associated with the project.

With respect to alternatives, we identify Route B as the preferred alternative, because it would be shorter. But we also find that petitioner may construct Route A, because, as the analysis in the EA and Post EA demonstrates, construction and operation of either alternative would have no significant environmental impacts with SEA's final recommended mitigation conditions, all of which we will impose. A list of all of our conditions, including both the voluntary mitigation developed by petitioner and SEA's own mitigation recommendations, is set forth in the Appendix to this decision.

Other Matters

Finally, AEGC has requested that, if we grant its requested exemption, we should also revoke the exemption to the extent necessary to summarily issue a PC&N certificate in order to facilitate a potential crossing mentioned in its petition for exemption. Under 49 U.S.C. 10901(d), the Board may order a rail carrier to allow another constructing carrier to cross its property ''[w]hen a certificate has been issued * * *,'' so long as the construction and operation of the crossing do not materially interfere with the crossed carrier's operations and the crossed carrier is compensated. *Keokuk Junction Ry. Co.* v. *STB,* 292 F.3d 884 (D.C. Cir. 2002). However, in a construction exemption proceeding, the Board only issues a section 10901 certificate in response to a petition to cross. *See The Burlington Northern and Santa Fe Railway Company—Petition for Declaration or Prescription of Crossing, Trackage, or Joint Use Rights,* STB Finance Docket No. 33740 (STB served May 13, 2003). AEGC has not filed a petition to cross, but merely states that it ''may need to seek crossing authority.'' It would therefore be premature to issue a section 10901 certificate at this time.

Conclusion

We find, after weighing the various transportation and environmental

a common carrier contingent upon the approval and construction of the proposed build-out. CWRC has already obtained the authority to be a common carrier in STB Finance Docket No. 34497. The additional authority granted to CWRC here, to operate the rail line proposed here, could only be exercised if this line is built; thus, there is no need to make this new operating authority contingent upon construction of the rail line.

[7] To the extent SEA's final recommended mitigation measures would affect AEGC's voluntary mitigation measures, AEGC agreed to SEA's recommended revisions.

concerns and considering the entire record, that the petition for exemption should be granted and that petitioner may build either Route A or Route B, subject to compliance with the environmental mitigation listed in the Appendix to this decision.

As conditioned, this action will not significantly affect either the quality of the human environment or the conservation of energy resources.

It is ordered

1. Under 49 U.S.C. 10502, the Board exempts AEGC's construction and CWRC's operation of the above-described line from the prior approval requirements of 49 U.S.C. 10901.

2. The Board adopts the environmental mitigation measures set forth in the Appendix to this decision, and imposes them as a condition to the exemption granted in this proceeding.

3. AEGC's motion to revoke the exemption to the extent necessary to issue a PC&N certificate is denied.

4. Notice will be published in the **Federal Register** on February 24, 2006.

5. Petitions to reopen must be filed by March 16, 2006.

6. The decision is effective on March 26, 2006.

By the Board, Chairman Buttrey and Vice Chairman Mulvey.

Vernon A. Williams,

Secretary.

Appendix

AEGC'S Voluntary Mitigation Measures

AEGC voluntarily proposes to incorporate the following mitigation measures into the proposed project.

Transportation and Traffic Safety

1. AEGC shall install, at its sole cost, the necessary signage, lighting, and safety warnings for all at-grade crossings as approved and permitted by the Illinois Commerce Commission (Routes A and B).

2. AEGC agrees to install, at its sole cost, flashers/gates at County Road 9/Panama Avenue to elevate safety at this grade crossing as requested by the Bond County Engineer (Route B only).

3. In order to minimize delays of vehicular traffic during construction of the road crossings, AEGC shall schedule the work so that construction of the roadway approaches would be completed before construction work within the roadway occurs (Routes A and B).

4. To the extent applicable, AEGC shall require the track contractor to pre-build track panels for the grade crossings (Routes A and B).

5. AEGC shall place detour signs and detour traffic around work sites as applicable. At least one month before road crossing construction would begin, AEGC shall notify and provide information to the nearest fire department and emergency response units and notify the County, Illinois Commerce Commission and Illinois Department of Transportation of the planned roadway construction schedule (Routes A and B).

6. To the maximum extent feasible, AEGC shall construct the proposed grade crossings during the summer months when school is out of session. If road crossing construction cannot occur during the summer months, AEGC shall, at least one month before road crossing construction is scheduled to begin, notify and provide information to the applicable school districts regarding the days and times that road construction is planned. AEGC shall consider school bus schedules in planning and executing the necessary road work (Routes A and B).

7. AEGC shall coordinate with NS, as necessary, regarding construction of the proposed Route A crossing of NS in order to prevent construction activities from interfering with NS operations over its line (Route A only).

8. AEGC shall coordinate with NS, as necessary, to prevent rail operations over the proposed Route A crossing of NS from interfering with NS operations over its line (Route A only).

9 AEGC shall make reasonable efforts to identify all utilities that are reasonably expected to be materially affected by the proposed construction within the right-of-way. AEGC shall work with each utility to determine the appropriate project-related modification needed, if any, and enter into an agreement regarding the same, if necessary. AEGC shall pay all project-related costs associated with these modifications or adjustments (Routes A and B).

10. AEGC shall ensure that the contractor it selects to perform all maintenance and inspections shall do so in compliance with Federal Railroad Administration (FRA) standards. AEGC shall also ensure that its contractor uses practices recommended by American Railway Engineering and Maintenance of Way Association for project-related construction (Routes A and B).

11. AEGC shall limit the maximum train speed on Route A to 45 mph and on Route B to 40 mph (Routes A and B).

Land Use

12. AEGC shall work with farmers and ranchers to remedy actual damage to crops, pastures, or rangelands caused by project-related construction (Routes A and B).

13. AEGC shall negotiate with affected landowners to provide private crossings, where appropriate, to minimize severance impacts (Routes A and B).

14. AEGC shall ensure all construction debris is disposed of in a proper and legal manner consistent with all applicable Federal, state, and local disposal procedures. To the maximum extent feasible, AEGC shall ensure that woody debris resulting from right-of-way clearing activities during rail line construction is left on-site in forested areas as wildlife habitat. Regarding woody debris that cannot be left on-site, AEGC shall take reasonable steps to mulch the trees for residential or community use within the project area (Routes A and B).

15. AEGC shall limit construction activities and vegetation clearing to the proposed right-of-way, to the extent possible (Routes A and B).

16. Should any land not owned by AEGC be directly disturbed by project-related construction, AEGC shall restore such areas to their original condition, as may be reasonably necessary, upon completion of project-related construction (Routes A and B).

17. AEGC's project-related construction vehicles, equipment, and workers shall not access work areas by crossing residential properties without the permission of the property owners (Routes A and B).

18. AEGC shall coordinate with the Illinois Department of Transportation regarding any agreement needed for the crossing of the state-owned land near Illinois Route 127 (Route A only).

Geology/Soils

19. AEGC shall limit ground disturbance to only the areas necessary for project-related construction activities (Routes A and B).

20. AEGC shall commence reclamation of disturbed areas as soon as practicable after project-related construction ends along a particular stretch of rail line. The goal of reclamation shall be the rapid and permanent reestablishment of native ground cover on disturbed areas (Routes A and B).

21. During project-related construction, AEGC shall take reasonable steps to ensure that contractors use fill material appropriate for the project area (Routes A and B).

Water Resources/Wetlands

22. AEGC shall require its construction contractor to utilize Best Management Practices, to include:

a. Practices to reduce erosion and sedimentation that could occur as a result of construction, including along slopes and in channels (Routes A and B);

b. Disturbance of the smallest area possible around water resources (Routes A and B);

c. Reseeding of areas as soon as practicable to prevent erosion (Routes A and B);

d. If necessary, use of seeding fiber mats, straw mulch, plastic lined slope drains, and silt dikes (Routes A and B);

e. Use of native species where practicable for revegetation (Routes A and B);

f. Development of a spill prevention plan prior to construction, including measures to be taken in case any spills occur (Routes A and B);

g. Maintaining construction and maintenance vehicles in good working order (Routes A and B);

h. Daily inspections of all equipment for any fuel, lube oil, hydraulic, or antifreeze leaks. If leaks are found, the contractor shall immediately remove the equipment from service and repair or replace it and remediate the spill (Routes A and B);

i. Practices to control turbidity and disturbance to bottom sediments during project-related construction of the proposed Coffeen Lake crossing (Route A only).

23. AEGC shall implement a monitoring and management program covering a minimum of three years to ensure that mitigation activities are successful (Routes A and B).

24. AEGC shall develop a bridge maintenance plan in compliance with FRA regulations (Routes A and B).

25. Culvert construction in streams with significant water flow that could not be barricaded shall have a by-pass channel cut adjacent to the site to accommodate ''normal'' flow conditions (Routes A and B).

26. Culvert construction in streams not having significant flow and that could be barricaded shall have a pump(s) set up to pass the water through the placement/construction site (Routes A and B).

27. Erosion control measures at culvert construction sites shall remain in place until the permanent culvert construction process is completed (Routes A and B).

28. AEGC shall ensure drainage and evaluate potential erosion concerns that may arise downstream of structures installed across the drainageways (Routes A and B).

29. AEGC shall use Best Management Practices for long-term maintenance of culverts and bridges along the proposed rail line (Routes A and B).

30. AEGC shall construct the proposed rail line in such a way as to maintain current drainage patterns to the extent practicable (Routes A and B).

31. Where appropriate, AEGC shall work with farmers on any drainage issues which might arise (Routes A and B).

32. AEGC shall prohibit project-related construction vehicles from driving in or crossing streams at other than established crossing points (Routes A and B).

33. AEGC shall coordinate with the U.S. Army Corps of Engineers, Illinois Department of Natural Resources and Illinois Environmental Protection Agency regarding the appropriate wetland mitigation (Routes A and B).

34. AEGC shall construct all project-related drainage crossing structures to pass a 100-year flood and AEGC shall coordinate with the Illinois Department of Natural Resources to ensure the new floodplain crossings are appropriately designed to minimize impacts (Routes A and B).

35. For wells located within the proposed right-of-way but outside the grading limits, AEGC shall cap or otherwise close those wells in accordance with state regulations (Routes A and B).

36. AEGC shall require that appropriate vegetation control measures are followed and that herbicides applied during right-of-way vegetation control procedures are approved by USEPA for such purposes (Routes A and B).

37. AEGC shall require that the company conducting vegetation control procedures is licensed to do so (Routes A and B).

38. In order to prevent the potential disbursement of sprayed substances to adjacent drainageways and wetlands, AEGC shall require that herbicide spraying not be undertaken on days with high winds and that on marginally windy days, an additive may be used to minimize any potential impact (Routes A and B).

Biological Resources

39. The proposed Route A crossings of Lake Fork, Shoal Creek, and Bearcat Creek shall be bridged, thereby reducing potential impacts to the river otter habitat (Route A only).

40. The culvert crossing at Grove Branch on Route B shall be sized to minimize any impacts to the river otter habitat (Route B only).

41. The proposed culverts at Stream 19 and other intermittent streams shall be sized to minimize any natural resource impacts (Routes A and B).

Air Quality

42. AEGC shall follow Federal, state, and local regulations regarding the control of fugitive dust emissions. This may include spraying water, applying a magnesium chloride treatment, placing tarp covers on vehicles, and installing wind barriers, if necessary (Routes A and B).

43. AEGC shall work with its contractors to make sure that construction and maintenance equipment is properly maintained and that mufflers and other required pollution-control devices are in working condition in order to limit construction-related air emissions (Routes A and B).

44. AEGC shall require its construction contractor to obtain the necessary burning permits to dispose of vegetation and other debris cleared from the proposed rail right-of-way (Routes A and B).

Noise and Vibration

45. AEGC shall work with its construction contractor to minimize, to the extent practicable, construction-related noise disturbances near any residential areas (Routes A and B).

46. AEGC shall require its construction contractor to maintain project-related construction and maintenance vehicles in good working order with properly functioning mufflers to control noise (Routes A and B).

47. AEGC shall use continuously welded rail and rail lubricants, as practicable, on the newly constructed line in order to reduce wheel/rail wayside noise (Routes A and B).

48. AEGC shall require, as practicable, its contractor(s) to comply with FRA regulations that establish decibel limits for train operations and locomotive noise standards (Routes A and B).

Additional Mitigation

49. AEGC shall comply with any reasonable stream/wetland mitigation that may be required as part of its project-related permit applications to the U.S. Army Corps of Engineers, Illinois Department of Natural Resources, and Illinois Environmental Protection Agency under the Clean Water Act (Routes A and B).

50. As site-specific erosion and sediment control and other Best Management Practices plans are developed, AEGC shall provide copies of these plans to NRCS (Routes A and B).

51. As requested by USFWS, in order to avoid impacting the Indiana bat, AEGC shall ensure that any project-related tree clearing activities in Bond County not occur during the period of April 1 to September 30. If tree-clearing during this time period cannot be avoided, AEGC shall consult with USFWS prior to tree clearing regarding the necessity of conducting mist net surveys to determine if Indiana bats are present. AEGC shall report the outcome of these consultations with the USFWS to SEA (Route B only).

52. AEGC shall coordinate with the Illinois Environmental Protection Agency to obtain any permits required from that agency (Routes A and B).

[FR Doc. E6–2655 Filed 2–23–06; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 5452

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 5452, Corporate Report of Nondividend Distributions.

DATES: Written comments should be received on or before April 25, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3179, or through the Internet at *(Larnice.Mack@irs.gov)*.

SUPPLEMENTARY INFORMATION:

Title: Corporate Report of Nondividend Distributions.

OMB Number: 1545–0205.

Form Number: 5452.

Abstract: Form 5452 is used by corporations to report their nontaxable distributions as required by Internal Revenue Code section 604(d)(2). The information is used by IRS to verify that the distributions are nontaxable as claimed.

Current Actions: There are no changes being made to Form 5452 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Responses: 1,700.

Estimated Time per Response: 31 hours, 51 minutes.

Estimated Total Annual Burden Hours: 54,145.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 14, 2006.

Glenn Kirkland,

IRS Reports Clearance Office.

[FR Doc. E6–2598 Filed 2–23–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 4461, 4461–A, and 4461–B

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 4461, Application for Approval of Master or Prototype Defined Contribution Plan; Form 4461–A, Application for Approval of Master or Prototye Defined Benefit Plan; Form 4461–B, Application for Approval of Master or Prototype Plan, Mass Submitter Adopting Sponsor.

DATES: Written comments should be received on or before April 25, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3179, or through the Internet at *(Larnice.Mack@irs.gov).*

SUPPLEMENTARY INFORMATION:

Title: Form 4461, Application for Approval of Master or Prototype Defined Contribution Plan; Form 4461–A, Application for Approval of Master or Prototype Defined Benefit Plan; Form 4461–B, Application for Approval of Master or Prototype Plan, Mass Submitter Adopting Sponsor.

OMB Number: 1545–0169.

Form Number: Forms 4461, 4461–A, and 4461–B.

Abstract: The IRS uses these forms to determine from the information submitted whether the applicant plan qualifies under section 401(a) of the Internal Revenue Code for plan approval. The application is also used to determine if the related trust qualifies for tax exempt status under Code section 501(a).

Current Actions: There are no changes being made to these forms at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Responses: 5,250.

Estimated Number of Respondent: 20 hours, 49 minutes.

Estimated Total Annual Burden Hours: 109,298.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 14, 2006.

Glenn Kirkland,

IRS Reports Clearance Office.

[FR Doc. E6–2599 Filed 2–23–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[Revenue Procedure 2001–22]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information

collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Revenue Procedure 2001–11, Pre-filing Agreement Program.

DATES: Written comments should be received on or before April 25, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3179, or through the Internet at (*Larnice.Mack@irs.gov*).

SUPPLEMENTARY INFORMATION:

Title: Certain Transfers of Domestic Stock or Securities by U.S. Persons to Foreign Corporations.

OMB Number: 1545–1684.

Regulation Project Number: Revenue Procedure 2001–22.

Abstract: Revenue Procedure 2001–22 describes a program under which certain large business taxpayers may request examination and resolution of specific issues relating to tax returns. The resolution of such issues under the program will be memorialized by a type of closing agreement under Code section 7121 called a pre-filing agreement.

Current Actions: There are no changes being made to the revenue procedure at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents/ Recordkeepers: 225.

Estimated Time Per Response: 45 hours, 20 minutes.

Estimated Total Annual Burden Hours: 10,200.

The following paragraph applies to all the collections of information covered by this notice.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 16, 2006.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–2600 Filed 2–23–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8725

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8725, Excise Tax on Greenmail.

DATES: Written comments should be received on or before April 25, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3179, or through the Internet at *(Larnice.Mack@irs.gov).*

SUPPLEMENTARY INFORMATION:

Title: Excise Tax on Greenmail.

OMB Number: 1545–1086.

Form Number: 8725.

Abstract: Form 8725 is used by persons who receive ''greenmail'' to compute and pay the excise tax on greenmail imposed under Internal Revenue Code section 5881. IRS uses the information to verify that the correct amount of tax has been reported.

Current Actions: There are no changes being made to the Form 8725 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Respondents: 12.

Estimated Time Per Response: 7 hours, 1 minute.

Estimated Total Annual Burden Hours: 85.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number.

Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital

or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 14, 2006.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–2601 Filed 2–23–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[[REG–122917–02, Previously EE–86–88, LR–279–81]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, REG–122917–02, Statutory Options (Previously EE–86–88, LR–279–81).

DATES: Written comments should be received on or before April 25, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6512, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202)622–3179, or through the Internet at *(Larnice.Mack@irs.gov)*.

SUPPLEMENTARY INFORMATION:

Title: Statutory Options.

OMB Number: 1545–0820.

Regulation Project Number: REG–122917–02.

Abstract: The affected public includes corporations that transfer stock to employees after 1979 pursuant to the exercise of a statutory stock option. The corporation must furnish the employee receiving the stock with a written statement describing the transfer. The statement will assist the employee in filing their tax return.

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 50,000.

Estimated Time Per Respondent: 25 minutes.

Estimated Total Annual Burden Hours: 16,650.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 16, 2006.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–2602 Filed 2–23–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8906

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13(44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8906, Distilled Spirits Credit.

DATES: Written comments should be received on or before April 25, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland Internal Revenue Service, room 6512, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3179, or through the Internet at (*Larnice.Mack@irs.gov).*

SUPPLEMENTARY INFORMATION:

Title: Distilled Spirits Credit.

OMB Number: 1545–1982.

Form Number: 8906.

Abstract: Form 8906 was developed to carry out the provisions of IRC section 5011(a). This section allows eligible wholesalers and persons to IRC section 5055 an income tax credit for the average cost of carrying excise tax on bottled distilled spirits. The new form provides a means for the eligible taxpayer to compute the amount of credit.

Current Actions: There are no changes being made to Form 8906 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Business or other for-profit organizations.

Estimated Number of Responses: 600.

Estimated Number of Respondents: 1 hour, 52 minutes.

Estimated Total Annual Burden Hours: 1,116.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 15, 2006.

Glenn Kirkland,

IRS Reports Clearance Office.

[FR Doc. E6–2603 Filed 2–23–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Proposed Collection; Comment Request for Form 8281

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning Form 8281, Information Return for Publicity Offered Original Issue Discount Instructions.

DATES: Written comments should be received on or before April 25, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the form and instructions should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue, NW., Washington, DC 20224, or at (202) 622–3179, or through the internet at *Larnice.Mack@irs.gov*.

SUPPLEMENTARY INFORMATION:

Title: Information Return for Publicity Offered Original Issue Discount Instruments.

OMB Number: 1545–0887.

Form Number: 8271.

Abstract: Internal Code section 1275(c)(2) requires the furnishing of certain information to the IRS by issuers of publicity offered debt instruments having original issue discount. Regulations section 1.1275–3 prescribes that Form 8281 shall be used for this purpose. The information on Form 8281 is used to update Publication 1212, List of Original Issue Discount Instruments.

Current Actions: There are no changes being made to Form 5452 at this time.

Type of Review: Extension of a currently approved collection.

Affected Public: Businesses or other for-profit organizations.

Estimated Number of Responses: 500.

Estimated Time per Response: 6 hours, 7 minutes.

Estimated Total Annual Burden Hours: 3,060.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request for Comments: Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 14, 2006.

Glenn Kirkland,

IRS Reports Clearance Office.

[FR Doc. E6–2604 Filed 2–23–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

[PS–92–90]

Proposed Collection; Comment Request for Regulation Project

AGENCY: Internal Revenue Service (IRS), Treasury.

ACTION: Notice and request for comments.

SUMMARY: The Department of the Treasury, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995, Public Law 104–13 (44 U.S.C. 3506(c)(2)(A)). Currently, the IRS is soliciting comments concerning an existing final regulation, PS–92–90 (TD 8395), Special Valuation Rules (Sections 25.2701–2, 25.2701–4, and 301.6501(c)–1).

DATES: Written comments should be received on or before April 25, 2006 to be assured of consideration.

ADDRESSES: Direct all written comments to Glenn Kirkland, Internal Revenue Service, room 6512, 1111 Constitution Avenue NW., Washington, DC 20224.

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the regulations should be directed to Larnice Mack at Internal Revenue Service, room 6512, 1111 Constitution Avenue NW., Washington, DC 20224, or at (202) 622–3179, or

through the Internet at (*Larnice.Mack@irs.gov*).

SUPPLEMENTARY INFORMATION:

Title: Special Valuation Rules.

OMB Number: 1545–1241.

Regulation Project Number: PS–92–90.

Abstract: Section 2701 of the Internal Revenue Code allows various elections by family members who make gifts of common stock or partnership interests and retain senior interests in the same entity. This regulation provides guidance on how taxpayers make these elections, what information is required, and how the transfer is to be disclosed on the gift tax return (Form 709).

Current Actions: There is no change to this existing regulation.

Type of Review: Extension of a currently approved collection.

Affected Public: Individuals or households.

Estimated Number of Respondents: 1,200.

Estimated Time Per Respondent: 25 minutes.

Estimated Total Annual Burden Hours: 496.

The following paragraph applies to all of the collections of information covered by this notice:

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless the collection of information displays a valid OMB control number. Books or records relating to a collection of information must be retained as long as their contents may become material in the administration of any internal revenue law. Generally, tax returns and tax return information are confidential, as required by 26 U.S.C. 6103.

Request For Comments

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval. All comments will become a matter of public record. Comments are invited on: (a) Whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology; and (e) estimates of capital or start-up costs and costs of operation, maintenance, and purchase of services to provide information.

Approved: February 16, 2006.

Glenn Kirkland,

IRS Reports Clearance Officer.

[FR Doc. E6–2605 Filed 2–23–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF THE TREASURY

Internal Revenue Service

Open Meeting of the Taxpayer Advocacy Panel Earned Income Tax Credit Issue Committee

AGENCY: Internal Revenue Service (IRS) Treasury.

ACTION: Notice.

SUMMARY: An open meeting of the Taxpayer Advocacy Panel Earned Income Tax Credit Issue Committee will be conducted (via teleconference). The Taxpayer Advocacy Panel is soliciting public comments, ideas and suggestions on improving customer service at the Internal Revenue Service.

DATES: The meeting will be held Tuesday, March 14, 2006.

FOR FURTHER INFORMATION CONTACT: Audrey Y. Jenkins at 1–888–912–1227 (toll-free), or 718–488–2085 (non toll-free).

SUPPLEMENTARY INFORMATION: Notice is hereby given pursuant to Section 10(a)(2) of the Federal Advisory Committee Act, 5 U.S.C. App. (1988) that an open meeting of the Taxpayer Advocacy Panel Earned Income Tax Credit Issue Committee will be held Tuesday, March 14, 2006 from 12 p.m. to 1 p.m. ET via a telephone conference call. The public is invited to make oral comments. Individual comments will be limited to 5 minutes. For information or to confirm attendance, notification of intent to attend the meeting must be made with Audrey Y. Jenkins. Ms. Jenkins may be reached at 1–888–912–1227 or (718) 488–2085, send written comments to Audrey Y. Jenkins, TAP Office, 10 MetroTech Center, 625 Fulton Street, Brooklyn, NY 11201 or post comments to the Web site: *www.improveirs.org*. Due to limited conference lines, notification of intent to participate in the telephone conference call meeting must be made in advance.

The agenda will include various IRS issues.

Dated: February 15, 2006.

Martha Curry,

Acting Director, Taxpayer Advocacy Panel.

[FR Doc. E6–2606 Filed 2–23–06; 8:45 am]

BILLING CODE 4830–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0265]

Proposed Information Collection Activity: Proposed Collection; Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments for information needed to determine an applicant's entitlement to counseling services.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before April 25, 2006.

ADDRESSES: Submit written comments on the collection of information to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail: *irmnkess@vba.va.gov*. Please refer to ''OMB Control No. 2900–0265'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 273–7079 or Fax (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Public Law 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the

collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Application for Counseling, VA Form 28–8832.

OMB Control Number: 2900–0265.

Type of Review: Extension of a currently approved collection.

Abstract: Claimants complete VA Form 28–8832 to apply for counseling services. VA provides personal counseling as well as counseling in training and career opportunities. VA uses the data collected to determine the claimant's eligibility for counseling.

Affected Public: Individuals or households.

Estimated Annual Burden: 417 hours.

Estimated Average Burden Per Respondent: 5 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 5,000.

Dated: February 9, 2006.

By direction of the Secretary:

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E6–2581 Filed 2–23–06; 8:45 am]

BILLING CODE 8320–01–P

Federal Register

Friday,
February 24, 2006

Part II

Department of Housing and Urban Development

Federal Property Suitable as Facilities To Assist the Homeless; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5045–N–08]

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 G. 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: ARMY: Ms. Audrey C. Ormerod, Office of the Assistant Chief of Staff for Installation Management, Attn: DAIM–MD, Room 1E677, 600 Army Pentagon, Washington, DC 20310; (703) 601–2520; (These are not toll-free numbers).

Dated: February 16, 2006.

Mark R. Johnston,

Acting Deputy Assistant, Secretary for Special Needs.

Title V, Federal Surplus Property Program Federal Register Report for 2/24/06

Suitable/Available

Properties Buildings (by State)

Alaska

Armory
NG Noorvik
Noorvik AK 99763–
Landholding Agency: Army
Property Number: 21200110075
Status: Unutilized
Comment: 1200 sq. ft., most recent use—armory, off-site use only

Bldg. 00001
Kiana Natl Guard Armory
Kiana AK 99749–
Landholding Agency: Army
Property Number: 21200340075
Status: Excess
Comment: 1200 sq. ft., butler bldg., needs repair, off-site use only

Bldg. 00001
Wainwright Armory
Wainwright Co: AK 99782–
Landholding Agency: Army
Property Number: 21200510055
Status: Excess
Comment: 1200 sq. ft., presence of asbestos, most recent use—storage

Arizona

Bldg. 30012, Fort Huachuca
Sierra Vista Co: Cochise AZ 85635–
Landholding Agency: Army
Property Number: 21199310298
Status: Excess
Comment: 237 sq. ft., 1-story block, most recent use—storage

Bldg. S–306
Yuma Proving Ground
Yuma Co: Yuma/La Paz AZ 85365–9104
Landholding Agency: Army
Property Number: 21199420346
Status: Unutilized
Comment: 4103 sq. ft., 2-story, needs major rehab, off-site use only

Bldg. 503, Yuma Proving Ground
Yuma Co: Yuma AZ 85365–9104
Landholding Agency: Army
Property Number: 21199520073
Status: Underutilized
Comment: 3789 sq. ft., 2-story, major structural changes required to meet floor loading & fire code requirements, presence of asbestos, off-site use only

Bldg. 43002
Fort Huachuca
Cochise Co: AZ 85613–7010
Landholding Agency: Army
Property Number: 21200440066
Status: Excess
Comment: 23,152 sq. ft., presence of asbestos/lead paint, most recent use—dining, off-site use only

Bldg. 66150

Fort Huachuca
Cochise Co: AZ 85613–
Landholding Agency: Army
Property Number: 21200540079
Status: Excess
Comment: 4027 sq. ft., most recent use—storage, off-site use only

Bldg. 90335
Fort Huachuca
Cochise Co: AZ 85613–
Landholding Agency: Army
Property Number: 21200540080
Status: Excess
Comment: 456 sq. ft., most recent use—storage, off-site use only

Bldg. 90336
Fort Huachuca
Cochise Co: AZ 85613–
Landholding Agency: Army
Property Number: 21200540081
Status: Excess
Comment: 8339 sq. ft., most recent use—storage, off-site use only

California

Bldgs. 18026, 18028
Camp Roberts
Monterey CA 93451–5000
Landholding Agency: Army
Property Number: 21200130081
Status: Excess
Comment: 2024 sq. ft., & 487 sq. ft., concrete, poor condition, off-site use only

Colorado

Bldg. T–108
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200130083
Status: Unutilized
Comment: 9000 sq. ft., poor condition, possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–209
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200130084
Status: Unutilized
Comment: 400 sq. ft., poor condition, possible asbestos/lead paint, most recent use—maint. shop, off-site use only

Bldg. T–217
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200130085
Status: Unutilized
Comment: 9000 sq. ft., poor condition, possible asbestos/lead paint, most recent use—maint., off-site use only

Bldg. T–218
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200130086
Status: Unutilized
Comment: 9000 sq. ft., poor condition, possible asbestos/lead paint, most recent use—maint., off-site use only

Bldg. T–220
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200130087
Status: Unutilized
Comment: 690 sq. ft., poor condition, possible asbestos/lead paint, most recent use—heat plant, off-site use only

Bldg. T–6001
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200130088
Status: Unutilized
Comment: 4372 sq. ft., poor condition, possible asbestos/lead paint, most recent use—vet clinic, off-site use only

Bldg. S6263
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200310051
Status: Unutilized
Comment: 24,902 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—offices, off-site use only

Bldg. S6268
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200340085
Status: Unutilized
Comment: 840 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. 25, 26, 27
Pueblo Chemical Depot
Pueblo CO 81006–
Landholding Agency: Army
Property Number: 21200420178
Status: Unutilized
Comment: 1311 sq. ft., presence of asbestos/lead paint, most recent use—housing, off-site use only

Bldg. 00127
Pueblo Chemical Depot
Pueblo CO 81006–
Landholding Agency: Army
Property Number: 21200420179
Status: Unutilized
Comment: 8067 sq. ft., presence of asbestos, most recent use—barracks, off-site use only

Georgia

Bldg. 4963, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220710
Status: Unutilized
Comment: 6077 sq. ft., 1 story, most recent use—storehouse, need repairs, off-site removal only

Bldg. 2396, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220712
Status: Unutilized
Comment: 9786 sq. ft., 1 story, most recent use—dining facility, needs major rehab, off-site removal only

Bldg. 4967, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220728
Status: Unutilized
Comment: 6077 sq. ft., 1 story, most recent use—storage, need repairs, off-site removal only

Bldg. 4944, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220747
Status: Unutilized
Comment: 6400 sq. ft., 1 story, most recent use—vehicle maintenance shop, need repairs, off-site removal only

Bldg. 4964, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220763
Status: Unutilized
Comment: 2000 sq. ft., 1 story, most recent use—headquarters bldg., need repairs, off-site removal only

Bldg. 4945, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199220779
Status: Unutilized
Comment: 220 sq. ft., 1 story, most recent use—gas station, needs major rehab, off-site removal only

Bldg. 4023, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199310461
Status: Unutilized
Comment: 2269 sq. ft., 1-story, needs rehab, most recent use—maintenance shop, off-site use only

Bldg. 4024, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199310462
Status: Unutilized
Comment: 3281 sq. ft., 1-story, needs rehab, most recent use—maintenance shop, off-site use only

Bldg 4051, Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199520175
Status: Unutilized
Comment: 967 sq. ft., 1-story, needs rehab, most recent use—storage, off-site use only

Bldg. 322
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199720156
Status: Unutilized
Comment: 9600 sq. ft., needs rehab, most recent use—admin., off-site use only

Bldg. 2593
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199720167
Status: Unutilized
Comment: 13644 sq. ft., needs rehab, most recent use—parachute shop, off-site use only

Bldg. 2595
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199720168
Status: Unutilized
Comment: 3356 sq. ft., needs rehab, most recent use—chapel, off-site use only

Bldg. 4476
Fort Benning

Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199720184
Status: Unutilized
Comment: 3148 sq. ft., needs rehab, most recent use—vehicle maint. shop, off-site use only

Bldg. 92
Fort Benning
Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199830278
Status: Unutilized
Comment: 637 sq. ft., needs rehab, most recent use—admin., off-site use only

Bldg. 4232
Fort Benning
Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199830291
Status: Unutilized
Comment: 3720 sq. ft., needs rehab, most recent use—maint. bay, off-site use only

Bldg. 2288
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930123
Status: Unutilized
Comment: 2481 sq. ft., most recent use—admin., off-site use only

Bldg. 2293
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930125
Status: Unutilized
Comment: 2600 sq. ft., most recent use—hdqts. bldg., off-site use only

Bldg. 2297
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930126
Status: Unutilized
Comment: 5156 sq. ft., most recent use—admin.

Bldg. 2508
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930128
Status: Unutilized
Comment: 2434 sq. ft., most recent use—storage, off-site use only

Bldg. 2815
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930129
Status: Unutilized
Comment: 2578 sq. ft., most recent use—hdqts. bldg., off-site use only

Bldg. 3815
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930130
Status: Unutilized
Comment: 7575 sq. ft., most recent use—storage, off-site use only

Bldg. 3816
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930131
Status: Unutilized
Comment: 7514 sq. ft., most recent use—storage, off-site use only

Bldgs. 5974–5978
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930135
Status: Unutilized
Comment: 400 sq. ft., most recent use—storage, off-site use only

Bldg. 5993
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930136
Status: Unutilized
Comment: 960 sq. ft., most recent use—storage, off-site use only

Bldg. 5994
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199930137
Status: Unutilized
Comment: 2016 sq. ft., most recent use—storage, off-site use only

Bldg. T–1003
Fort Stewart
Hinesville Co: Liberty GA 31514–
Landholding Agency: Army
Property Number: 21200030085
Status: Excess
Comment: 9267 sq. ft., poor condition, most recent use—admin., off-site use only

Bldg. T0130
Fort Stewart
Hinesville Co: Liberty GA 31314–5136
Landholding Agency: Army
Property Number: 21200230041
Status: Excess
Comment: 10,813 sq. ft., off-site use only

Bldg. T0157
Fort Stewart
Hinesville Co: Liberty GA 31314–5136
Landholding Agency: Army
Property Number: 21200230042
Status: Excess
Comment: 1440 sq. ft., off-site use only

Bldgs. T291, T292
Fort Stewart
Hinesville Co: Liberty GA 31314–5136
Landholding Agency: Army
Property Number: 21200230044
Status: Excess
Comment: 5220 sq. ft. each, off-site use only

Bldg. T0295
Fort Stewart
Hinesville Co: Liberty GA 31314–5136
Landholding Agency: Army
Property Number: 21200230045
Status: Excess
Comment: 5220 sq. ft., off-site use only

Bldgs. 00064, 00065
Camp Frank D. Merrill
Dahlonega Co: Lumpkin GA 30597–
Landholding Agency: Army
Property Number: 21200330108
Status: Unutilized
Comment: 648 sq. ft. each, concrete block, most recent use—water support treatment bldg., off-site use only

Bldg. P1450
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420027
Status: Excess
Comment: 100,230 sq. ft., most recent use—health clinic, off-site use only

Bldg. 4151
Fort Benning
Ft. Benning Co: Chattahoochee GA 31905–
Landholding Agency: Army
Property Number: 21200420032
Status: Excess
Comment: 3169 sq. ft., most recent use—battle lab, off-site use only

Bldg. 4152
Fort Benning
Ft. Benning Co: Chattahoochee GA 31905–
Landholding Agency: Army
Property Number: 21200420033
Status: Excess
Comment: 721 sq. ft., most recent use—battle lab, off-site use only

Bldg. 4476
Fort Benning
Ft. Benning Co: Chattahoochee GA 31905–
Landholding Agency: Army
Property Number: 21200420034
Status: Excess
Comment: 3148 sq. ft., most recent use—veh. maint. shop, off-site use only

Bldg. 8771
Fort Benning
Ft. Benning Co: Chattahoochee GA 31905–
Landholding Agency: Army
Property Number: 21200420044
Status: Excess
Comment: 972 sq. ft., most recent use—RH/TGT house, off-site use only

Bldg. 9029
Fort Benning
Ft. Benning Co: Chattahoochee GA 31905–
Landholding Agency: Army
Property Number: 21200420050
Status: Excess
Comment: 7356 sq. ft., most recent use—heat plant bldg., off-site use only

Bldg. 11370
Fort Benning
Ft. Benning Co: Chattahoochee GA 31905–
Landholding Agency: Army
Property Number: 21200420051
Status: Excess
Comment: 9602 sq. ft., most recent use—nco/enl bldg., off-site use only

Bldg. T924
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420194
Status: Excess
Comment: 9360 sq. ft., most recent use—warehouse, off-site use only

Bldg. 00924
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200510065
Status: Excess
Comment: 9360 sq. ft., most recent use—warehouse, off-site use only

Bldg. 05955
Fort Benning

Chattahoochee Co: GA 31905–
Landholding Agency: Army
Property Number: 21200520097
Status: Unutilized
Comment: 95 sq. ft., poor condition, most recent use—dispatch, off-site use only

Bldg. 9012
Fort Benning
Chattahoochee Co: GA 31905–
Landholding Agency: Army
Property Number: 21200520098
Status: Unutilized
Comment: 40,442 sq. ft., poor condition, most recent use—enlisted housing, off-site use only

Bldg. 9016
Fort Benning
Chattahoochee Co: GA 31905–
Landholding Agency: Army
Property Number: 21200520101
Status: Unutilized
Comment: 6138 sq. ft., poor condition, most recent use—BN HQ Bldg., off-site use only

Bldg. 9019
Fort Benning
Chattahoochee Co: GA 31905–
Landholding Agency: Army
Property Number: 21200520102
Status: Unutilized
Comment: 7243 sq. ft., poor condition, most recent use—BN HQ Bldg., off-site use only

Bldgs. 9027, 9036, 9044
Fort Benning
Chattahoochee Co: GA 31905–
Landholding Agency: Army
Property Number: 21200520103
Status: Unutilized
Comment: various sq. ft., poor condition, most recent use—CO HQ Bldg., off-site use only

Bldg. 9100
Fort Benning
Chattahoochee Co: GA 31905–
Landholding Agency: Army
Property Number: 21200520107
Status: Unutilized
Comment: 4875 sq. ft., poor condition, most recent use—BDE HQ Bldg., off-site use only

Bldgs. 9198, 9199
Fort Benning
Chattahoochee Co: GA 31905–
Landholding Agency: Army
Property Number: 21200520108
Status: Unutilized
Comment: 1008 sq. ft., poor condition, most recent use—admin., off-site use only

Bldg. 10642
Fort Benning
Chattahoochee Co: GA 31905–
Landholding Agency: Army
Property Number: 21200520111
Status: Unutilized
Comment: 176 sq. ft., poor condition, most recent use—storage shed, off-site use only

Bldg. 01199
Hunter Army Airfield
Savannah Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200530072
Status: Excess
Comment: 224 sq. ft., most recent use—storage, off-site use only

Bldg. 01202
Hunter Army Airfield
Savannah Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200530073
Status: Excess
Comment: 1014 sq. ft., most recent use—storage, off-site use only

Bldg. 01203
Hunter Army Airfield
Savannah Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200530074
Status: Excess
Comment: 18,822 sq. ft., most recent use—vehicle maintenance, off-site use only

Bldg. 01226
Hunter Army Airfield
Savannah Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200530075
Status: Excess
Comment: 1092 sq. ft., most recent use—plant, off-site use only

Bldg. 01296
Hunter Army Airfield
Savannah Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200530076
Status: Excess
Comment: 269 sq. ft., most recent use—storage, off-site use only

Bldg. 01283
Hunter Army Airfield
Savannah Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200530077
Status: Excess
Comment: 1350 sq. ft., most recent use—storage, off-site use only

Bldg. 08585
Hunter Army Airfield
Savannah Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200530078
Status: Excess
Comment: 165 sq. ft., most recent use—plant, off-site use only

Hawaii

P–88
Aliamanu Military Reservation
Honolulu Co: Honolulu HI 96818–
Location: Approximately 600 feet from Main Gate on Aliamanu Drive.
Landholding Agency: Army
Property Number: 21199030324
Status: Unutilized
Comment: 45,216 sq. ft. underground tunnel complex, pres. of asbestos clean-up required of contamination, use of respirator required by those entering property, use limitations

Illinois

Bldg. 54
Rock Island Arsenal
Rock Island Co: Rock Island IL 61299–
Landholding Agency: Army
Property Number: 21199620666
Status: Unutilized
Comment: 2000 sq. ft., most recent use—oil storage, needs repair, off-site use only

Bldg. AR112
Sheridan Reserve
Arlington Heights, IL 60052–2475
Landholding Agency: Army
Property Number: 21200110081
Status: Unutilized
Comment: 1000 sq. ft., off-site use only

Iowa

Bldg. 00691
Iowa Army Ammo Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 21200510073
Status: Unutilized
Comment: 2581 sq. ft. residence, presence of lead paint, possible asbestos

Bldg. 00691
Iowa Army Ammo Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 21200520113
Status: Unutilized
Comment: 2581 sq. ft., presence of asbestos/lead paint, most recent use—residential

Kentucky

Bldgs. 00023, 00024, 00025
Blue Grass Army Depot
Richmond Co: Madison KY 40475–
Landholding Agency: Army
Property Number: 21200540082
Status: Excess
Comment: 5530/2036/1062 sq. ft., most recent use—admin offices, off-site use only

Bldg. 00032
Blue Grass Army Depot
Richmond Co: Madison KY 40475–
Landholding Agency: Army
Property Number: 21200540083
Status: Excess
Comment: 153 sq. ft., most recent use—depot access control, off-site use only

Louisiana

Bldg. 8423, Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–
Landholding Agency: Army
Property Number: 21199640528
Status: Underutilized
Comment: 4172 sq. ft., most recent use—barracks

Bldg. T7125
Fort Polk
Ft. Polk Co: LA 71459–
Landholding Agency: Army
Property Number: 21200540088
Status: Unutilized
Comment: 1875 sq. ft., off-site use only

Bldgs. T7163, T8043
Fort Polk
Ft. Polk Co: LA 71459–
Landholding Agency: Army
Property Number: 21200540089
Status: Unutilized
Comment: 4073/1923 sq. ft., off-site use only

Maryland

Bldg. 0459B
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200120106
Status: Unutilized
Comment: 225 sq. ft., poor condition, most recent use—equipment bldg., off-site use only

Bldg. 00785
Aberdeen Proving Ground

Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200120107
Status: Unutilized
Comment: 160 sq. ft., poor condition, most recent use—shelter, off-site use only

Bldg. E3728
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200120109
Status: Unutilized
Comment: 2596 sq. ft., presence of asbestos/lead paint, most recent use—testing facility, off-site use only

Bldg. E5239
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200120113
Status: Unutilized
Comment: 230 sq. ft., most recent use—storage, off-site use only

Bldg. E5317
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200120114
Status: Unutilized
Comment: 3158 sq. ft., presence of asbestos/lead paint, most recent use—lab, off-site use only

Bldg. E5637
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 21200120115
Status: Unutilized
Comment: 312 sq. ft., presence of asbestos/lead paint, most recent use—lab, off-site use only

Bldg. 219
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200140078
Status: Unutilized
Comment: 8142 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 294
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200140081
Status: Unutilized
Comment: 3148 sq. ft., presence of asbestos/lead paint, most recent use—entomology facility, off-site use only

Bldg. 949
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200140083
Status: Unutilized
Comment: 2441 sq. ft., presence of asbestos/lead paint, most recent use—storehouse, off-site use only

Bldg. 979
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200140084
Status: Unutilized
Comment: 2331 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 1007
Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200140085
Status: Unutilized
Comment: 3108 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 2214
Fort George G. Meade
Fort Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200230054
Status: Unutilized
Comment: 7740 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 00375
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200320107
Status: Unutilized
Comment: 64 sq. ft., most recent use—storage, off-site use only

Bldg. 0385A
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200320110
Status: Unutilized
Comment: 944 sq. ft., off-site use only

Bldg. 00523
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200320113
Status: Unutilized
Comment: 3897 sq. ft., most recent use—paint shop, off-site use only

Bldg. 00649
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200320116
Status: Unutilized
Comment: 1079 sq. ft., most recent use—storage, off-site use only

Bldg. 00657
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200320119
Status: Unutilized
Comment: 1048 sq. ft., most recent use—bunker, off-site use only

Bldg. 0700B
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200320121
Status: Unutilized
Comment: 505 sq. ft., off-site use only

Bldg. 01113
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200320128
Status: Unutilized
Comment: 1012 sq. ft., off-site use only

Bldgs. 01124, 01132
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200320129
Status: Unutilized
Comment: 740/2448 sq. ft., most recent use—lab, off-site use only

Bldgs. 02373, 02378
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200320130
Status: Unutilized
Comment: 8359 sq. ft., most recent use—training, off-site use only

Bldg. 03558
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200320133
Status: Unutilized
Comment: 18,000 sq. ft., most recent use—storage, off-site use only

Bldg. 05262
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200320136
Status: Unutilized
Comment: 864 sq. ft., most recent use—storage, off-site use only

Bldg. 05608
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200320137
Status: Unutilized
Comment: 1100 sq. ft., most recent use—maint bldg., off-site use only

Bldg. E5108
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200320147
Status: Unutilized
Comment: 5155 sq. ft., most recent use—recreation center, off-site use only

Bldg. E5483
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200320148
Status: Unutilized
Comment: 2140 sq. ft., most recent use—vehicle storage, off-site use only

Bldg. E5645
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200320150
Status: Unutilized
Comment: 548 sq. ft., most recent use—storage, off-site use only

Bldg. 00435
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330111
Status: Unutilized
Comment: 1191 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. 0449A
Aberdeen Proving Ground

Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330112
Status: Unutilized
Comment: 143 sq. ft., needs rehab, most recent use—substation switch bldg., off-site use only

Bldg. 0460
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330114
Status: Unutilized
Comment: 1800 sq. ft., needs rehab, most recent use—electrical EQ bldg., off-site use only

Bldg. 00914
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330118
Status: Unutilized
Comment: needs rehab, most recent use—safety shelter, off-site use only

Bldg. 00915
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330119
Status: Unutilized
Comment: 247 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. 01189
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330126
Status: Unutilized
Comment: 800 sq. ft., needs rehab, most recent use—range bldg., off-site use only

Bldg. E1413
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330127
Status: Unutilized
Comment: needs rehab, most recent use—observation tower, off-site use only

Bldg. E2350A
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330132
Status: Unutilized
Comment: 325 sq. ft., need rehab, most recent use—oil storage, off-site use only

Bldg. 2456
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330133
Status: Unutilized
Comment: 4720 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldg. E3175
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330134
Status: Unutilized
Comment: 1296 sq. ft., needs rehab, most recent use—hazard bldg., off-site use only

4 Bldgs.
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Location: E3224, E3228, E3230, E3232, E3234
Landholding Agency: Army
Property Number: 21200330135
Status: Unutilized
Comment: sq. ft. varies, needs rehab, most recent use—lab test bldgs., off-site use only

Bldg. E3241
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330136
Status: Unutilized
Comment: 592 sq. ft., needs rehab, most recent use—medical res bldg., off-site use only

Bldgs. E3269, E3270
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330138
Status: Unutilized
Comment: 200/1200 sq. ft., needs rehab, most recent use—flam. storage, off-site use only

Bldg. E3300
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330139
Status: Unutilized
Comment: 44,352 sq. ft., needs rehab, most recent use—chemistry lab, off-site use only

Bldg. E3335
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330144
Status: Unutilized
Comment: 400 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldgs. E3360, E3362, E3464
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330145
Status: Unutilized
Comment: 3588/236 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. E3542
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330148
Status: Unutilized
Comment: 1146 sq. ft., needs rehab, most recent use—lab test bldg., off-site use only

Bldgs. 03554, 03556
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330149
Status: Unutilized
Comment: 18,000/9,000 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. E4420
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Army
Property Number: 21200330151
Status: Unutilized

Comment: 14,997 sq. ft., needs rehab, most recent use—police bldg., off-site use only

Bldg. E4733
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330152
Status: Unutilized

Comment: 2252 sq. ft., needs rehab, most recent use—flammable storage, off-site use only

Bldg. E4734
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330153
Status: Unutilized
Comment: 1114 sq. ft., needs rehab, most recent use—private club, off-site use only

4 Bldgs.
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Location: E5005, E5049, E5050, E5051
Landholding Agency: Army
Property Number: 21200330154
Status: Unutilized
Comment: sq. ft. varies, needs rehab, most recent use—storage, off-site use only

Bldg. E5068
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330155
Status: Unutilized
Comment: 1200 sq. ft., needs rehab, most recent use—fire station, off-site use only

Bldg. 05447
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330160
Status: Unutilized
Comment: 2464 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldgs. 05448, 05449
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330161
Status: Unutilized
Comment: 6431 sq. ft., needs rehab, most recent use—enlisted UHP, off-site use only

Bldg. 05450
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330162
Status: Unutilized
Comment: 2730 sq. ft., needs rehab, most recent use—admin., off-site use only

Bldgs. 05451, 05455
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330163
Status: Unutilized
Comment: 2730/6431 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. 05453
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330164
Status: Unutilized
Comment: 6431 sq. ft., needs rehab, most recent use—admin., off-site use only

Bldgs. 05456, 05459, 05460

Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330165
Status: Unutilized
Comment: 6431 sq. ft., needs rehab, most recent use—enlisted bldg., off-site use only

Bldg. E5609
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330167
Status: Unutilized
Comment: 2053 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. E5611
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330168
Status: Unutilized
Comment: 11,242 sq. ft., needs rehab, most recent use—hazard bldg., off-site use only

Bldg. E5634
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330169
Status: Unutilized
Comment: 200 sq. ft., needs rehab, most recent use—flammable storage, off-site use only

Bldg. E5654
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330171
Status: Unutilized
Comment: 21,532 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. E5854
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330174
Status: Unutilized
Comment: 5166 sq. ft., needs rehab, most recent use—eng/MTN bldg., off-site use only

Bldg. E5942
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330176
Status: Unutilized
Comment: 2147 sq. ft., needs rehab, most recent use—igloo storage, off-site use only

Bldgs. E5952, E5953
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330177
Status: Unutilized
Comment: 100/24 sq. ft., needs rehab, most recent use—compressed air bldg., off-site use only

Bldgs. E7401, E7402
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330178
Status: Unutilized
Comment: 256/440 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. E7407, E7408
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330179
Status: Unutilized
Comment: 1078/762 sq. ft., needs rehab, most recent use—decon facility, off-site use only

Bldg. E7931
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200330182
Status: Unutilized
Comment: needs rehab, most recent use—sewer treatment, off-site use only

Bldg. 1145D
Aberdeen Proving Ground
Harford MD 21005–
Landholding Agency: Army
Property Number: 21200420054
Status: Unutilized
Comment: 898 sq. ft., most recent use—storage, off-site use only

Bldg. 3070A
Aberdeen Proving Ground
Harford MD 21005–
Landholding Agency: Army
Property Number: 21200420055
Status: Unutilized
Comment: 2299 sq. ft., most recent use—heat plant, off-site use only

Bldg. E5026
Aberdeen Proving Ground
Harford MD 21005–
Landholding Agency: Army
Property Number: 21200420056
Status: Unutilized
Comment: 20,536 sq. ft., most recent use—storage, off-site use only

Bldg. 05261
Aberdeen Proving Ground
Harford MD 21005–
Landholding Agency: Army
Property Number: 21200420057
Status: Unutilized
Comment: 10067 sq. ft., most recent use—maintenance, off-site use only

Bldgs. 00733, 00734
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200430063
Status: Unutilized
Comment: 136 sq. ft. each, most recent use—ammo storage, off-site use only

Bldg. 0401A
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200440068
Status: Unutilized
Comment: 220 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. 0748A
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200440069
Status: Unutilized
Comment: 112 sq. ft., needs rehab, most recent use—shelter, off-site use only

Bldg. 01198
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200440070
Status: Unutilized
Comment: 168 sq. ft., needs rehab, most recent use—ordnance, off-site use only

Bldg. 03557
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200440071
Status: Unutilized
Comment: 340 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. E3732
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200440072
Status: Unutilized
Comment: 1080 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. E5876
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200440073
Status: Unutilized
Comment: 1192 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. 00673
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200530079
Status: Unutilized
Comment: 3600 sq. ft., most recent use—ordance, off-site use only

Bldg. 00688
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200530080
Status: Unutilized
Comment: 24,192 sq. ft., most recent use—ammo, off-site use only

Bldg. 0739A
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200530081
Status: Unutilized
Comment: 1474 sq. ft., most recent use—ordance, off-site use only

Bldg. E1511
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200530082
Status: Unutilized
Comment: 201 sq. ft., most recent use—access control, off-site use only

Bldg. 02832
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200530083
Status: Unutilized
Comment: 36 sq. ft., most recent use—access control, off-site use only

Bldg. 05655
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army

Property Number: 21200530084
Status: Unutilized
Comment: 1610 sq. ft., most recent use—access control, off-site use only

Bldg. 0706A
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200540090
Status: Unutilized
Comment: 576 sq. ft., most recent use—firing barracks, off-site use only

Bldg. 04925
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200540091
Status: Unutilized
Comment: 1326 sq. ft., off-site use only

Bldg. E5001
Aberdeen Proving Ground
Aberdeen Co: Harford MD 21005–
Landholding Agency: Army
Property Number: 21200540092
Status: Unutilized
Comment: 400 sq. ft., most recent use—access control, off-site use only

Missouri

Bldg. T1497
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199420441
Status: Underutilized
Comment: 4720 sq. ft., 2-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only

Bldg. T2139
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199420446
Status: Underutilized
Comment: 3663 sq. ft., 1-story, presence of lead base paint, most recent use—admin/gen. purpose, off-site use only

Bldg. T2385
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–
Landholding Agency: Army
Property Number: 21199510115
Status: Excess
Comment: 3158 sq. ft., 1-story, wood frame, most recent use—admin., to be vacated 8/95, off-site use only

Bldg. 2167
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199820179
Status: Unutilized
Comment: 1296 sq. ft., presence of asbestos/lead paint, most recent use—admin., off-site use only

Bldgs. 2192, 2196, 2198
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 21199820183
Status: Unutilized
Comment: 4720 sq. ft., presence of asbestos/lead paint, most recent use—barracks, off-site use only

12 Bldgs.
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Location: 07036, 07050, 07054, 07102, 07400, 07401, 08245, 08249, 08251, 08255, 08257, 08261.
Landholding Agency: Army
Property Number: 21200410110
Status: Unutilized
Comment: 7152 sq. ft. 6 plex housing quarters, potential contaminants, off-site use only

6 Bldg.
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Location: 07044, 07106, 07107, 08260, 08281, 08300
Landholding Agency: Army
Property Number: 21200410111
Status: Unutilized
Comment: 9520 sq ft., 8 plex housing quarters, potential contaminants, off-site use only

15 Bldgs.
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Location: 08242, 08243, 08246–08248, 08250, 08252–08254, 08256, 08258–08259, 08262–08263, 08265
Landholding Agency: Army
Property Number: 21200410112
Status: Unutilized
Comment: 4784 sq ft., 4 plex housing quarters, potential contaminants, off-site use only

Bldgs. 08283, 08285
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200410113
Status: Unutilized
Comment: 2240 sq ft., 2 plex housing quarters, potential contaminants, off-site use only

15 Bldgs.
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–0827
Location: 08267, 08269, 08271, 08273, 08275, 08277, 08279, 08290-08296, 08301
Landholding Agency: Army
Property Number: 21200410114
Status: Unutilized
Comment: 4784 sq ft., 4 plex housing quarters, potential contaminants, off-site use only

Bldg. 09432
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200410115
Status: Unutilized
Comment: 8724 sq ft., 6 plex housing quarters, potential contaminants, off-site use only

Bldgs. 5006 and 5013
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200430064
Status: Unutilized
Comment: 192 & 144 sq. ft., needs repair, most recent use—generator bldg., off-site use only

Bldgs. 13210, 13710
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200430065
Status: Unutilized
Comment: 144 sq. ft. each, needs repair, most recent use—communication, off-site use only

Montana

Bldg. 00405
Fort Harrison
Ft. Harrison Co: Lewis/Clark MT 59636
Landholding Agency: Army
Property Number: 21200130099
Status: Unutilized
Comment: 3467 sq. ft., most recent use—storage, security limitations

Bldg. T0066
Fort Harrison
Ft. Harrison Co: Lewis/Clark MT 59636–
Landholding Agency: Army
Property Number: 21200130100
Status: Unutilized
Comment: 528 sq. ft., needs rehab, presence of asbestos, security limitations

Bldg. 00001
Sheridan Hall USARC
Helena Co: MT 59601
Landholding Agency: Army
Property Number: 21200540093
Status: Unutilized
Comment: 19,321 sq. ft., most recent use—Reserve Center

Bldg. 00003
Sheridan Hall USARC
Helena Co: MT 59601
Landholding Agency: Army
Property Number: 21200540094
Status: Unutilized
Comment: 1950 sq. ft., most recent use—maintenance/storage

New Jersey

Bldg. 732
Armament R&D Engineering Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21199740315
Status: Unutilized
Comment: 9077 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. 816C
Armament R, D, & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21200130103
Status: Unutilized
Comment: 144 sq. ft., most recent use—storage, off-site use only

New Mexico

Bldg. 34198
White Sands Missile Range
Dona Ana NM 88002–
Landholding Agency: Army

Property Number: 21200230062
Status: Excess
Comment: 107 sq. ft., most recent use—security, off-site use only

New York

Bldg. 1227
U.S. Military Academy
Highlands Co: Orange NY 10996–1592
Landholding Agency: Army
Property Number: 21200440074
Status: Unutilized
Comment: 3800 sq. ft., needs repair, possible asbestos/lead paint, most recent use—maintenance, off-site use only

Bldg. 2218
Stewart Newburg USARC
New Windsor Co: Orange NY 12553–9000
Landholding Agency: Army
Property Number: 21200510067
Status: Unutilized
Comment: 32,000 sq. ft., poor condition, requires major repairs, most recent use—storage/services

7 Bldgs.
Stewart Newburg USARC
New Windsor Co: Orange NY 12553–9000
Location: 2122, 2124, 2126, 2128, 2106, 2108, 2104
Landholding Agency: Army
Property Number: 21200510068
Status: Unutilized
Comment: sq. ft. varies, poor condition, needs major repairs, most recent use—storage/services

Tappan USARC
335 Western Hwy
Tappan Co: Rockland NY 10983–
Landholding Agency: Army
Property Number: 21200510069
Status: Excess
Comment: 33,537 sq. ft., army reserve center

Oklahoma

Bldg. T–838, Fort Sill
838 Macomb Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199220609
Status: Unutilized
Comment: 151 sq. ft., wood frame, 1 story, off-site removal only, most recent use—vet facility (quarantine stable).

Bldg. T–954, Fort Sill
954 Quinette Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199240659
Status: Unutilized
Comment: 3571 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—motor repair shop.

Bldg. T–3325, Fort Sill
3325 Naylor Road
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199240681
Status: Unutilized
Comment: 8832 sq. ft., 1 story wood frame, needs rehab, off-site use only, most recent use—warehouse.

Bldg. T–4226
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 21199440384
Status: Unutilized
Comment: 114 sq. ft., 1-story wood frame, possible asbestos and lead paint, most recent use—storage, off-site use only

Bldg. P–1015
Fort Sill
Lawton Co: Comanche OK 73501–5100
Landholding Agency: Army
Property Number: 21199520197
Status: Unutilized
Comment: 15,402 sq. ft., 1-story, most recent use—storage, off-site use only

Bldg. P–366
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 21199610740
Status: Unutilized
Comment: 482 sq. ft., possible asbestos, most recent use—storage, off-site use only

Building T–2952
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199710047
Status: Unutilized
Comment: 4,327 sq. ft., possible asbestos and lead paint, most recent use—motor repair shop, off-site use only

Building P–5042
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199710066
Status: Unutilized
Comment: 119 sq. ft., possible asbestos and lead paint, most recent use—heat plant, off-site use only

4 Buildings
Fort Sill
Lawton Co: Comanche OK 73503–5100
Location: T–6465, T–6466, T–6467, T–6468
Landholding Agency: Army
Property Number: 21199710086
Status: Unutilized
Comment: various sq. ft., possible asbestos and leadpaint, most recent use—range support, off site use only

Bldg. T–810
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730350
Status: Unutilized
Comment: 7205 sq. ft., possible asbestos/lead paint, most recent use—hay storage, off-site use only

Bldgs. T–837, T–839
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730351
Status: Unutilized
Comment: approx. 100 sq. ft. each, possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. P–934
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730353
Status: Unutilized
Comment: 402 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. T–1468, T–1469
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730357
Status: Unutilized
Comment: 114 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–1470
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730358
Status: Unutilized
Comment: 3120 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. T–1954, T–2022
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730362
Status: Unutilized
Comment: approx. 100 sq. ft. each, possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–2184
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730364
Status: Unutilized
Comment: 454 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. T–2186, T–2188, T–2189
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730366
Status: Unutilized
Comment: 1656—3583 sq. ft., possible asbestos/lead paint, most recent use—vehicle maint. shop, off-site use only

Bldg. T–2187
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730367
Status: Unutilized
Comment: 1673 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. T–2291 thru T–2296
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730372
Status: Unutilized
Comment: 400 sq. ft. each, possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. T–3001, T–3006
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730383
Status: Unutilized
Comment: approx. 9300 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–3314
Fort Sill

Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730385
Status: Unutilized
Comment: 229 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. T–5041
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730409
Status: Unutilized
Comment: 763 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–5420
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730414
Status: Unutilized
Comment: 189 sq. ft., possible asbestos/lead paint, most recent use—fuel storage, off-site use only

Bldg. T–7775
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199730419
Status: Unutilized
Comment: 1452 sq. ft., possible asbestos/lead paint, most recent use—private club, off-site use only

4 Bldgs.
Fort Sill
P–617, P–1114, P–1386, P–1608
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910133
Status: Unutilized
Comment: 106 sq. ft., possible asbestos/lead paint, most recent use—utility plant, off-site use only

Bldg. P–746
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910135
Status: Unutilized
Comment: 6299 sq. ft., possible asbestos/lead paint, most recent use—admin., off-site use only

Bldgs. P–2581, P–2773
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910140
Status: Unutilized
Comment: 4093 and 4129 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. P–2582
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910141
Status: Unutilized
Comment: 3672 sq. ft., possible asbestos/lead paint, most recent use—admin., off-site use only

Bldgs. P–2912, P–2921, P–2944
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910144
Status: Unutilized
Comment: 1390 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. P–2914
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910146
Status: Unutilized
Comment: 1236 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. P–5101
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910153
Status: Unutilized
Comment: 82 sq. ft., possible asbestos/lead paint, most recent use—gas station, off-site use only

Bldg. S–6430
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910156
Status: Unutilized
Comment: 2080 sq. ft., possible asbestos/lead paint, most recent use—range support, off-site use only

Bldg. T–6461
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910157
Status: Unutilized
Comment: 200 sq. ft., possible asbestos/lead paint, most recent use—range support, off-site use only

Bldg. T–6462
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910158
Status: Unutilized
Comment: 64 sq. ft., possible asbestos/lead paint, most recent use—control tower, off-site use only

Bldg. P–7230
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21199910159
Status: Unutilized
Comment: 160 sq. ft., possible asbestos/lead paint, most recent use—transmitter bldg., off-site use only

Bldg. S–4023
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21200010128
Status: Unutilized
Comment: 1200 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. P–747
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21200120120
Status: Unutilized
Comment: 9232 sq. ft., possible asbestos/lead paint, most recent use—lab, off-site use only

Bldg. P–842
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21200120123
Status: Unutilized
Comment: 192 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. T–911
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21200120124
Status: Unutilized
Comment: 3080 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. P–1672
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21200120126
Status: Unutilized
Comment: 1056 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. S–2362
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21200120127
Status: Unutilized
Comment: 64 sq. ft., possible asbestos/lead paint, most recent use—gatehouse, off-site use only

Bldg. P–2589
Fort Sill
Lawton Co: Comanche OK 73503–5100
Landholding Agency: Army
Property Number: 21200120129
Status: Unutilized
Comment: 3672 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldgs. 01276, 01278
Fort Sill
Lawton Co: Comanche OK 73501–5100
Landholding Agency: Army
Property Number: 21200520119
Status: Unutilized
Comment: 1533 & 2700 sq. ft., most recent use—maintenance, off-site use only

Pennsylvania

5 Bldgs.
Carlisle Barracks 00441 thru 00445
Carlisle Co: Cumberland PA 17013–
Landholding Agency: Army
Property Number: 21200430066
Status: Unutilized
Comment: 4238 sq. ft. each, presence of asbestos, most recent use—residential, off-site use only

South Carolina

Bldg. 3499
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 21199730310

Status: Unutilized
Comment: 3724 sq. ft., needs repair, most recent use—admin.

Bldg. 2441
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 21199820187
Status: Unutilized
Comment: 2160 sq. ft., needs repair, most recent use—admin.

Bldg. 3605
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 21199820188
Status: Unutilized
Comment: 711 sq. ft., needs repair, most recent use—storage

Bldg. 1765
Fort Jackson
Ft. Jackson Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 21200030109
Status: Unutilized
Comment: 1700 sq. ft., need repairs, presence of asbestos/lead paint, most recent use—training bldg., off-site use only

Texas

Bldg. 7137, Fort Bliss
El Paso Co: El Paso TX 79916–
Landholding Agency: Army
Property Number: 21199640564
Status: Unutilized
Comment: 35,736 sq. ft., 3-story, most recent use—housing, off-site use only

Bldg. 92043
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200020206
Status: Unutilized
Comment: 450 sq. ft., most recent use—storage, off-site use only

Bldg. 92044
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200020207
Status: Unutilized
Comment: 1920 sq. ft., most recent use—admin., off-site use only

Bldg. 92045
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200020208
Status: Unutilized
Comment: 2108 sq. ft., most recent use—maint., off-site use only

Bldg. 120
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220137
Status: Unutilized
Comment: 1450 sq. ft., most recent use—dental clinic, off-site use only

Bldg. 56305
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220143
Status: Unutilized
Comment: 2160 sq. ft., most recent use—admin., off-site use only

Bldgs. 56620, 56621
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220146
Status: Unutilized
Comment: 1120 sq. ft., most recent use—shower, off-site use only

Bldgs. 56626, 56627
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220147
Status: Unutilized
Comment: 1120 sq. ft., most recent use—shower, off-site use only

Bldg. 56628
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220148
Status: Unutilized
Comment: 1133 sq. ft., most recent use—shower, off-site use only

Bldgs. 56636, 56637
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220150
Status: Unutilized
Comment: 1120 sq. ft., most recent use—shower, off-site use only

Bldg. 56638
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220151
Status: Unutilized
Comment: 1133 sq. ft., most recent use—shower, off-site use only

Bldgs. 56703, 56708
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220152
Status: Unutilized
Comment: 1306 sq. ft., most recent use—shower, off-site use only

Bldg. 56758
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220154
Status: Unutilized
Comment: 1133 sq. ft., most recent use—shower, off-site use only

Bldgs. P6220, P6222
Fort Sam Houston
Camp Bullis
San Antonio Co: Bexar TX—
Landholding Agency: Army
Property Number: 21200330197
Status: Unutilized
Comment: 384 sq. ft., most recent use—carport/storage, off-site use only

Bldgs. P6224, P6226
Fort Sam Houston
Camp Bullis
San Antonio Co: Bexar TX—
Landholding Agency: Army
Property Number: 21200330198
Status: Unutilized
Comment: 384 sq. ft., most recent use—carport/storage, off-site use only

Bldg. 04200
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200420065
Status: Unutilized
Comment: 2100 sq. ft., presence of asbestos, most recent use—admin., off-site use only

Virginia

Bldgs. 1516, 1517, 1552, 1567
Fort Eustis
Ft. Eustis VA 23604–
Landholding Agency: Army
Property Number: 21200130154
Status: Unutilized
Comment: 2892 & 4720 sq. ft., most recent use—dining/barracks/admin, off-site use only

Bldg. 1559
Fort Eustis
Ft. Eustis VA 23604–
Landholding Agency: Army
Property Number: 21200130156
Status: Unutilized
Comment: 2892 sq. ft., most recent use—storage, off-site use only

Bldg. T–707
Fort Eustis
Ft. Eustis VA 23604–
Landholding Agency: Army
Property Number: 21200330199
Status: Unutilized
Comment: 3763 sq. ft., most recent use—chapel, off-site use only

Washington

Bldg. CO909, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21199630205
Status: Unutilized
Comment: 1984 sq. ft., possible asbestos/lead paint, most recent use—admin., off-site use only

Bldg. 1164, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21199630213
Status: Unutilized
Comment: 230 sq. ft., possible asbestos/lead paint, most recent use—storehouse, off-site use only

Bldg. 1307, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21199630216
Status: Unutilized
Comment: 1092 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 1309, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21199630217
Status: Unutilized
Comment: 1092 sq. ft., possible asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 2167, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21199630218

Status: Unutilized
Comment: 288 sq. ft., possible asbestos/lead paint, most recent use—warehouse, off-site use only

Bldg. 4078, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21199630219
Status: Unutilized
Comment: 10200 sq. ft., needs rehab, possible asbestos/lead paint, most recent use—warehouse, off-site use only

Bldg. 9599, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21199630220
Status: Unutilized
Comment: 12366 sq. ft., possible asbestos/lead paint, most recent use—warehouse, off-site use only

Bldg. A1404, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199640570
Status: Unutilized
Comment: 557 sq. ft., needs rehab, most recent use—storage, off-site use only

Bldg. EO347
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199710156
Status: Unutilized
Comment: 1800 sq. ft., possible asbestos/lead paint, most recent use—office, off-site use only

Bldg. B1008, Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199720216
Status: Unutilized
Comment: 7387 sq. ft., 2-story, needs rehab, possible asbestos/lead paint, most recent use—medical clinic, off-site use only

Bldgs. CO509, CO709, CO720
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199810372
Status: Unutilized
Comment: 1984 sq. ft., possible asbestos/lead paint, needs rehab, most recent use—storage, off-site use only

Bldg. 5162
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199830419
Status: Unutilized
Comment: 2360 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—office, off-site use only

Bldg. 5224
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199830433
Status: Unutilized
Comment: 2360 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—educ. fac., off-site use only

Bldg. U001B
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920237
Status: Excess
Comment: 54 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—control tower, off-site use only

Bldg. U001C
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920238
Status: Unutilized
Comment: 960 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—supply, off-site use only

10 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: U002B, U002C, U005C, U015I, U016E, U019C, U022A, U028B, U091A, U093C
Landholding Agency: Army
Property Number: 21199920239
Status: Excess
Comment: 600 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

6 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: U003A, U004B, U006C, U015B, U016B, U019B
Landholding Agency: Army
Property Number: 21199920240
Status: Unutilized
Comment: 54 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—control tower, off-site use only

Bldg. U004D
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920241
Status: Unutilized
Comment: 960 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—supply, off-site use only

Bldg. U005A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920242
Status: Unutilized
Comment: 360 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—control tower, off-site use only

7 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: U014A, U022B, U023A, U043B, U059B, U060A, U101A
Landholding Agency: Army
Property Number: 21199920245
Status: Excess
Comment: needs repair, presence of asbestos/lead paint, most recent use—ofc/tower/support, off-site use only

Bldg. U015J
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920246
Status: Excess
Comment: 144 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—tower, off-site use only

Bldg. U018B
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920247
Status: Unutilized
Comment: 121 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

Bldg. U018C
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920248
Status: Unutilized
Comment: 48 sq. ft., needs repair, presence of asbestos/lead paint, off-site use only

Bldg. U024D
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920250
Status: Unutilized
Comment: 120 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—ammo bldg., off-site use only

Bldg. U027A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920251
Status: Excess
Comment: 64 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—tire house, off-site use only

Bldg. U031A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920253
Status: Excess
Comment: 3456 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—line shed, off-site use only

Bldg. U031C
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920254
Status: Unutilized
Comment: 32 sq. ft., needs repair, presence of asbestos/lead paint, off-site use only

Bldg. U040D
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920255
Status: Excess
Comment: 800 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

Bldgs. U052C, U052H
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920256
Status: Excess
Comment: various sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

Bldgs. U035A, U035B

Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920257
Status: Excess
Comment: 192 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—shelter, off-site use only

Bldg. U035C
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920258
Status: Excess
Comment: 242 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

Bldg. U039A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920259
Status: Excess
Comment: 36 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—control tower, off-site use only

Bldg. U039B
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920260
Status: Excess
Comment: 1600 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—grandstand/bleachers, off-site use only

Bldg. U039C
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920261
Status: Excess
Comment: 600 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—support, off-site use only

Bldg. U043A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920262
Status: Excess
Comment: 132 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

Bldg. U052A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920263
Status: Excess
Comment: 69 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—tower, off-site use only

Bldg. U052E
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920264
Status: Excess
Comment: 600 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. U052G
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920265
Status: Excess
Comment: 1600 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—shelter, off-site use only

3 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: U058A, U103A, U018A
Landholding Agency: Army
Property Number: 21199920266
Status: Excess
Comment: 36 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—control tower, off-site use only

Bldg. U059A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920267
Status: Excess
Comment: 16 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—tower, off-site use only

Bldg. U093B
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920268
Status: Excess
Comment: 680 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—range house, off-site use only

4 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: U101B, U101C, U507B, U557A
Landholding Agency: Army
Property Number: 21199920269
Status: Excess
Comment: 400 sq. ft., needs repair, presence of asbestos/lead paint, off-site use only

Bldg. U110B
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920272
Status: Excess
Comment: 138 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—support, off-site use only

6 Bldgs.
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Location: U111A, U015A, U024E, U052F, U109A, U110A
Landholding Agency: Army
Property Number: 21199920273
Status: Excess
Comment: 1000 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—support/shelter/mess, off-site use only

Bldg. U112A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920274
Status: Excess
Comment: 1600 sq. ft., needs repair, presence of asbestos/lead paint, most recent use-shelter, off-site use only

Bldg. U115A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920275
Status: Excess
Comment: 36 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—tower, off-site use only

Bldg. U507A
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920276
Status: Excess
Comment: 400 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—support, off-site use only

Bldg. C0120
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920281
Status: Excess
Comment: 384 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—scale house, off-site use only

Bldg. 01205
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920290
Status: Excess
Comment: 87 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storehouse, off-site use only

Bldg. 01259
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920291
Status: Excess
Comment: 16 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 01266
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920292
Status: Excess
Comment: 45 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—shelter, off-site use only

Bldg. 1445
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920294
Status: Excess
Comment: 144 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—generator bldg., off-site use only

Bldgs. 03091, 03099
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920296
Status: Excess
Comment: various sq. ft., needs repair, presence of asbestos/lead paint, most recent use—sentry station, off-site use only

Bldg. 4040
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army

Property Number: 21199920298
Status: Excess
Comment: 8326 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—shed, off-site use only

Bldgs. 4072, 5104
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920299
Status: Excess
Comment: 24/36 sq. ft., needs repair, presence of asbestos/lead paint, off-site use only

Bldg. 4295
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920300
Status: Excess
Comment: 48 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 6191
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920303
Status: Excess
Comment: 3663 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—exchange branch, off-site use only

Bldgs. 08076, 08080
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920304
Status: Excess
Comment: 3660/412 sq .ft., needs repair, presence of asbestos/lead paint, off-site use only

Bldg. 08093
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920305
Status: Excess
Comment: 289 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—boat storage, off-site use only

Bldg. 8279
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920306
Status: Excess
Comment: 210 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—fuel disp. fac., off-site use only

Bldgs. 8280, 8291
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920307
Status: Excess
Comment: 800/464 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 8956
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920308
Status: Excess
Comment: 100 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 9530
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920309
Status: Excess
Comment: 64 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—sentry station, off-site use only

Bldg. 9574
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920310
Status: Excess
Comment: 6005 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—veh. shop., off-site use only

Bldg. 9596
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–
Landholding Agency: Army
Property Number: 21199920311
Status: Excess
Comment: 36 sq. ft., needs repair, presence of asbestos/lead paint, most recent use—gas station, off-site use only

Land (by State)

Georgia

Land (Railbed)
Fort Benning
Ft. Benning Co: Muscogee GA 31905–
Landholding Agency: Army
Property Number: 21199440440
Status: Unutilized
Comment: 17.3 acres extending 1.24 miles, no known utilities potential

Ohio

Land
Defense Supply Center
Columbus Co: Franklin OH 43216–5000
Landholding Agency: Army
Property Number: 21200340094
Status: Excess
Comment: 11 acres, railroad access

South Carolina

One Acre
Fort Jackson
Columbia Co: Richland SC 29207–
Landholding Agency: Army
Property Number: 21200110089
Status: Underutilized
Comment: approx. 1 acre

Texas

1 acre
Fort Sam Houston
San Antonio Co: Bexar TX 78234–
Landholding Agency: Army
Property Number: 21200440075
Status: Excess
Comment: 1 acre, grassy area

Suitable/Unavailable Properties

Buildings (by State)

Alabama

Bldg. 01433
Fort Rucker
Ft. Rucker Co: Dale AL 36362–
Landholding Agency: Army
Property Number: 21200220098
Status: Excess
Comment: 800 sq. ft., most recent use—office, off-site use only

Bldg. 30105
Fort Rucker
Ft. Rucker Co: Dale AL 36362–
Landholding Agency: Army
Property Number: 21200510052
Status: Excess
Comment: 4100 sq. ft., most recent use—admin., off-site use only

Bldg. 40115
Fort Rucker
Ft. Rucker Co: Dale AL 36362–
Landholding Agency: Army
Property Number: 21200510053
Status: Excess
Comment: 34,520 sq. ft., most recent use—storage, off-site use only

Bldg. 25303
Fort Rucker
Dale Co: AL 36362–
Landholding Agency: Army
Property Number: 21200520074
Status: Excess
Comment: 800 sq. ft., most recent use—airfield operations, off-site use only

Bldg. 25304
Fort Rucker
Dale Co: AL 36362–
Landholding Agency: Army
Property Number: 21200520075
Status: Excess
Comment: 1200 sq. ft., poor condition, most recent use—fire station, off-site use only

Arizona

Bldg. 13570
Fort Huachuca
Cochise Co: AZ 85613–7010
Landholding Agency: Army
Property Number: 21200520076
Status: Excess
Comment: 4000 sq. ft., most recent use—storage, off-site use only

Bldg. 22529
Fort Huachuca
Cochise Co: AZ 85613–7010
Landholding Agency: Army
Property Number: 21200520077
Status: Excess
Comment: 2543 sq. ft., most recent use—storage, off-site use only

Bldg. 22541
Fort Huachuca
Cochise Co: AZ 85613–7010
Landholding Agency: Army
Property Number: 21200520078
Status: Excess
Comment: 1300 sq. ft., most recent use—storage, off-site use only

Bldg. 30020
Fort Huachuca
Cochise Co: AZ 85613–7010
Landholding Agency: Army
Property Number: 21200520079
Status: Excess
Comment: 1305 sq. ft., most recent use—storage, off-site use only

Bldg. 30021
Fort Huachuca
Cochise Co: AZ 85613–7010
Landholding Agency: Army
Property Number: 21200520080

Status: Excess
Comment: 144 sq. ft., most recent use—storage, off-site use only

Bldg. 90311
Fort Huachuca
Cochise Co: AZ 85613–7010
Landholding Agency: Army
Property Number: 21200520083
Status: Excess
Comment: 1357 sq. ft., most recent use—storage, off-site use only

Bldg. 22040
Fort Huachuca
Cochise Co: AZ 85613–
Landholding Agency: Army
Property Number: 21200540076
Status: Excess
Comment: 1131 sq. ft., presence of asbestos/lead paint, most recent use—storage, off-site use only

Bldg. 22404
Fort Huachuca
Cochise Co: AZ 85613–
Landholding Agency: Army
Property Number: 21200540077
Status: Excess
Comment: 928 sq. ft., presence of asbestos/lead paint, most recent use—company hdqts., off-site use only

Bldg. 22540
Fort Huachuca
Cochise Co: AZ 85613–
Landholding Agency: Army
Property Number: 21200540078
Status: Excess
Comment: 958 sq. ft., most recent use—storage, off-site use only

Colorado

Bldg. S6222
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200340082
Status: Unutilized
Comment: 19,225 sq. ft., presence of asbestos/lead paint, most recent use—office, off-site use only

Bldg. S6264
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200340084
Status: Unutilized
Comment: 19,499 sq. ft., most recent use—office, off-site use only

Bldg. S6220
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200420175
Status: Unutilized
Comment: 12,361 sq. ft., presence of asbestos, most recent use—admin., off-site use only

Bldg. S6285
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200420176
Status: Unutilized
Comment: 19,478 sq. ft., most recent use—admin., off-site use only

Bldg. S6287
Fort Carson
Ft. Carson Co: El Paso CO 80913–
Landholding Agency: Army
Property Number: 21200420177
Status: Unutilized
Comment: 10,076 sq. ft., presence of asbestos, most recent use—admin., off-site use only

Bldg. 06225
Fort Carson
El Paso Co: CO 80913–4001
Landholding Agency: Army
Property Number: 21200520084
Status: Unutilized
Comment: 24,263 sq. ft., most recent use—admin., off-site use only

Bldg. 06280
Fort Carson
El Paso Co: CO 80913–4001
Landholding Agency: Army
Property Number: 21200520085
Status: Unutilized
Comment: 20597 sq. ft., most recent use—gen. inst., off-site use only

Bldgs. 06281, 06282, 06283
Fort Carson
El Pase Co: CO 80913–4001
Landholding Agency: Army
Property Number: 21200520086
Status: Unutilized
Comment: 19478 sq. ft., most recent use—gen. inst., off-site use only

Georgia

Bldgs. 00960, 00961, 00963
Fort Benning
Ft. Benning Co: Chattachoochee GA
Landholding Agency: Army
Property Number: 21200330107
Status: Unutilized
Comment: 11,110 sq. ft., most recent use—housing, off-site use only

Bldg. T201
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420002
Status: Excess
Comment: 1828 sq. ft., most recent use—credit union, off-site use only

Bldg. T202
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420003
Status: Excess
Comment: 5602 sq. ft., most recent use—headquarters bldg., off-site use only

Bldg. T222
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420004
Status: Excess
Comment: 2891 sq. ft., most recent use—headquarters bldg., off-site use only

Bldg. P223
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420005
Status: Excess
Comment: 6434 sq. ft., most recent use—headquarters bldg., off-site use only

Bldg. P224
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420006
Status: Excess
Comment: 6434 sq. ft., most recent use—enlisted bldg., off-site use only

Bldg. T234
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420008
Status: Excess
Comment: 2624 sq. ft., most recent use—admin., off-site use only

Bldg. T702
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420010
Status: Excess
Comment: 9190 sq. ft., most recent use—storage, off-site use only

Bldg. T703
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420011
Status: Excess
Comment: 9190 sq. ft., most recent use—storage, off-site use only

Bldg. T704
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420012
Status: Excess
Comment: 9190 sq. ft., most recent use—storage, off-site use only

Bldg. P813
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420013
Status: Excess
Comment: 43,055 sq. ft., most recent use—maint. hanger/Co Hq., off-site use only

Bldgs. S843, S844, S845
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420014
Status: Excess
Comment: 9383 sq. ft., most recent use—maint hanger, off-site use only

Bldg. P925
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420015
Status: Excess
Comment: 27,681 sq. ft., most recent use—fitness center, off-site use only

Bldg. S1227
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420016
Status: Excess
Comment: 2750 sq. ft., most recent use—admin., off-site use only

Bldg. S1251
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420018
Status: Excess

Comment: 3300 sq. ft., most recent use—police station, off-site use only
Bldg. T1254
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420019
Status: Excess
Comment: 4720 sq. ft., most recent use—transient UPH, off-site use only
Bldg. P1275
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420022
Status: Excess
Comment: 138,032 sq. ft., most recent use—dining facility, off-site use only
Bldg. P1276
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420023
Status: Excess
Comment: 138,032 sq. ft., most recent use—headquarters bldg., off-site use only
Bldg. P1277
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420024
Status: Excess
Comment: 13,981 sq. ft., most recent use—barracks/dining, off-site use only
Bldg. T1412
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420025
Status: Excess
Comment: 9186 sq. ft., most recent use—warehouse, off-site use only
Bldg. 8658
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420029
Status: Excess
Comment: 8470 sq. ft., most recent use—storage, off-site use only
Bldg. 8659
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420030
Status: Excess
Comment: 8470 sq. ft., most recent use—storage, off-site use only
Bldgs. 8675, 8676
Hunter Army Airfield
Garrison Co: Chatham GA 31409–
Landholding Agency: Army
Property Number: 21200420031
Status: Excess
Comment: 4000 sq. ft., most recent use—ship/recv facility, off-site use only
Bldg. 5962–5966
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200420035
Status: Excess
Comment: 2421 sq. ft., most recent use—igloo storage, off-site use only
Bldgs. 5967–5971
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200420036
Status: Excess
Comment: 1813 sq. ft., most recent use—igloo storage, off-site use only
Bldgs. 5974–5977
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200420037
Status: Excess
Comment: 400 sq. ft., most recent use—igloo storage, off-site use only
Bldg. 5978
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200420038
Status: Excess
Comment: 1344 sq. ft., most recent use—igloo storage, off-site use only
Bldg. 5981
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200420039
Status: Excess
Comment: 2028 sq. ft., most recent use—ammo storage, off-site use only
Bldgs. 5984–5988
Fort Benning
Ft. Benning Co: Chatachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200420040
Status: Excess
Comment: 1816 sq. ft., most recent use—igloo storage, off-site use only
Bldg. 5993
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200420041
Status: Excess
Comment: 960 sq. ft., most recent use—storage, off-site use only
Bldg. 5994
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200420042
Status: Excess
Comment: 2016 sq. ft., most recent use—ammo storage, off-site use only
Bldg. 5995
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200420043
Status: Excess
Comment: 114 sq. ft., most recent use—storage, off-site use only
Bldg. 9000
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200420045
Status: Excess
Comment: 9313 sq. ft., most recent use—headquarters bldg., off-site use only
Bldgs. 9002, 9005
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200420046
Status: Excess
Comment: 3555 sq. ft., most recent use—classroom, off-site use only
Bldg. 9025
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200420047
Status: Excess
Comment: 3707 sq. ft., most recent use—headquarters bldg., off-site use only
Bldg. 9026
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200420048
Status: Excess
Comment: 3867 sq. ft., most recent use—headquarters bldg., off-site use only
Bldg. T01
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420181
Status: Excess
Comment: 11,682 sq. ft., most recent use—admin., off-site use only
Bldg. T04
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420182
Status: Excess
Comment: 8292 sq. ft., most recent use—admin., off-site use only
Bldg. T05
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420183
Status: Excess
Comment: 7992 sq. ft., most recent use—admin., off-site use only
Bldg. T06
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420184
Status: Excess
Comment: 3305 sq. ft., most recent use—communication center, off-site use only
Bldg. T55
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420187
Status: Excess
Comment: 6490 sq. ft., most recent use—admin., off-site use only
Bldg. T85
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420188
Status: Excess
Comment: 3283 sq. ft., most recent use—post chapel, off-site use only
Bldg. T131
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army

Property Number: 21200420189
Status: Excess
Comment: 4720 sq. ft., most recent use—admin., off-site use only

Bldg. T132
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420190
Status: Excess
Comment: 4720 sq. ft., most recent use—admin., off-site use only

Bldg. T157
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420191
Status: Excess
Comment: 1440 sq. ft., most recent use—education center, off-site use only

Bldg. 01002
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420197
Status: Excess
Comment: 9267 sq. ft., most recent use—maintenance shop, off-site use only

Bldg. 01003
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420198
Status: Excess
Comment: 9267 sq. ft., most recent use—admin, off-site use only

Bldg. T1043
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420202
Status: Excess
Comment: 3825 sq. ft., most recent use—admin., off-site use only

Bldg. T106
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420204
Status: Excess
Comment: 650 sq. ft., most recent use—heat plant bldg., off-site use only

Bldg. T1050
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420207
Status: Excess
Comment: 3114 sq. ft., most recent use—shop, off-site use only

Bldg. T1051
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420208
Status: Excess
Comment: 12,205 sq. ft., most recent use—shop, off-site use only

Bldg. T1056
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420209
Status: Excess
Comment: 18,260 sq. ft., most recent use—shop, off-site use only

Bldg. T1057
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420210
Status: Excess
Comment: 18,260 sq. ft., most recent use—warehouse, off-site use only

Bldg. T1058
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420211
Status: Excess
Comment: 18,260 sq. ft., most recent use—storage, off-site use only

Bldg. 19101
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420215
Status: Excess
Comment: 6773 sq. ft., most recent use—simulator bldg., off-site use only

Bldg. 19102
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420216
Status: Excess
Comment: 3250 sq. ft., most recent use—simulator bldg., off-site use only

Bldg. T19111
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420217
Status: Excess
Comment: 1440 sq. ft., most recent use—admin., off-site use only

Bldg. 19112
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420218
Status: Excess
Comment: 1344 sq. ft., most recent use—storage, off-site use only

Bldg. 19113
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420219
Status: Excess
Comment: 1440 sq. ft., most recent use—admin., off-site use only

Bldg. T19201
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420220
Status: Excess
Comment: 960 sq. ft., most recent use—physical fitness center, off-site use only

Bldg. 19202
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420221
Status: Excess
Comment: 1210 sq. ft., most recent use—community center, off-site use only

Bldg. 19204 thru 19207
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420222
Status: Excess
Comment: 960 sq. ft., most recent use—admin., off-site use only

Bldgs. 19208 thru 19211
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420223
Status: Excess
Comment: 1540 sq. ft., most recent use—general installation bldg., off-site use only

Bldg. 19212
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420224
Status: Excess
Comment: 1248 sq. ft., off-site use only

Bldg. 19213
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420225
Status: Excess
Comment: 1540 sq. ft., most recent use—general installation bldg., off-site use only

Bldg. 19214
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420226
Status: Excess
Comment: 1796 sq. ft., most recent use—transient UPH, off-site use only

Bldg. 19215
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420227
Status: Excess
Comment: 1948 sq. ft., most recent use—transient UPH, off-site use only

Bldg. 19216
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420228
Status: Excess
Comment: 1540 sq. ft., most recent use—transient UPH, off-site use only

Bldg. 19217
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420229
Status: Excess
Comment: 120 sq. ft., most recent use—nav aids bldg., off-site use only

Bldg. 19218
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420230
Status: Excess
Comment: 2925 sq. ft., most recent use—general installation bldg., off-site use only

Bldgs. 19219, 19220
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–

Landholding Agency: Army
Property Number: 21200420231
Status: Excess
Comment: 1200 sq. ft., most recent use—general installation bldg., off-site use only

Bldg. 19223
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420232
Status: Excess
Comment: 6433 sq. ft., most recent use—transient UPH, off-site use only

Bldg. 19225
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420233
Status: Excess
Comment: 4936 sq. ft., most recent use—dining facility, off-site use only

Bldg. 19226
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420234
Status: Excess
Comment: 136 sq. ft., most recent use—general purpose installation bldg., off-site use only

Bldg. T19228
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420235
Status: Excess
Comment: 400 sq. ft., most recent use—admin., off-site use only

Bldg. 19229
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420236
Status: Excess
Comment: 640 sq. ft., most recent use—vehicle shed, off-site use only

Bldg. 19232
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420237
Status: Excess
Comment: 96 sq. ft., most recent use—general purpose installation, off-site use only

Bldg. 19233
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420238
Status: Excess
Comment: 48 sq. ft., most recent use—fire support, off-site use only

Bldg. 19236
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420239
Status: Excess
Comment: 1617 sq. ft., most recent use—transient UPH, off-site use only

Bldg. 19238
Fort Stewart
Ft. Stewart Co: Liberty GA 31314–
Landholding Agency: Army
Property Number: 21200420240
Status: Excess
Comment: 738 sq. ft., off-site use only

Bldg. 01674
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200510056
Status: Unutilized
Comment: 5311 sq. ft., needs rehab, most recent use—gen. inst., off-site use only

Bldg. 01675
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200510057
Status: Unutilized
Comment: 5475 sq. ft., needs rehab, most recent use—gen. inst., off-site use only

Bldg. 01676
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200510058
Status: Unutilized
Comment: 7209 sq. ft., needs rehab, most recent use—gen. inst., off-site use only

Bldg. 01677
Fort Benning
Ft. Benning Co: GA 31905–
Landholding Agency: Army
Property Number: 21200510059
Status: Unutilized
Comment: 5311 sq. ft., needs rehab, most recent use—gen. inst., off-site use only

Bldg. 01678
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200510060
Status: Unutilized
Comment: 6488 sq. ft., needs rehab, most recent use—gen. inst., off-site use only

Bldg. 05887
Fort Benning
Ft. Benning Co: Chattachoochee GA 31905–
Landholding Agency: Army
Property Number: 21200510061
Status: Unutilized
Comment: 1344 sq. ft., needs rehab, most recent use—admin., off-site use only

Bldg. 01305
Hunter Army Airfield
Chatham Co: GA 31409–
Landholding Agency: Army
Property Number: 21200510063
Status: Excess
Comment: 400 sq. ft., most recent use—general purpose, off-site use only

Bldg. 00051
Fort Stewart
Liberty Co: GA 31314–
Landholding Agency: Army
Property Number: 21200520087
Status: Excess
Comment: 3196 sq. ft., most recent use—court room, off-site use only

Bldg. 00052
Fort Stewart
Liberty Co: GA 31314–
Landholding Agency: Army
Property Number: 21200520088
Status: Excess
Comment: 1250 sq. ft., most recent use—admin., off-site use only

Bldg. 00053
Fort Stewart
Liberty Co: GA 31314–
Landholding Agency: Army
Property Number: 21200520089
Status: Excess
Comment: 2844 sq. ft., most recent use—admin., off-site use only

Bldg. 00054
Fort Stewart
Liberty Co: GA 31314–
Landholding Agency: Army
Property Number: 21200520090
Status: Excess
Comment: 4425 sq. ft., most recent use—admin., off-site use only

Bldg. 00451
Fort Stewart
Liberty Co: GA 31314–
Landholding Agency: Army
Property Number: 21200520091
Status: Excess
Comment: 2750 sq. ft., most recent use—exchange service, off-site use only

Bldg. 00106
Fort Benning
Chattachoochee Co: GA 31905–
Landholding Agency: Army
Property Number: 21200520092
Status: Unutilized
Comment: 3625 sq. ft., poor condition, most recent use—snack bar, off-site use only

Bldg. 02023
Fort Benning
Chattachoochee Co: GA 31905–
Landholding Agency: Army
Property Number: 21200520093
Status: Unutilized
Comment: 6138 sq. ft., poor condition, most recent use—Fh Sr NCO, off-site use only

Bldg. 2750
Fort Benning
Chattachoochee Co: GA 31905–
Landholding Agency: Army
Property Number: 21200520094
Status: Unutilized
Comment: 3707 sq. ft., poor condition, most recent use—health clinic, off-site use only

Bldg. 2819
Fort Benning
Chattachoochee Co: GA 31905–
Landholding Agency: Army
Property Number: 21200520095
Status: Unutilized
Comment: 40,442 sq. ft., poor condition, off-site use only

Bldg. 2843
Fort Benning
Chattachoochee Co: GA 31905–
Landholding Agency: Army
Property Number: 21200520096
Status: Unutilized
Comment: 9000 sq. ft., poor condition, most recent use—auto center, off-site use only

Bldg. 9013
Fort Benning
Chattachoochee Co: GA 31905–
Landholding Agency: Army
Property Number: 21200520099
Status: Unutilized
Comment: 40303 sq. ft., poor condition, most recent use—enlisted housing, off-site use only

5 Bldgs.

Fort Benning
9014, 9015, 9018, 9022, 9053
Chattachoochee Co: GA 31905–
Landholding Agency: Army
Property Number: 21200520100
Status: Unutilized
Comment: 50620 sq. ft., poor condition, most recent use—enlisted housing, off-site use only

Bldg. 9050
Fort Benning
Chattachoochee Co: GA 31905–
Landholding Agency: Army
Property Number: 21200520104
Status: Unutilized
Comment: 9313 sq. ft., poor condition, most recent use—BDE HQ Bldg., off-site use only

Bldg. 9051
Fort Benning
Chattachoochee Co: GA 31905–
Landholding Agency: Army
Property Number: 21200520105
Status: Unutilized
Comment: 684 sq. ft., poor condition, most recent use—health clinic, off-site use only

Bldg. 09075
Fort Benning
Chattachoochee Co: GA 31905–
Landholding Agency: Army
Property Number: 21200520106
Status: Unutilized
Comment: 1500 sq. ft., poor condition, most recent use—BN HQ Bldg., off-site use only

Bldg. 9234
Fort Benning
Chattachoochee Co: GA 31905–
Landholding Agency: Army
Property Number: 21200520109
Status: Unutilized
Comment: 1200 sq. ft., poor condition, most recent use—exchange outlet, off-site use only

Bldgs. 10039, 10041
Fort Benning
Muscogee Co: GA 31905–
Landholding Agency: Army
Property Number: 21200520110
Status: Unutilized
Comment: 2375 sq. ft., poor condition, most recent use FH JR NCO/ENL, off-site use only

Bldg. 11326
Fort Benning
Muscogee Co: GA 31905–
Landholding Agency: Army
Property Number: 21200520112
Status: Unutilized
Comment: 9602 sq. ft., poor condition, most recent use—FH JR NCO/ENL, off-site use only

Indiana

Bldg. 301
Fort Benjamin Harrison
Indianapolis Co: Marion IN 45216–
Landholding Agency: Army
Property Number: 21200320098
Status: Unutilized
Comment: 1564 sq. ft., possible asbestos/lead paint, most recent use—storage shed, off-site use only

Bldg. 302
Fort Benjamin Harrison
Indianapolis Co: Marion IN 46216–
Landholding Agency: Army
Property Number: 21200320099
Status: Unutilized
Comment: 400 sq. ft., possible asbestos/lead paint, most recent use—switch station, off-site use only

Bldg. 303
Fort Benjamin Harrison
Indianapolis Co: Marion IN 46216–
Landholding Agency: Army
Property Number: 21200320100
Status: Unutilized
Comment: 462 sq. ft., possible asbestos/lead paint, most recent use—heat plant bldg., off-site use only

Bldg. 304
Fort Benjamin Harrison
Indianapolis Co: Marion IN 46216–
Landholding Agency: Army
Property Number: 21200320101
Status: Unutilized
Comment: 896 sq. ft., possible asbestos/lead paint, most recent use—heat plant bldg., off-site use only

Bldg. 334
Fort Benjamin Harrison
Indianapolis Co: Marion IN 46216–
Landholding Agency: Army
Property Number: 21200320102
Status: Unutilized
Comment: 652 sq. ft., possible asbestos/lead paint, off-site use only

Bldg. 337
Fort Benjamin Harrison
Indianapolis Co: Marion IN 46216–
Landholding Agency: Army
Property Number: 21200320103
Status: Unutilized
Comment: 675 sq. ft., possible asbestos/lead paint, off-site use only

Louisiana

Bldg. T401
Fort Polk
Ft. Polk Co: LA 71459–
Landholding Agency: Army
Property Number: 21200540084
Status: Unutilized
Comment: 2169 sq. ft., most recent use—admin., off-site use only

Bldgs. T406, T407, T411
Fort Polk
Ft. Polk Co: LA 71459–
Landholding Agency: Army
Property Number: 21200540085
Status: Unutilized
Comment: 6165 sq. ft., most recent use—admin., off-site use only

Bldg. T412
Fort Polk
Ft. Polk Co: LA 71459–
Landholding Agency: Army
Property Number: 21200540086
Status: Unutilized
Comment: 12,251 sq. ft., most recent use—admin., off-site use only

Bldgs. T414, T421
Fort Polk
Ft. Polk Co: LA 71459–
Landholding Agency: Army
Property Number: 21200540087
Status: Unutilized
Comment: 6165/1688 sq. ft., most recent use—admin., off-site use only

Maryland

Bldg. 2282C
Fort George G. Meade
Fort Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 21200230059
Status: Unutilized
Comment: 46 sq. ft., needs rehab, most recent use—sentry tower, off-site use only

Bldg. 8608
Fort George G. Meade
Ft. Meade MD 20755–5115
Landholding Agency: Army
Property Number: 21200410099
Status: Unutilized
Comment: 2372 sq. ft., concrete block, most recent use—PX exchange, off-site use only

Bldg. 8612
Fort George G. Meade
Ft. Meade MD 20755–5115
Landholding Agency: Army
Property Number: 21200410101
Status: Unutilized
Comment: 2372 sq. ft., concrete block, most recent use—family life ctr., off-site use only

Bldg. 0001A
Federal Support Center
Olney Co: Montgomery MD 20882–
Landholding Agency: Army
Property Number: 21200520114
Status: Unutilized
Comment: 9000 sq. ft., most recent use—storage

Bldg. 0001C
Federal Support Center
Olney Co: Montgomery MD 20882–
Landholding Agency: Army
Property Number: 21200520115
Status: Unutilized
Comment: 2904 sq. ft., most recent use—mess hall

Bldgs. 00032, 00H14, 00H24
Federal Support Center
Olney Co: Montgomery MD 20882–
Landholding Agency: Army
Property Number: 21200520116
Status: Unutilized
Comment: various sq. ft., most recent use—storage

Bldgs. 00034, 00H016
Federal Support Center
Olney Co: Montgomery MD 20882–
Landholding Agency: Army
Property Number: 21200520117
Status: Unutilized
Comment: 400/39 sq. ft., most recent use—storage

Bldgs. 00H10, 00H12
Federal Support Center
Olney Co: Montgomery MD 20882–
Landholding Agency: Army
Property Number: 21200520118
Status: Unutilized
Comment: 2160/469 sq. ft., most recent use—vehicle maintenance

Michigan

Bldg. 00001
Sheridan Hall USARC
501 Euclid Avenue
Helena Co: Lewis & Clark MI 59601–2865
Landholding Agency: Army
Property Number: 21200510066

Status: Unutilized
Comment: 19321 sq. ft., most recent use—reserve center

Missouri

Bldg. 1230
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200340087
Status: Unutilized
Comment: 9160 sq. ft., most recent use—training, off-site use only

Bldg. 1621
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200340088
Status: Unutilized
Comment: 2400 sq. ft., most recent use—exchange branch, off-site use only

Bldg. 5760
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200410102
Status: Unutilized
Comment: 2000 sq. ft., most recent use—classroom, off-site use only

Bldg. 5762
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200410103
Status: Unutilized
Comment: 104 sq. ft., off-site use only

Bldg. 5763
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200410104
Status: Unutilized
Comment: 120 sq. ft., most recent use—observation tower, off-site use only

Bldg. 5765
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200410105
Status: Unutilized
Comment: 800 sq. ft., most recent use—range support, off-site use only

Bldg. 5760
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200420059
Status: Unutilized
Comment: 2000 sq. ft., most recent use—classroom, off-site use only

Bldg. 5762
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200420060
Status: Unutilized
Comment: 104 sq. ft., off-site use only

Bldg. 5763
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200420061
Status: Unutilized
Comment: 120 sq. ft., most recent use—obs. tower, off-site use only

Bldg. 5765
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–8944
Landholding Agency: Army
Property Number: 21200420062
Status: Unutilized
Comment: 800 sq. ft., most recent use—support bldg., off-site use only

Bldg. 00467
Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65743–
Landholding Agency: Army
Property Number: 21200530085
Status: Unutilized
Comment: 2790 sq. ft., most recent use—fast food facility, off-site use only

New York

Bldgs. 1511–1518
U.S. Military Academy
Training Area
Highlands Co: Orange NY 10996–
Landholding Agency: Army
Property Number: 21200320160
Status: Unutilized
Comment: 2400 sq. ft. each, needs rehab, most recent use—barracks, off-site use only

Bldgs. 1523–1526
U.S. Military Academy
Training Area
Highlands Co: Orange NY 10996–
Landholding Agency: Army
Property Number: 21200320161
Status: Unutilized
Comment: 2400 sq. ft. each, needs rehab, most recent use—barracks, off-site use only

Bldgs. 1704–1705, 1721–1722
U.S. Military Academy
Training Area
Highlands Co: Orange NY 10996–
Landholding Agency: Army
Property Number: 21200320162
Status: Unutilized
Comment: 2400 sq. ft. each, needs rehab, most recent use—barracks, off-site use only

Bldg. 1723
U.S. Military Academy
Training Area
Highlands Co: Orange NY 10996–
Landholding Agency: Army
Property Number: 21200320163
Status: Unutilized
Comment: 2400 sq. ft., needs rehab, most recent use—day room, off-site use only

Bldgs. 1706–1709
U.S. Military Academy
Training Area
Highlands Co: Orange NY 10996–
Landholding Agency: Army
Property Number: 21200320164
Status: Unutilized
Comment: 2400 sq. ft. each, needs rehab, most recent use—barracks, off-site use only

Bldgs. 1731–1735
U.S. Military Academy
Training Area
Highlands Co: Orange NY 10996–
Landholding Agency: Army
Property Number: 21200320165
Status: Unutilized
Comment: 2400 sq. ft. each, needs rehab, most recent use—barracks, off-site use only

North Carolina

Bldgs. A2245, A2345
Fort Bragg
Ft. Bragg Co: Cumberland NC 28310–
Landholding Agency: Army
Property Number: 21200240084
Status: Excess
Comment: 3444 sq. ft. each, possible asbestos/lead paint, most recent use—vehicle maint. shop, off-site use only

Bldg. N4116
Fort Bragg
Ft. Bragg Co: Cumberland NC 28310–
Landholding Agency: Army
Property Number: 21200240087
Status: Excess
Comment: 3944 sq. ft., possible asbestos/lead paint, most recent use—community facility, off-site use only

Oklahoma

282 Bldgs.
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 21200530086
Status: Unutilized
Comment: 1127 sq. ft. to 2629 sq. ft., possible asbestos/lead paint, most recent use—housing, off-site use only

43 Garages
Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 21200530087
Status: Unutilized
Comment: 703 sq. ft. to 2053 sq. ft., off-site use only

Texas

Bldgs. 4219, 4227
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220139
Status: Unutilized
Comment: 8056 & 10,500 sq. ft., most recent use—admin., off-site use only

Bldgs. 4229, 4230, 4231
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220140
Status: Unutilized
Comment: 9000 sq. ft., most recent use—hq. bldg., off-site use only

Bldgs. 4244, 4246
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200220141
Status: Unutilized
Comment: 9000 sq. ft., most recent use—storage, off-site use only

Bldgs. 4260, 4261, 4262
Fort Hood
Ft. Hood Co: Bell TX 76544–

Landholding Agency: Army
Property Number: 21200220142
Status: Unutilized
Comment: 7680 sq. ft., most recent use—storage, off-site use only

Bldgs. 00245–00247
Fort Hood
Ft. Hood Co: Bell TX 76544–
Landholding Agency: Army
Property Number: 21200430069
Status: Unutilized
Comment: 1008 sq. ft. each, most recent use—instruction bldg.

Bldgs. 04223–04226
Fort Hood
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200440088
Status: Excess
Comment: 9000 sq. ft., possible asbestos, most recent use—general, off-site use only

Bldg. 04335
Fort Hood
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200440090
Status: Excess
Comment: 3378 sq. ft., possible asbestos, most recent use—general, off-site use only

Bldg. 04465
Fort Hood
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200440094
Status: Excess
Comment: 5310 sq. ft., possible asbestos, most recent use—general, off-site use only

Bldg. 04468
Fort Hood
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200440096
Status: Excess
Comment: 3100 sq. ft., possible asbestos, most recent use—misc., off-site use only

Bldg. 04473
Fort Hood
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200440097
Status: Excess
Comment: 3100 sq. ft., possible asbestos, most recent use—general, off-site use only

Bldgs. 04475–04476
Fort Hood
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200440098
Status: Excess
Comment: 3241 sq. ft., possible asbestos, most recent use—general, off-site use only

Bldg. 04477
Fort Hood
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200440099
Status: Excess
Comment: 3100 sq. ft., possible asbestos, most recent use—general, off-site use only

Bldg. 07002
Fort Hood
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200440100
Status: Excess
Comment: 2598 sq. ft., possible asbestos, most recent use—fire station, off-site use only

Bldg. 7002A
Fort Hood
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200440101
Status: Excess
Comment: 73 sq. ft., possible asbestos, most recent use—storage, off-site use only

Bldg. 57001
Fort Hood
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200440105
Status: Excess
Comment: 53,024 sq. ft., possible asbestos, most recent use—storage, off-site use only

Bldgs. 90053–90054
Fort Hood
Bell Co: TX 76544–
Landholding Agency: Army
Property Number: 21200440107
Status: Excess
Comment: 884 & 206 sq. ft., possible asbestos, most recent use—storage, off-site use only

Virginia

Bldg. T2827
Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 21200320172
Status: Unutilized
Comment: 3550 sq. ft., presence of asbestos, most recent use—dining, off-site use only

Bldg. T2841
Fort Pickett
Blackstone Co: Nottoway VA 23824–
Landholding Agency: Army
Property Number: 21200320173
Status: Unutilized
Comment: 2950 sq. ft., presence of asbestos, most recent use—dining, off-site use only

Washington

Bldg. 05904
Fort Lewis
Ft. Lewis Co: Pierce WA 98433–9500
Landholding Agency: Army
Property Number: 21200240092
Status: Excess
Comment: 82 sq. ft., most recent use—guard shack, off-site use only

Wisconsin

Bldg. 01352
Fort McCoy
Monroe Co: WI 54656–
Landholding Agency: Army
Property Number: 21200530088
Status: Excess
Comment: 6362 sq. ft., most recent use—vehicle maintenance, off-site use only

Bldg. 01355
Fort McCoy
Monroe Co: WI 54656–
Landholding Agency: Army
Property Number: 21200530089
Status: Excess
Comment: 5282 sq. ft., most recent use—vehicle maintenance, off-site use only

Bldg. 01363
Fort McCoy
Monroe Co: WI 54656–
Landholding Agency: Army
Property Number: 21200530090
Status: Excess
Comment: 3200 sq. ft., most recent use—storage, off-site use only

Bldgs. 01459–01462
Fort McCoy
Monroe Co: WI 54656–
Landholding Agency: Army
Property Number: 21200530091
Status: Excess
Comment: 3108 sq. ft., most recent use—vehicle maintenance, off-site use only

Bldgs. 01464–01466
Fort McCoy
Monroe Co: WI 54656–
Landholding Agency: Army
Property Number: 21200530092
Status: Excess
Comment: 1350 sq. ft., most recent use—storage, off-site use only

Unsuitable Properties

Buildings (by State)

Alabama

86 Bldgs.
Redstone Arsenal
Redstone Arsenal Co: Madison AL 35898–
Landholding Agency: Army
Property Number: 21200040001–21200040012, 21200120018, 21200220003–21200220004, 21200240007–21200240022, 21200330001–2120330004, 21200340011, 21200340095, 21200420068–21200420071, 21200440001, 21200520002, 21200540002–21200540006, 21200610003–21200610004
Status: Unutilized
Reason: Secured Area Extensive deterioration

11 Bldgs.,
Fort Rucker
Ft. Rucker Co: Dale AL 36362
Landholding Agency: Army
Property Number: 219740006, 21200040013,21200420073, 21200440005, 21200540001, 21200540100, 21200610007–21200610008
Status: Unutilized
Reason: Extensive deterioration

Bldg. 01271
Fort McClellan
Ft. McClellan Co: Calhoun AL 36205–5000
Landholding Agency: Army
Property Number: 21200430004
Status: Unutilized
Reason: Extensive deterioration

5 Bldgs.
Anniston Army Depot
Calhoun AL 36201–4199
Landholding Agency: Army
Property Number: 21200520001, 21200610005–21200610006
Status: Unutilized
Reason: Extensive deterioration

Alaska

3 Bldgs.,
Fort Wainwright
Ft. Wainwright AK 99703
Landholding Agency: Army
Property Number: 21200610001–21200610002

Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material
Secured area
Floodway
3 Bldgs.,
Fort Richardson
Ft. Richardson Co: AK 99505
Landholding Agency: Army
Property Number: 21200340001
Status: Excess
Reason: Extensive deterioration

Arizona

32 Bldgs.
Navajo Depot Activity
Bellemont Co: Coconino AZ 86015–
Location: 12 miles west of Flagstaff, Arizona on I–40
Landholding Agency: Army
Property Number: 219014560–219014591
Status: Underutilized
Reason: Secured Area

10 properties: 753 earth covered igloos; above ground standard magazines
Navajo Depot Activity
Bellemont Co: Coconino AZ 86015–
Location: 12 miles west of Flagstaff, Arizona on I–40.
Landholding Agency: Army
Property Number: 219014592–219014601
Status: Underutilized
Reason: Secured Area

7 Bldgs.
Navajo Depot Activity
Bellemont Co: Coconino AZ 86015–5000
Location: 12 miles west of Flagstaff on I–40
Landholding Agency: Army
Property Number: 219030273, 219120177–219120181
Status: Unutilized
Reason: Secured Area

77 Bldgs.
Camp Navajo
Bellemont Co: AZ 86015
Landholding Agency: Army
Property Number: 21200140006–21200140010
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material
Secured Area (Most are extensively deteriorated)

Bldgs. 15348, 15344
Fort Huachuca
Ft. Huachuca Co: Cochise AZ 85613
Landholding Agency: Army
Property Number: 21200240024, 21200330005
Status: Excess
Reason: Extensive deterioration

Arkansas

190 Bldgs., Fort Chaffee
Ft. Chaffee Co: Sebastian AR 72905–5000
Landholding Agency: Army
Property Number: 219630019, 219630021, 219630029, 219640462–219640477, 21200110001–21200110017, 21200140011–21200140014, 21200530001
Status: Unutilized
Reason: Extensive deterioration

California

Bldg. 18
Riverbank Army Ammunition Plant
5300 Claus Road
Riverbank Co: Stanislaus CA 95367–
Landholding Agency: Army
Property Number: 219012554
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material
Secured Area

12 Bldgs.
Riverbank Army Ammunition Plant
Riverbank Co: Stanislaus CA 95367–
Landholding Agency: Army
Property Number: 219013582–219013588,219013590, 219240444–219240446, 21200530003
Status: Underutilized
Reason: Secured Area

Bldgs. 13, 171, 178 Riverbank Ammun Plant
5300 Claus Road
Riverbank Co: Stanislaus CA 95367–
Landholding Agency: Army
Property Number: 219120162–219120164
Status: Underutilized
Reason: Secured Area

40 Bldgs.
DDDRW Sharpe Facility
Tracy Co: San Joaquin CA 95331
Landholding Agency: Army
Property Number: 219610289, 21199930021, 21200030005–21200030015, 21200040015, 21200120029–21200120039, 21200130004, 21200240025–21200240030, 21200330007
Status: Unutilized
Reason: Secured Area

61 Bldgs.
Los Alamitos Co: Orange CA 90720–5001
Landholding Agency: Army
Property Number: 219520040, 21200530002
Status: Unutilized
Reason: Extensive deterioration

10 Bldgs.
Sierra Army Depot
Herlong Co: Lassen CA 96113
Landholding Agency: Army
Property Number: 21199840015 21199920033–21199920036, 21199940052–21199940056
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

599 Bldgs., Camp Roberts
Camp Roberts Co: San Luis Obispo CA
Landholding Agency: Army
Property Number: 21199730014, 219820192–219820235, 21200530004, 21200540007–21200540031
Status: Excess
Reason: Secured Area
Extensive deterioration

27 Bldgs.
Presidio of Monterey Annex
Seaside Co: Monterey CA 93944
Landholding Agency: Army
Property Number: 21199940051, 21200130005
Status: Unutilized
Reason: Extensive deterioration

46 Bldgs.
Fort Irwin
Ft. Irwin Co: San Bernardino CA 92310
Landholding Agency: Army
Property Number: 21199920037–21199920038, 21200030016–21200030018, 21200040014, 21200110018–21200110020, 21200130002–21200130003, 21200210001–21200210005, 21200240031–21200240033
Status: Unutilized
Reason: Secured Area
Extensive deterioration

Bldgs. 00635, 00796
Parks Reserve Forces
Dublin Co: Alameda CA 94568
Landholding Agency: Army
Property Number: 21200520003
Status: Unutilized
Reason: Extensive deterioration

Colorado

Bldgs. T–317, T–412, 431, 433
Rocky Mountain Arsenal
Commerce Co: Adams CO 80022–2180
Landholding Agency: Army
Property Number: 219320013–219320016
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area Extensive deterioration

9 Bldgs. Fort Carson
Ft. Carson Co: El Paso CO 80913–5023
Landholding Agency: Army
Property Number: 219830024,21200130006–21200130009, 21200420161–21200420164
Status: Unutilized
Reason: Extensive deterioration (Some are within 2000 ft. of flammable or explosive material)

7 Bldgs.
Pueblo Chemical Depot
Pueblo CO 81006–9330
Landholding Agency: Army
Property Number: 21200030019–21200030021, 21200420165–21200420166, 21200610009–21200610010
Status: Unutilized
Reason: Extensive deterioration

Georgia

Fort Stewart
Sewage Treatment Plant
Ft. Stewart Co: Hinesville GA 31314–
Landholding Agency: Army
Property Number: 219013922
Status: Unutilized
Reason: Sewage treatment

5 Bldgs.
Fort Gordon
Augusta Co: Richmond GA 30905–
Landholding Agency: Army
Property Number: 219640022, 21200610012
Status: Unutilized
Reason: Extensive deterioration

47 Bldgs., Fort Benning
Ft. Benning Co: Muscogee GA 31905
Landholding Agency: Army
Property Number: 219610320, 219720017–219720019, 219810028, 219810030, 219810035, 219830073, 21199930034, 21200030026, 21200330008–21200330010, 21200410001–21200410009, 21200430011–21200430016, 21200440009, 21200510003, 21200530005, 21200540032–21200540033, 21200610011
Status: Unutilized
Reason: Extensive deterioration

32 Bldgs.
Fort Gillem
Forest Park Co: Clayton GA 30050
Landholding Agency: Army

Property Number: 219620815, 21199920044–21199920050, 21200140016,21200220011–21200220012,21200230005, 21200340013–21200340016, 21200420074–21200420082
Status: Unutilized
Reason: Extensive deterioration Secured Area

4 Bldgs. Fort Stewart
Hinesville Co: Liberty GA 31314
Landholding Agency: Army
Property Number: 21199940060, 21200540034
Status: Unutilized
Reason: Extensive Deterioration

Bldg., Hunter Army Airfield
Savannah Co: Chatham GA 31409
Landholding Agency: Army
Property Number: 219830068
Status: Unutilized
Reason: Extensive deterioration

6 Bldgs., Fort McPherson
Ft. McPherson Co: Fulton GA 30330–5000
Landholding Agency: Army
Property Number: 21200040016–21200040018, 21200230004, 21200520004
Status: Unutilized
Reason: Secured Area

Bldgs. 00023, 00049, 00070, Camp Merrill
Dahlonega Co: Lumpkin GA 30533
Landholding Agency: Army
Property Number: 21200520005
Status: Unutilized
Reason: Extensive deterioration

Hawaii

18 Bldgs.
Schofield Barracks
Wahiawa Co: Wahiawa HI 96786–
Landholding Agency: Army
Property Number: 219014836–219014837, 21200540035–21200540037
Status: Unutilized
Reason: Secured Area (Most are extensively deteriorated)

Bldgs. 00001 thru 00051
Kipapa Ammo Storage Site
Honolulu Co: HI 96786
Landholding Agency: Army
Property Number: 21200520006
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 00802, 01005, 01500 thru 01503
Wheeler Army Airfield
Honolulu Co: HI 96786
Landholding Agency: Army
Property Number: 2120052007–21200520008
Status: Unutilized
Reason: Extensive deterioration

130 Tunnels
Aliamanu
Honolulu Co: HI 96818
Landholding Agency: Army
Property Number: 21200440015–21200440017
Status: Unutilized
Reason: Contamination

Illinois

5 Bldgs.
Rock Island Arsenal
Rock Island Co: Rock Island IL 61299–5000
Landholding Agency: Army
Property Number: 219110106, 219620428, 21200140043–21200140044, 21200530006
Status: Unutilized
Reason: Some are in a secured area; Some are extensively deteriorated; Some are within 2000 ft. of flammable or explosive material

15 Bldgs.
Charles Melvin Price Support Center
Granite City Co: Madison IL 62040
Landholding Agency: Army
Property Number: 219820027, 21199930042–21199930053
Status: Unutilized
Reason: Secured Area, Floodway Extensive deterioration

Indiana

134 Bldgs.
Newport Army Ammunition Plant
Newport Co: Vermillion IN 47966–
Landholding Agency: Army
Property Number: 219011584, 219011586–219011587, 219011589–219011590, 219011592–219011627, 219011629–219011636, 219011638–219011641, 219210149, 219430336, 219430338, 219530079-219530096, 219740021–219740026, 219820031–219820032, 21199920063, 21200330015–21200330016, 21200440019, 21200610013–21200610014
Status: Unutilized
Reason: Secured Area (Some are extensively deteriorated.)

2 Bldgs.
Atterbury Reserve Forces Training Area
Edinburgh Co: Johnson IN 46124–1096
Landholding Agency: Army
Property Number: 219230030–219230031
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 300, 00112, 00123
Fort Benjamin Harrison
Indianapolis Co: Marion IN 46216
Landholding Agency: Army
Property Number: 21200320011, 21200430017
Status: Unutilized
Reason: Contamination

Iowa

121 Bldgs.
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638–
Landholding Agency: Army
Property Number: 219012605–219012607, 219012609, 219012611, 219012613, 219012620, 219012622, 219012624, 219013706–219013738, 219120172–219120174, 219440112–219440158, 219520002, 219520070, 219740027, 21200220022, 21200230019–21200230023, 21200330012–21200330014, 21200340017, 21200420083, 21200430018, 21200440018, 21200510004–21200510006, 21200520009, 21200540038-21200540039
Status: Unutilized
Reason: (Many are in a Secured Area) (Most are within 2000 ft. of flammable or explosive material.)

27 Bldgs.,
Iowa Army Ammunition Plant
Middletown Co: Des Moines IA 52638
Landholding Agency: Army
Property Number: 219230005–219230029, 219310017, 219340091
Status: Unutilized
Reason: Extensive deterioration

Kansas

37 Bldgs.
Kansas Army Ammunition Plant
Production Area
Parsons Co: Labette KS 67357–
Landholding Agency: Army
Property Number: 219011909–219011945
Status: Unutilized
Reason: Secured Area (Most are within 2000 ft. of flammable or explosive material)

121 Bldgs.
Kansas Army Ammunition Plant
Parsons Co: Labette KS 67357
Landholding Agency: Army
Property Number: 219620518–219620638
Status: Unutilized
Reason: Secured Area

Bldgs. 00166, 01987
Fort Riley
Ft. Riley Co: Riley KS 66442
Landholding Agency: Army
Property Number: 21200310007, 21200540040
Status: Unutilized
Reason: Extensive deterioration

Kentucky

Bldg. 126
Lexington-Blue Grass Army Depot
Lexington Co: Fayette KY 40511–
Location: 12 miles northeast of Lexington, Kentucky.
Landholding Agency: Army
Property Number: 219011661
Status: Unutilized
Reason: Secured Area
Sewage treatment facility

Bldg. 12
Lexington—Blue Grass Army Depot
Lexington Co: Fayette KY 40511–
Location: 12 miles Northeast of Lexington Kentucky.
Landholding Agency: Army
Property Number: 219011663
Status: Unutilized
Reason: Industrial waste treatment plant.

32 Bldgs., Fort Knox
Ft. Knox Co: Hardin KY 40121–
Landholding Agency: Army
Property Number: 21200130028–21200130029, 21200440025–21200440026, 21200510007–21200510009
Status: Unutilized
Reason: Extensive deterioration

17 Bldgs., Fort Campbell
Ft. Campbell Co: Christian KY 42223
Landholding Agency: Army
Property Number: 21200110038–21200110043, 21200140053, 21200220029, 21200330018, 21200520012–21200520015, 21200530007, 21200610015
Status: Unutilized
Reason: Extensive deterioration

Bldg. 00023
Blue Grass Army Depot
Richmond Co: Madison KY 40475
Landholding Agency: Army
Property Number: 21200520011
Status: Unutilized
Reason: Secured Area

Louisiana

528 Bldgs.
Louisiana Army Ammunition Plant
Doylin Co: Webster LA 71023–

Landholding Agency: Army
Property Number: 219011714–219011716, 219011735–219011737, 219012112, 219013863–219013869, 219110131, 219240138–219240147, 219420332, 219610049–219610263, 219620002–219620200, 219620749–219620801, 219820047–219820078
Status: Unutilized
Reason: Secured Area (Most are within 2000 ft. of flammable or explosive material) (Some are extensively deteriorated)

50 Bldgs., Fort Polk
Ft. Polk Co: Vernon Parish LA 71459–7100
Landholding Agency: Army
Property Number: 21199920070, 21200130030–21200130043 21200530008–21200530017, 21200610016–21200610019
Status: Unutilized
Reason: Extensive deterioration (Some are in Floodway.)

Maryland

90 Bldgs.
Aberdeen Proving Ground
Aberdeen City Co: Harford MD 21005–5001
Landholding Agency: Army
Property Number: 219012610, 219012638–219012642, 219012658–219012662, 219014711, 219610489–219610490, 219730077, 219810076–219810112, 219820090–219820096, 21200120059–21200120060, 21200410017–21200410032, 21200420097–21200420103, 21200440027–21200440030, 21200510011–21200510013, 21200520021, 21200520072–21200520073
Status: Unutilized
Reason: Most are in a secured area. (Some are within 2000 ft. of flammable or explosive material) (Some are in a floodway) (Some are extensively deteriorated)

52 Bldgs. Ft. George G. Meade
Ft. Meade Co: Anne Arundel MD 20755–
Landholding Agency: Army
Property Number: 219810065, 21200140059–21200140060, 21200410014, 21200510018, 21200520020
Status: Unutilized
Reason: Extensive deterioration

Bldg. 00211,
Curtis Bay Ordnance Depot
Baltimore Co: MD 21226
Landholding Agency: Army
Property Number: 21200320024
Status: Unutilized
Reason: Extensive deterioration

Bldg. 00279, Fort Detrick
Frederick Co: MD 21702
Landholding Agency: Army
Property Number: 21200540041
Status: Unutilized
Reason: Secured Area

Bldg. 0001B
Federal Support Center
Olney Co: Montgomery MD 20882
Landholding Agency: Army
Property Number: 21200530018
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material

Massachusetts

Bldg. 3462, Camp Edwards
Massachusetts Military Reservation
Bourne Co: Barnstable MA 024620–5003
Landholding Agency: Army
Property Number: 219230095
Status: Unutilized
Reason: Secured Area
Extensive deterioration

Bldg. 1211 Camp Edwards
Massachusetts Military Reservation
Bourne Co: Barnstable MA 02462–5003
Landholding Agency: Army
Property Number: 219310020
Status: Unutilized
Reason: Secured Area

Facility No. 0G001
LTA Granby
Granby Co: Hampshire MA
Landholding Agency: Army
Property Number: 219810062
Status: Unutilized
Reason: Extensive deterioration

5 Bldgs.
Devens RFTA
Devens Co: MA 01432–4429
Landholding Agency: Army
Property Number: 21200340019–21200340021
Status: Unutilized
Reason: Extensive deterioration

6 Bldgs.
Fera USARC
Danvers Co: Essex MA 01923–1121
Landholding Agency: Army
Property Number: 21200420089–21200420092
Status: Unutilized
Reason: Extensive deterioration

Michigan

Bldgs. 5755–5756
Newport Weekend Training Site
Carleton Co: Monroe MI 48166
Landholding Agency: Army
Property Number: 219310060–219310061
Status: Unutilized
Reason: Secured Area Extensive deterioration

54 Bldgs.
Fort Custer Training Center
2501 26th Street
Augusta Co: Kalamazoo MI 49102–9205
Landholding Agency: Army
Property Number: 21200220058–21200220062, 21200410036–21200410042, 21200540048–21200540051
Status: Unutilized
Reason: Extensive deterioration

39 Bldgs.
U.S. Army Garrison-Selfridge
Macomb Co: MI 48045
Landholding Agency: Army
Property Number: 21200420093, 21200510020–21200510023
Status: Unutilized
Reason: Secured Area

4 Bldgs., Poxin USAR Center
Southfield Co: Oakland MI 48034
Landholding Agency: Army
Property Number: 21200330026–21200330027, 21200420095
Status: Unutilized
Reason: Extensive deterioration

20 Bldgs.
Grayling Army Airfield
Grayling Co: Crawford MI 49739
Landholding Agency: Army
Property Number: 21200410034–21200410035, 21200540042–21200540047
Status: Excess
Reason: Extensive deterioration

Bldg. 001, Crabble USARC
Saginaw MI 48601–4099
Landholding Agency: Army
Property Number: 21200420094
Status: Unutilized
Reason: Extensive deterioration

Bldg. 00714
Selfridge Air Natl Guard Base
Macomb Co: MI 48045
Landholding Agency: Army
Property Number: 21200440032
Status: Unutilized
Reason: Extensive deterioration

4 Bldgs.
Detroit Arsenal
T0209, T0216, T0246, T0247
Warren Co: Macomb MI 88397–5000
Landholding Agency: Army
Property Number: 21200520022
Status: Unutilized
Reason: Secured Area

Minnesota

160 Bldgs.
Twin Cities Army Ammunition Plant
New Brighton Co: Ramsey MN 55112
Landholding Agency: Army
Property Number: 219120166, 219210014–219210015, 219220227–219220235, 219240328, 219310056, 219320152–219320156, 219330096–219330106, 219340015, 219410159–219410189, 219420198–219420283, 219430060–219430064, 21200130053–21200130054
Status: Unutilized
Reason: Secured Area (Most are within 2000 ft. of flammable or explosive material.) (Some are extensively deteriorated)

Missouri

83 Bldgs., Lake City Army Ammo. Plant
Independence Co: Jackson MO 64050
Landholding Agency: Army
Property Number: 219013666–219013669, 219530134, 219530136, 21199910023–21199910035, 21199920082, 21200030049
Status: Unutilized
Reason: Secured Area (Some are within 2000 ft. of flammable or explosive material)

9 Bldgs.
St. Louis Army Ammunition Plant
4800 Goodfellow Blvd.
St. Louis Co: St. Louis MO 63120–1798
Landholding Agency: Army
Property Number: 219120067–219120068, 219610469–219610475
Status: Unutilized
Reason: Secured Area (Some are extensively deteriorated.)

22 Bldgs., Fort Leonard Wood
Ft. Leonard Wood Co: Pulaski MO 65473–5000
Landholding Agency: Army
Property Number: 219430075, 21199910020–21199910021, 21200320025, 21200330028–21200330031, 21200430029, 21200530019
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material (Some are extensively deteriorated.)

Bldg. P4122, U.S. Army Reserve Center

St. Louis Co: St. Charles MO 63120–1794
Landholding Agency: Army
Property Number: 21200240055
Status: Unutilized
Reason: Extensive deterioration

Bldgs. P4074, P4072, P4073
St. Louis Ordnance Plant
St. Louis Co: St. Charles MO 63120–1794
Landholding Agency: Army
Property Number: 21200310019
Status: Unutilized
Reason: Extensive deterioration

Montana

Bldg. P0516, Fort Harrison
Ft. Harrison Co: Lewis/Clark MT 59636
Landholding Agency: Army
Property Number: 21200420104
Status: Excess
Reasons: Secured Area, Extensive deterioration

Nevada

Bldg. 292
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415
Landholding Agency: Army
Property Number: 219013614
Status: Unutilized
Reason: Secured Area

39 Bldgs.
Hawthorne Army Ammunition Plant
Hawthorne Co: Mineral NV 89415
Landholding Agency: Army
Property Number: 219012013, 219013615–219013643
Status: Underutilized
Reason: Secured Area (Some within airport runway clear zone; many within 2000 ft. of flammable or explosive material)

Group 101, 34 Bldgs.
Hawthorne Army Ammunition Plant
Co: Mineral NV 89415–0015
Landholding Agency: Army
Property Number: 219830132
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material. Secured Area

New Jersey

173 Bldgs., Picatinny Arsenal
Dover Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219010444–219010474, 219010639–219010664, 219010680–219010715, 219012428, 219012430, 219012433–219012465, 219012469, 219012475, 219012765, 00219014306, 219014311, 219014317, 219140617, 219230123, 219420006, 219530147, 219540005, 219540007, 219740113–219740127, 21199940094–21199940099, 21200130057–21200130063, 21200220063, 21200230072–21200230075, 21200330047–21200330063, 21200410043–21200410044, 21200520024–21200520039, 21200530022–21200530028
Status: Excess
Reason: Secured Area (Most are within 2000 ft. of flammable or explosive material.) (Some are extensively deteriorated and in a floodway)

6 Bldgs., Ft. Monmouth
Ft. Monmouth Co: NJ 07703
Landholding Agency: Army
Property Number: 21200430030, 21200510025–21200510027
Status: Unutilized
Reason: Extensive deterioration

New Mexico

164 Bldgs.
White Sands Missile Range
Dona Ana Co: NM 88002
Landholding Agency: Army
Property Number: 21200410045–21200410049, 21200440034–21200440045
Status: Excess
Reason: Secured Area

New York

Bldg. 12, Watervliet Arsenal
Watervliet NY
Landholding Agency: Army
Property Number: 219730099
Status: Unutilized
Reason: Extensive deterioration (Secured Area)

13 Bldgs., Youngstown Training Site
Youngstown Co: Niagara NY 14131
Landholding Agency: Army
Property Number: 21200220064–21200220069
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 1716, 3014, 3018 U.S. Military Academy
West Point Co: NY 10996
Landholding Agency: Army
Property Number: 21200330064, 21200410050, 21200520040
Status: Unutilized
Reason: Extensive deterioration

72 Bldgs., Fort Drum
Ft. Drum Co: Jefferson NY 13602
Landholding Agency: Army
Property Number: 21200340027–21200340029, 21200410051, 21200420112–21200420128, 21200440046, 21200520041–21200520047, 21200530021, 21200540057–21200540059
Status: Unutilized
Reason: Extensive deterioration

Bldg. 108, Fredrick J ILL, Jr. USARC
Bullville Co: Orange NY 10915–0277
Landholding Agency: Army
Property Number: 21200510028
Status: Unutilized
Reason: Secured Area

Bldgs. 107, 112, 113
Kerry P. Hein USARC NY058
Shoreham Co: Suffolk NY 11778–9999
Landholding Agency: Army
Property Number: 21200510054
Status: Excess
Reason: Secured Area

North Carolina

185 Bldgs. Fort Bragg
Ft. Bragg Co: Cumberland NC 28307
Landholding Agency: Army
Property Number: 219640074, 219710102–219710111, 219710224, 219810167, 21200140064, 21200340038–21200340043, 21200410056, 21200430042, 21200440050–21200440051, 21200530029–21200530047, 21200540060–21200540061, 21200610020
Status: Unutilized
Reason: Extensive deterioration

3 Bldgs., Military Ocean Terminal
Southport Co: Brunswick NC 28461–5000
Landholding Agency: Army
Property Number: 219810158–219810160, 21200330032
Status: Unutilized
Reason: Secured Area

North Dakota

Bldgs. 440, 455, 456, 3101, 3110
Stanley R. Mickelsen
Nekoma Co: Cavalier ND 58355
Landholding Agency: Army
Property Number: 21199940103–21199940107
Status: Unutilized
Reason: Extensive deterioration

Ohio

186 Bldgs.
Ravenna Army Ammunition Plant
Ravenna Co: Portage OH 44266–9297
Landholding Agency: Army
Property Number: 21199840069–21199840104, 21200240064, 21200420131–21200420132, 21200530051–21200530052
Status: Unutilized
Reason: Secured Area

7 Bldgs., Lima Army Tank Plant
Lima OH 45804–1898
Landholding Agency: Army
Property Number: 219730104–219730110
Status: Unutilized
Reason: Secured Area

Bldgs. T92, T93, T94, Defense Supply Center
Columbus Co: Franklin OH 43216
Landholding Agency: Army
Property Number: 21200530050
Status: Unutilized
Reasons: Secured Area Extensive deterioration

Oklahoma

26 Bldgs., Fort Sill
Lawton Co: Comanche OK 73503–
Landholding Agency: Army
Property Number: 219510023, 21200330065, 21200430043, 21200530053–21200530060
Status: Unutilized
Reason: Extensive deterioration

Bldgs. MA050, MA070, Regional Training Institute
Oklahoma City Co: OK 73111
Landholding Agency: Army
Property Number: 21200440052
Status: Unutilized
Reason: Extensive deterioration

Bldgs. GRM03, GRM24, GRM26, GRM34
Camp Gruber Training Site
Braggs Co: OK 74423
Landholding Agency: Army
Property Number: 21200510029–21200510032
Status: Unutilized
Reason: Extensive deterioration

22 Bldgs., McAlester Army Ammo Plant
McAlester Co: Pittsburg OK 74501
Landholding Agency: Army
Property Number: 21200510033–21200510039, 21200520048
Status: Excess
Reason: Secured Area

Oregon

11 Bldgs.
Tooele Army Depot

Umatilla Depot Activity
Hermiston Co: Morrow/Umatilla OR 97838–
Landholding Agency: Army
Property Number: 219012174–219012176, 219012178–219012179, 219012190–219012191, 219012197–219012198, 219012217, 219012229
Status: Underutilized
Reason: Secured Area

34 Bldgs.
Tooele Army Depot
Umatilla Depot Activity
Hermiston Co: Morrow/Umatilla OR 97838–
Landholding Agency: Army
Property Number: 219012177, 219012185–219012186, 219012189, 219012195–219012196, 219012199–219012205, 219012207–219012208, 219012225, 219012279, 219014304–219014305, 219014782, 219030362–219030363, 219120032, 21199840108–21199840110, 21199920084–21199920090
Status: Unutilized
Reason: Secured Area

Pennsylvania

23 Bldgs., Fort Indiantown Gap
Annville Co: Lebanon PA 17003–5011
Landholding Agency: Army
Property Number: 219810183–219810190
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 00267, 00330, 00331
Defense Distribution Depot
New Cumberland Co: York PA 17070–5001
Landholding Agency: Army
Property Number: 21200610021–21200610022
Status: Unutilized
Reason: Extensive deterioration

8 Bldgs., Tobyhanna Army Depot
Tobyhanna Co: Monroe PA 18466
Landholding Agency: Army
Property Number: 21200330068, 21200440053–21200440054, 21200510040
Status: Unutilized
Reason: Extensive deterioration

Bldg. 01003, C.E. Kelly Support Facility
Neville Island Co: Allegheny PA 15225
Landholding Agency: Army
Property Number: 21200330069
Status: Unutilized
Reason: Extensive deterioration

28 Bldgs.
Letterkenny Army Depot
Chambersburg Co: Franklin PA 17201
Landholding Agency: Army
Property Number: 21200420134–21200420144, 21200430045–21200430051
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area, Extensive deterioration

Bldgs. 00014, 00033, 00044
CE Kelly Support Facility
Oakdale Co: Allegheny PA 15071
Landholding Agency: Army
Property Number: 21200420153–21200420155
Status: Unutilized
Reason: Secured Area

Bldg. 00040, Carlisle Barracks
Cumberland Co: PA 17013
Landholding Agency: Army
Property Number: 21200540062
Status: Excess
Reason: Extensive deterioration

Puerto Rico

136 Bldgs., Fort Buchanan
Guaynabo Co: PR 00934
Landholding Agency: Army
Property Number: 21200330077–21200330092, 21200340052–21200340055, 21200420156–21200420160, 21200530061–21200530063, 21200610023
Status: Unutilized
Reason: Secured Area (Some are extensively deteriorated)

South Carolina

41 Bldgs., Fort Jackson
Ft. Jackson Co: Richland SC 29207
Landholding Agency: Army
Property Number: 219440237, 219440239, 219620312, 219620317, 219620348, 219620351, 219640138–219640139, 21199640148–21199640149, 219720095, 219720097, 219730130, 219730132, 219730145–219730157, 219740138, 219820102–219820111, 219830139–219830157, 21200520050
Status: Unutilized
Reason: Extensive deterioration

Tennessee

79 Bldgs.
Holston Army Ammunition Plant
Kingsport Co: Hawkins TN 61299–6000
Landholding Agency: Army
Property Number: 219012304–219012309,219012311–219012312, 219012314, 219012316–219012317, 219012328, 219012330, 219012332, 219012334, 219012337, 219013790, 219140613, 219440212–219440216, 219510025–219510027, 21200230035, 21200310040, 21200320054–21200320073, 21200340056, 21200510042, 21200530064–21200530065
Status: Unutilized
Reason: Secured Area (Some are within 2000 ft. of flammable or explosive material)

45 Bldgs.
Milan Army Ammunition Plant
Milan Co: Gibson TN 38358
Landholding Agency: Army
Property Number: 219240447–219240449, 21200520051–21200520052
Status: Unutilized
Reason: Secured Area (Some are extensively deteriorated)

Bldg. Z–183A
Milan Army Ammunition Plant
Milan Co: Gibson TN 38358
Landholding Agency: Army
Property Number: 219240783
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material

115 Bldgs., Fort Campbell
Ft. Campbell Co: Montgomery TN 42223
Landholding Agency: Army
Property Number: 21200220023, 21200240065, 21200330094–21200330100, 21200430052–2100430054, 21200440057–21200440058, 21200510043, 21200520053–21200520062, 21200540063–21200540069, 21200610024–21200610031
Status: Unutilized
Reason: Extensive deterioration

Texas

20 Bldgs.
Lone Star Army Ammunition Plant
Highway 82 West
Texarkana Co: Bowie TX 75505–9100
Landholding Agency: Army
Property Number: 219012524, 219012529, 219012533, 219012536, 219012539–219012540, 219012542, 219012544–219012545, 219030337–219030345
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area

154 Bldgs.
Longhorn Army Ammunition Plant
Karnack Co: Harrison TX 75661–
Landholding Agency: Army
Property Number: 219620827, 21200340062–21200340073
Status: Unutilized
Reason: Secured Area (Most are within 2000 ft. of flammable or explosive material)

16 Bldgs., Red River Army Depot
Texarkana Co: Bowie TX 75507–5000
Landholding Agency: Army
Property Number: 219420315–219420327, 219430095–219430097
Status: Unutilized
Reason: Secured Area (Some are extensively deteriorated)

91 Bldgs. Fort Bliss
El Paso Co: El Paso TX 79916
Landholding Agency: Army
Property Number: 219730160–219730186, 219830161–219830197, 21200310044, 21200320079, 21200340059, 21200540070–21200540073
Status: Unutilized
Reason: Extensive deterioration

6 Bldgs., Fort Hood
Ft. Hood Co: Bell TX 76544
Landholding Agency: Army
Property Number: 21200420146–21200420147
Status: Unutilized
Reason: Extensive deterioration

Bldgs. 05110, 06088, Fort Sam Houston
Camp Bullis Co: Bexar TX
Landholding Agency: Army
Property Number: 21200520063
Status: Excess
Reason: Extensive deterioration

Utah

25 Bldgs.
Tooele Army Depot
Tooele Co: Tooele UT 84074–5008
Landholding Agency: Army
Property Number: 219012751, 21200440063–21200440065
Status: Unutilized
Reason: Secured Area

Bldg. 9307
Dugway Proving Ground
Dugway Co: Toole UT 84022–
Landholding Agency: Army
Property Number: 219013997
Status: Underutilized
Reason: Secured Area

9 Bldgs.
Deseret Chemical Depot
Tooele UT 84074
Landholding Agency: Army
Property Number: 219820119–219820121, 21200610032–21200610034

Status: Unutilized
Reason: Secured Area Extensive deterioration

Bldgs. 00259, 00206
Ogden Maintenance Center
Weber Co: UT 84404
Landholding Agency: Army
Property Number: 21200530066
Status: Excess
Reason: Secured Area

Virginia

348 Bldgs.
Radford Army Ammunition Plant
Radford Co: Montgomery VA 24141–
Landholding Agency: Army
Property Number: 219010833, 219010836, 219010842, 219010844, 219010847–219010890, 219010892–219010912, 219011521–219011577, 219011581–219011583, 219011585, 219011588, 219011591, 219013559–219013570, 219110142–219110143, 219120071, 219140618–219140633, 219220210–219220218, 219230100–219230103, 219240324, 219440219–219440225, 219510032–219510033, 219520037, 219520052, 219530194, 219610607–219610608, 219830223–219830267, 21200020079–21200020081, 21200230038, 21200240071–21200240072, 21200510045–21200510046
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material Secured Area (Some are extensively deteriorated)

13 Bldgs., Radford Army Ammunition Plant
Radford Co: Montgomery VA 24141
Landholding Agency: Army
Property Number: 219010834–219010835, 219010837–219010838, 219010840–219010841, 219010843, 219010845–219010846, 219010891, 219011578–219011580
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material. Secured Area. Latrine, detached structure

38 Bldgs.
U.S. Army Combined Arms Support Command
Fort Lee Co: Prince George VA 23801
Landholding Agency: Army
Property Number: 219240107, 219330210, 219330225–219330228, 219610597, 219620866–219620876, 219630115, 219740156, 219830208–219830210, 21199940130, 21200110064, 21200340074, 21200430058–21200430060, 21200510050, 21200520064–21200520065
Status: Unutilized
Reason: Extensive deterioration (Some are in a secured area.)

56 Bldgs.
Red Water Field Office
Radford Army Ammunition Plant
Radford VA 24141
Landholding Agency: Army
Property Number: 219430341–219430396
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material. Secured Area

84 Bldgs.
Fort A.P. Hill
Bowling Green Co: Caroline VA 22427
Landholding Agency: Army
Property Number: 21200310058, 21200310060, 21200410069–21200410076, 21200430057, 21200510051
Status: Unutilized
Reason: Secured Area. Extensive deterioration

13 Bldgs.
Fort Belvoir
Ft. Belvoir Co: Fairfax VA 22060–5116
Landholding Agency: Army
Property Number: 21199910050–21199910051, 21199920107, 21199940117–21199940120, 21200030063–21200030064, 21200130075–21200130077, 21200530071
Status: Unutilized
Reason: Extensive deterioration

6 Bldgs., Fort Eustis
Ft. Eustis Co. VA 23604
Landholding Agency: Army
Property Number: 21200210025–21200210026
Status: Unutilized
Reason: Extensive deterioration

51 Bldgs.
Fort Pickett
Blackstone Co: Nottoway VA 23824
Landholding Agency: Army
Property Number: 21200220087–21200220092, 21200320080–21200320087
Status: Unutilized
Reason: Extensive deterioration

Bldg. 00723, Fort Story
Ft. Story Co: Princess Ann VA 23459
Landholding Agency: Army
Property Number: 21200310046
Status: Unutilized
Reason: Extensive deterioration

5 Bldgs.,
Defense Supply Center
00021, S0096, 00185, 00715, 00716
Richmond Co: Chesterfield VA 23297
Landholding Agency: Army
Property Number: 21200530067–21200530070
Status: Unutilized
Reason: Secured Area

Washington

663 Bldgs., Fort Lewis
Ft. Lewis Co: Pierce WA 98433–5000
Landholding Agency: Army
Property Number: 219610006, 219610009–219610010, 219610045–219610046, 219620512–219620517, 219640193, 219720142–219720151, 219810205–219810242, 219820132, 21199910064–21199910078, 21199920125–21199920174, 21199930080–21199930104, 21199940134, 21200120068, 21200140072–21200140073, 21200210075, 21200220097, 21200330104–21200330106, 21200430061
Status: Unutilized
Reason: Secured Area. Extensive deterioration

Bldg. HBC07, Fort Lewis
Huckleberry Creek Mountain Training Site
Co: Pierce WA
Landholding Agency: Army
Property Number: 219740166
Status: Unutilized
Reason: Extensive deterioration

Bldg. 415, Fort Worden
Port Angeles Co: Clallam WA 98362
Landholding Agency: Army
Property Number: 21199910062
Status: Excess
Reason: Extensive deterioration

Bldg. U515A, Fort Lewis
Ft. Lewis Co: Pierce WA 98433
Landholding Agency: Army
Property Number: 21199920124
Status: Excess
Reason: gas chamber

Bldgs. 02401, 02402
Vancouver Barracks Cemetery
Vancouver Co: WA 98661
Landholding Agency: Army
Property Number: 21200310048
Status: Unutilized
Reason: Extensive deterioration

4 Bldgs. Renton USARC
Renton Co: WA 980058
Landholding Agency: Army
Property Number: 21200310049
Status: Unutilized
Reason: Extensive deterioration.

Wisconsin

15 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI 53913–
Landholding Agency: Army
Property Number: 219011209–219011212, 219011217
Status: Underutilized
Reason: Within 2000 ft. of flammable or explosive material
Friable asbestos
Secured Area

153 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI 53913–
Landholding Agency: Army
Property Number: 219011104, 219011106, 219011108–219011113, 219011115–219011117, 219011119–219011120, 219011122–219011139, 219011141–219011142, 219011144, 219011148–219011208, 219011213–219011216, 219011218–219011234, 219011236, 219011238, 219011240, 219011242, 219011244, 219011247, 219011249, 219011251, 219011256, 19011259, 219011263, 219011265, 219011268, 219011270, 219011275, 219011277, 219011280, 219011282, 219011284, 219011286, 219011290, 219011293, 219011295, 219011297, 219011300, 219011302, 219011304–219011311, 219011317, 219011319–219011321, 219011323
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material
Friable asbestos
Secured Area

4 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI
Landholding Agency: Army
Property Number: 219013871–219013873, 219013875
Status: Underutilized
Reason: Secured Area

906 Bldgs.
Badger Army Ammunition Plant
Baraboo Co: Sauk WI
Landholding Agency: Army
Property Number: 219013876–219013878, 219210097–219210099, 219220295–

219220311, 219510065, 219510067, 219510069–219510077, 219740184–219740271, 21200020083–21200020155, 21200240074–21200240080
Status: Unutilized
Reason: (Most are in a secured Area) (Most are within 2000 ft. of flammable or explosive material (Some are extensively deteriorated)

Bldgs. 05001, 05013, 06757, 07147
Fort McCoy
Monroe Co: WI 54656
Landholding Agency: Army
Property Number: 21200610035–21200610036
Status: Unutilized
Reason: Extensive deterioration

Land (by State)

Indiana

Newport Army Ammunition Plant
East of 14th St. & North of S. Blvd.
Newport Co: Vermillion IN 47966–
Landholding Agency: Army
Property Number: 219012360
Status: Unutilized
Reason: Within 2000 ft. of flammable or explosive material
Secured Area

Maryland

Carroll Island, Graces Quarters
Aberdeen Proving Ground
Edgewood Area
Aberdeen City Co: Harford MD 21010–5425
Landholding Agency: Army
Property Number: 219012630, 219012632
Status: Underutilized
Reason: Floodway
Secured Area

Minnesota

Portion of R.R. Spur
Twin Cities Army Ammunition Plant
New Brighton Co: Ramsey MN 55112
Landholding Agency: Army
Property Number: 219620472
Status: Unutilized
Reason: landlocked

New Jersey

Land
Armament Research Development & Eng. Center
Route 15 North
Picatinny Arsenal Co: Morris NJ 07806–
Landholding Agency: Army
Property Number: 219013788
Status: Unutilized
Reason: Secured Area

Spur Line/Right of Way
Armament Rsch., Dev., & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 219530143
Status: Unutilized
Reason: Floodway

2.0 Acres, Berkshire Trail
Armament Rsch., Dev., & Eng. Center
Picatinny Arsenal Co: Morris NJ 07806–5000
Landholding Agency: Army
Property Number: 21199910036
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material Secured Area

Texas

Land—Approx. 50 acres
Lone Star Army Ammunition Plant
Texarkana Co: Bowie TX 75505–9100
Landholding Agency: Army
Property Number: 219420308
Status: Unutilized
Reason: Secured Area

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Federal Register

Friday,

February 24, 2006

Part III

Department of Housing and Urban Development

Statutorily Mandated Designation of Difficult Development Areas for Section 42 of the Internal Revenue Code of 1986: Supplemental Designation Under the Gulf Opportunity Zone Act of 2005; Notice

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–4889–N–06]

Statutorily Mandated Designation of Difficult Development Areas for Section 42 of the Internal Revenue Code of 1986: Supplemental Designation Under the Gulf Opportunity Zone Act of 2005

AGENCY: Office of the Secretary, HUD.

ACTION: Notice.

SUMMARY: This document designates ''Difficult Development Areas'' (DDAs) for purposes of the Low-Income Housing Tax Credit (LIHTC) under section 42 of the Internal Revenue Code of 1986 (the Code) (26 U.S.C. 42) as amended by the Gulf Opportunity Zone Act of 2005 (Pub. L. 109–135; the GO Zone Act). The United States Department of Housing and Urban Development (HUD) makes new Difficult Development Area designations annually and is making a supplemental designation at this time because of changes in the program enacted in the GO Zone Act. The designations of ''Qualified Census Tracts'' (QCTs) under section 42 of the Internal Revenue Code published December 12, 2002, as supplemented on December 19, 2003, remain in effect.

FOR FURTHER INFORMATION CONTACT: For questions on how areas are designated and on geographic definitions, contact Kurt G. Usowski, Associate Deputy Assistant Secretary for Economic Affairs, Office of Policy Development and Research, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410–6000, telephone (202) 708–2770, or send e-mail to *Kurt_G._Usowski@hud.gov*. For specific legal questions pertaining to Section 42, contact Branch 5, Office of the Associate Chief Counsel, Passthroughs & Special Industries, Internal Revenue Service, 1111 Constitution Avenue, NW., Washington, DC 20224, telephone (202) 622–3040, fax (202) 622–4753. For questions about the ''HUB Zones'' program, contact Michael P. McHale, Assistant Administrator for Procurement Policy, Office of Government Contracting, Small Business Administration, 409 Third Street, SW., Suite 8800, Washington, DC 20416, telephone (202) 205–8885, fax (202) 205–7167, or send e-mail to *hubzone@sba.gov*. A text telephone is available for persons with hearing or speech impairments at (202) 708–9300. (These are not toll-free telephone numbers.) Additional copies of this notice are available through HUD User at (800) 245–2691 for a small fee to cover duplication and mailing costs.

Copies Available Electronically: This notice and additional information about DDAs and QCTs are available electronically on the Internet at *http://www.huduser.org/datasets/qct.html*.

SUPPLEMENTARY INFORMATION:

This Document

This notice designates DDAs for each of the 50 states, the District of Columbia, Puerto Rico, American Samoa, Guam, the Northern Mariana Islands, and the U.S. Virgin Islands. The designations of DDAs in this notice are based on final Fiscal Year (FY) 2005 Fair Market Rents (FMRs), 2005 income limits, and 2000 Census population counts as explained below. HUD is making a supplemental designation at this time because of changes in the program enacted in the GO Zone Act. Specifically, the GO Zone Act provides that areas determined by the President to warrant individual or individual and public assistance from the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricanes Katrina, Rita, or Wilma shall be treated as DDAs designated under subclause (I) of Internal Revenue Code section 42(d)(5)(C)(iii) (i.e., areas designated by the Secretary of HUD as having high construction, land, and utility costs relative to area median gross income (AMGI)), and shall not be taken into account for purposes of applying the limitation under subclause (II) of such section (i.e., the 20 percent cap on the total population of designated areas). This notice lists the affected areas described in the GO Zone Act. Some of the areas made DDAs under the GO Zone Act were designated as DDAs for 2006 on the basis of having high housing cost relative to income. When their populations are exempted from the computation of total population in areas previously designated as DDAs for 2006, this population falls well below the statutory 20 percent cap. Therefore, this notice designates additional 2006 DDAs where the Secretary of HUD finds that construction, land, and utility costs are high relative to AMGI. The designations of QCTs under section 42 of the Internal Revenue Code published December 12, 2002 (67 FR 76451), as supplemented on December 19, 2003 (68 FR 70982), remain in effect.

2000 Census

Data from the 2000 Census on total population of metropolitan areas and nonmetropolitan areas are used in the designation of DDAs. The Office of Management and Budget (OMB) published new metropolitan area definitions incorporating 2000 Census data in OMB Bulletin No. 03–04 on June 6, 2003, as updated in OMB Bulletin No. 04–03 on February 18, 2004, and OMB Bulletin No. 05–02 on February 22, 2005. The FY2005 FMRs and 2005 income limits used to designate DDAs are based on the Metropolitan Statistical Area (MSA) and Primary Metropolitan Statistical Area (PMSA) definitions established by OMB in OMB Bulletin No. 99–04 on June 30, 1999. Therefore, for the purposes of designating DDAs, ''metropolitan areas'' will continue to be defined according to the MSA/PMSA definitions established in OMB Bulletin No. 99–04 on June 30, 1999, until further notice.

Background

The U.S. Department of the Treasury (Treasury) and its Internal Revenue Service (IRS) are authorized to interpret and enforce the provisions of the Code, including the LIHTC found at section 42 of the Code. The Secretary of HUD is required to designate DDAs and QCTs by section 42(d)(5)(C) of the Code. In order to assist in understanding HUD's mandated designation of DDAs and QCTs for use in administering section 42, a summary of the section is provided. The following summary does not purport to bind Treasury or the IRS in any way, nor does it purport to bind HUD, as HUD has authority to interpret or administer the Code only in instances where it receives explicit delegation.

Summary of Low-Income Housing Tax Credit

The LIHTC is a tax incentive intended to increase the availability of low-income housing. Section 42 provides an income tax credit to owners of newly constructed or substantially rehabilitated low-income rental housing projects. The dollar amount of the LIHTC available for allocation by each state (credit ceiling) is limited by population. Each state is allowed a credit ceiling based on a statutory formula indicated at section 42(h)(3). States may carry forward unallocated credits derived from the credit ceiling for one year; however, to the extent these unallocated credits are not used by then, the credits go into a national pool to be redistributed to states as additional credit. State and local housing agencies allocate the state's credit ceiling among low-income housing buildings whose owners have applied for the credit. Besides section 42 credits derived from the credit ceiling, states may also provide section 42 credits to owners of buildings based on the percentage of certain building

costs financed by tax-exempt bond proceeds. Credits provided under the tax-exempt bond ''volume cap'' do not reduce the credits available from the credit ceiling.

The credits allocated to a building are based on the cost of units placed in service as low-income units under certain minimum occupancy and maximum rent criteria. In general, a building must meet one of two thresholds to be eligible for the LIHTC: either 20 percent of the units must be rent-restricted and occupied by tenants with incomes no higher than 50 percent of the AMGI or 40 percent of the units must be rent restricted and occupied by tenants with incomes no higher than 60 percent of AMGI. The term ''rent-restricted'' means that gross rent, including an allowance for utilities, cannot exceed 30 percent of the tenant's imputed income limitation (*i.e.*, 50 percent or 60 percent of AMGI). The rent and occupancy thresholds remain in effect for at least 15 years, and building owners are required to enter into agreements to maintain the low-income character of the building for at least an additional 15 years.

The LIHTC reduces income tax liability dollar for dollar. It is taken annually for a term of ten years and is intended to yield a present value of either: (1) 70 percent of the ''qualified basis'' for new construction or substantial rehabilitation expenditures that are not federally subsidized (i.e., financed with tax-exempt bonds or below-market federal loans), or (2) 30 percent of the qualified basis for the cost of acquiring certain existing buildings or projects that are federally subsidized. The actual credit rates are adjusted monthly for projects placed in service after 1987 under procedures specified in section 42. Individuals can use the credits up to a deduction equivalent of $25,000 (the actual maximum amount of credit that an individual can claim depends on the individual's marginal tax rate). Individuals cannot use the credits against the alternative minimum tax. Corporations, other than S or personal service corporations, can use the credits against ordinary income tax. They cannot use the credits against the alternative minimum tax. These corporations can also deduct losses from the project.

The qualified basis represents the product of the building's ''applicable fraction'' and its ''eligible basis.'' The applicable fraction is based on the number of low-income units in the building as a percentage of the total number of units, or based on the floor space of low income-units as a percentage of the total floor space of residential units in the building. The eligible basis is the adjusted basis attributable to acquisition, rehabilitation, or new construction costs (depending on the type of LIHTC involved). These costs include amounts chargeable to a capital account that are incurred prior to the end of the first taxable year in which the qualified low-income building is placed in service or, at the election of the taxpayer, the end of the succeeding taxable year. In the case of buildings located in designated DDAs or designated QCTs, eligible basis can be increased by up to 130 percent from what it would otherwise be. This means that the available credits also can be increased by up to 30 percent. For example, if a 70 percent credit is available, it effectively could be increased to as much as 91 percent.

Section 42 of the Code defines a DDA as any area designated by the Secretary of HUD as an area that has high construction, land, and utility costs relative to the AMGI. All designated DDAs in metropolitan areas (taken together) may not contain more than 20 percent of the aggregate population of all metropolitan areas, and all designated areas not in metropolitan areas may not contain more than 20 percent of the aggregate population of all nonmetropolitan areas.

The GO Zone Act provides that areas determined by the President to warrant individual or individual and public assistance from the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricanes Katrina, Rita, or Wilma shall be treated as DDAs designated under subclause (I) of Internal Revenue Code section 42(d)(5)(C)(iii) (*i.e.*, areas designated by the Secretary of HUD as having high construction, land, and utility costs relative to AMGI), and shall not be taken into account for purposes of applying the limitation under subclause (II) of such section (*i.e.*, the 20 percent cap on the total population of designated areas). This notice lists the affected areas described in the GO Zone Act. Some of the areas designated DDAs under the GO Zone Act were designated 2006 DDAs in a notice published August 22, 2005 on the basis of having high construction, land, and utility costs relative to AMGI. When GO Zone Act DDAs' populations are exempted from the computation of total population in areas previously designated as DDAs for 2006, this population falls well below the statutory 20 percent cap. Therefore, this notice designates additional 2006 DDAs where the Secretary of HUD finds that construction, land, and utility costs are high relative to AMGI.

Explanation of HUD Designation Methodology

A. Difficult Development Areas

This notice lists all areas determined by the President to warrant individual or individual and public assistance from the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricanes Katrina, Rita, or Wilma as DDAs according to lists of counties and parishes from the Federal Emergency Management Agency Web site (*http://www.fema.gov/*) as of January 27, 2006. Affected metropolitan areas and nonmetropolitan areas are assigned the indicator ''[GO Zone]'' in the lists of DDAs.

In developing the list of the remaining DDAs, HUD compared housing costs with incomes. HUD used 2000 Census population data and the metropolitan area (MSA/PMSA) definitions as published in OMB Bulletin No. 99–04 on June 30, 1999. In keeping with past practice of basing the coming year's DDA designations on data from the preceding year, the basis for these comparisons was the 2005 HUD income limits for Very Low-Income households (Very Low Income Limits, or VLILs) and final FY2005 FMRs used for the Section 8 Housing Choice Voucher program. The procedure used in making the DDA calculations follows:

1. For each MSA/PMSA and each nonmetropolitan area, a ratio was calculated. This calculation used the final FY2005 two-bedroom FMR and the 2005 four-person VLIL.

a. The numerator of the ratio was the area's final FY2005 FMR. In general, the FMR is based on the 40th percentile rent paid by recent movers for a two-bedroom apartment. In metropolitan areas granted a FMR based on the 50th percentile rent for purposes of improving the administration of HUD's Housing Choice Voucher program (see 66 FR 162), the 40th percentile rent was used for nationwide consistency of comparisons.

b. The denominator of the ratio was the monthly LIHTC income-based rent limit calculated as 1/12 of 30 percent of 120 percent of the area's VLIL (where the VLIL was rounded to the nearest $50 and not allowed to exceed 80 percent of the AMGI in areas where the VLIL is adjusted upward from its 50 percent of AMGI base).

2. The ratios of the FMR to the LIHTC income-based rent limit were arrayed in descending order, separately, for MSAs/PMSAs and for nonmetropolitan areas.

3. The DDAs are those metropolitan areas and nonmetropolitan areas *not* in areas determined by the President to

warrant individual or individual and public assistance from the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricanes Katrina, Rita, or Wilma with the highest ratios cumulative to 20 percent of the 2000 population of all metropolitan areas and of all nonmetropolitan areas, respectively.

B. Application of Population Caps to Difficult Development Area Determinations

In identifying DDAs, HUD applied caps, or limitations, as noted above. The cumulative population of metropolitan DDAs *not* in areas determined by the President to warrant individual or individual and public assistance from the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricanes Katrina, Rita, or Wilma cannot exceed 20 percent of the cumulative population of all metropolitan areas and the cumulative population of nonmetropolitan DDAs *not* in areas determined by the President to warrant individual or individual and public assistance from the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricanes Katrina, Rita, or Wilma cannot exceed 20 percent of the cumulative population of all nonmetropolitan areas.

In applying these caps, HUD established procedures to deal with how to treat small overruns of the caps. The remainder of this section explains the procedure. In general, HUD stops selecting areas when it is impossible to choose another area without exceeding the applicable cap. The only exceptions to this policy are when the next eligible excluded area contains either a large absolute population or a large percentage of the total population, or the next excluded area's ranking ratio as described above was identical (to four decimal places) to the last area selected, *and* its inclusion resulted in only a minor overrun of the cap. Thus, for both the designated metropolitan and nonmetropolitan DDAs, there may be minimal overruns of the cap. HUD believes the designation of these additional areas is consistent with the intent of the legislation. As long as the apparent excess is small due to measurement errors, some latitude is justifiable because it is impossible to determine whether the 20 percent cap has been exceeded. Despite the care and effort involved in a decennial census, the Census Bureau and all users of the data recognize that the population counts for a given area and for the entire country are not precise. The extent of the measurement error is unknown. Thus, there can be errors in both the numerator and denominator of the ratio of populations used in applying a 20 percent cap. In circumstances where a strict application of a 20 percent cap results in an anomalous situation, recognition of the unavoidable imprecision in the census data justifies accepting small variances above the 20 percent limit.

C. Exceptions to OMB Definitions of MSAs/PMSAs and Other Geographic Matters

As stated in OMB Bulletin 99–04 defining metropolitan areas: ''OMB establishes and maintains the definitions of the [Metropolitan Areas] solely for statistical purposes * * * OMB does not take into account or attempt to anticipate any nonstatistical uses that may be made of the definitions * * *. We recognize that some legislation specifies the use of metropolitan areas for programmatic purposes, including allocating Federal funds.''

HUD makes exceptions to OMB definitions in calculating FMRs by deleting counties from metropolitan areas whose OMB definitions are determined by HUD to be larger than their housing market areas.

The following counties are assigned their own FMRs and VLILs and evaluated as if they were separate metropolitan areas for purposes of designating DDAs.

Metropolitan Area and Counties Deleted
Chicago, Illinois: DeKalb, Grundy, and Kendall Counties.
Cincinnati-Hamilton, Ohio-Kentucky-Indiana: Brown County, Ohio; Gallatin, Grant, and Pendleton Counties, Kentucky; and Ohio County, Indiana.
Dallas, Texas: Henderson County.
Flagstaff, Arizona-Utah: Kane County, Utah.
New Orleans, Louisiana: St. James Parish.
Washington, DC-Maryland-Virginia-West Virginia: Clarke, Culpeper, King George, and Warren Counties, Virginia; and Berkely and Jefferson Counties, West Virginia.

In addition, Waller County, TX, part of the Houston, TX PMSA, is not an area determined by the President to warrant individual or individual and public assistance from the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricanes Katrina, Rita, or Wilma. It is therefore excluded from the definition of the Houston, TX PMSA and is assigned the FMR and VLIL of the Houston, TX PMSA and evaluated as if it were a separate metropolitan area for purposes of designating DDAs.

MSAs/PMSAs affected by geographic definition changes are assigned the indicator ''(part)'' in the list of Metropolitan DDAs. Any of the excluded counties designated as DDAs separately from their metropolitan areas are designated by the county name.

In the New England states (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont), OMB defined MSAs/PMSAs according to county subdivisions or minor civil divisions (MCDs), rather than county boundaries. Thus, when a New England county is designated as a Nonmetropolitan DDA, only that part of the county (the group of MCDs) not included in any MSA/PMSA is the Nonmetropolitan DDA. Affected counties are assigned the indicator ''(part)'' in the list of Nonmetropolitan DDAs.

For the convenience of readers of this notice, the geographical definitions of designated Metropolitan DDAs and the MCDs included in partial-county Nonmetropolitan DDAs in the New England states are included in the list of DDAs.

Future Designations

DDAs are designated annually as updated income and FMR data become available.

Effective Date

For DDAs designated by reason of being in areas determined by the President to warrant individual or individual and public assistance from the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricanes Katrina, Rita, or Wilma (the GO Zone Designation), the designation is effective: (1) For housing credit dollar amounts allocated and buildings placed in service during the period beginning on January 1, 2006, and ending on December 31, 2008; or (2) for purposes of section 42(h)(4)(B) of the Code, for buildings placed in service during the period beginning on January 1, 2006, and ending on December 31, 2008, but only with respect to bonds issued after December 31, 2005.

The 2006 lists of DDAs that are not part of the GO Zone Designation are effective: (1) For allocations of credit after December 31, 2005; or (2) for purposes of section 42(h)(4)(B) of the Code, if the bonds are issued and the building is placed in service after December 31, 2005. If an area is not on a subsequent list of DDAs, the 2006 lists

are effective for the area if (1) the allocation of credit to an applicant is made no later than the end of the 365-day period after the submission to the credit-allocating agency of a complete application by the applicant, and the submission is made before the effective date of the subsequent lists; or (2) for purposes of section 42(h)(4)(B) of the Code, the bonds are issued or the building is placed in service no later than the end of the 365-day period after the applicant submits a complete application to the bond-issuing agency, and the submission is made before the effective date of the subsequent lists, provided that both the issuance of the bonds and the placement in service of the building occur after the application is submitted.

An application is deemed to be submitted on the date it is filed if the application is determined to be complete as certified in writing by the credit-allocating agency or bond-issuing agency. A ''complete application'' means that no more than *de minimis* clarification of the application is required for the agency to make a decision about the allocation of tax credits or issuance of bonds requested in the application.

The designations of QCTs under section 42 of the Internal Revenue Code published December 12, 2002 (67 FR 76451), as supplemented on December 19, 2003 (68 FR 70982), remain in effect. The above language regarding calendar year 2006 and subsequent designations of DDAs also applies to the designations of QCTs published December 12, 2002 (67 FR 76451), as supplemented on December 19, 2003 (68 FR 70982), and subsequent designations of QCTs.

Interpretive Examples of Effective Date

For the convenience of readers of this notice, interpretive examples are provided below to illustrate the consequences of the effective date in areas that gain or lose DDA status. The term ''regular DDA'' as used below refers to DDAs that are designated by the Secretary of HUD as having high construction, land, and utility costs relative to AMGI. The term ''GO Zone DDA'' refers to areas determined by the President to warrant individual or individual and public assistance from the Federal Government under the Robert T. Stafford Disaster Relief and Emergency Assistance Act by reason of Hurricanes Katrina, Rita, or Wilma. The examples covering ''regular DDAs'' are equally applicable to future QCT designations.

(Case A) Project ''A'' is located in a 2006 regular DDA that is NOT a designated regular DDA in 2007. An application for tax credits for Project ''A'' is filed with the allocating agency November 15, 2006, which the credit-allocating agency certifies in writing as complete. Credits are allocated to Project ''A'' on October 30, 2007. Project ''A'' IS eligible for the increase in basis accorded a project in a 2006 regular DDA because the application was filed BEFORE January 1, 2007 (the assumed effective date for the 2007 regular DDA lists), and tax credits were allocated no later than the end of the 365-day period after the filing of the complete application for an allocation of tax credits.

(Case B) Project ''B'' is located in a 2006 regular DDA that is NOT a designated regular DDA in 2007. An application for tax credits for Project ''B'' is filed with the allocating agency December 1, 2006, which the credit-allocating agency certifies in writing as complete. Credits are allocated to Project ''B'' on March 30, 2008. Project ''B'' IS NOT eligible for the increase in basis accorded a project in a 2006 regular DDA because, although the application for an allocation of tax credits was filed BEFORE January 1, 2007 (the assumed effective date of the 2007 regular DDA lists), the tax credits were allocated later than the end of the 365-day period after the filing of the complete application.

(Case C) Project ''C'' is located in a 2006 regular DDA that was not a DDA in 2005. Project ''C'' was placed in service November 15, 2005. An application for tax-exempt bond financing for Project ''C'' is filed with the bond-issuing agency on January 15, 2006, which the bond-issuing agency certifies in writing as complete. The bonds that will support the permanent financing of Project ''C'' are issued September 30, 2006. Project ''C'' IS NOT eligible for the increase in basis otherwise accorded a project in a 2006 DDA because the project was placed in service BEFORE January 1, 2006.

(Case D) Project ''D'' is located in an area that is a regular DDA in 2006, but IS NOT a regular DDA in 2007. An application for tax-exempt bond financing for Project ''D'' is filed with the bond-issuing agency on October 30, 2006, which the bond-issuing agency certifies in writing as complete. Bonds are issued for Project ''D'' on April 30, 2007, but Project ''D'' is not placed in service until January 30, 2008. Project ''D'' is eligible for the increase in basis available to projects located in 2006 regular DDAs because the first of the two events necessary for triggering the effective date for buildings described in section 42(h)(4)(B) of the Code (the two events being bonds issued and buildings placed in service) took place on April 30, 2007, within the 365-day period after a complete application for tax-exempt bond financing was filed, and the application was filed during a time when the location of Project ''D'' was in a regular DDA.

(Case E) Project ''E'' is located in a GO Zone DDA. The bonds used to finance project ''E'' are issued July 1, 2008, and project ''E'' is placed in service July 1, 2009. Project ''E'' is NOT eligible for the increase in basis available to projects in GO Zone DDAs because it was not placed in service during the period beginning on January 1, 2006, and ending on December 31, 2008.

(Case F) Project ''F'' is located in a GO Zone DDA. The bonds used to finance project ''F'' were issued July 1, 2005, and project ''F'' is placed in service July 1, 2006. Project ''F'' is NOT eligible for the increase in basis available to projects in GO Zone DDAs because the bonds used to finance project ''F'' were issued BEFORE December 31, 2005.

Findings and Certifications

Environmental Impact

In accordance with 40 CFR 1508.4 of the regulations of the Council on Environmental Quality and 24 CFR 50.19(c)(6) of HUD's regulations, the policies and procedures contained in this notice provide for the establishment of fiscal requirements or procedures that do not constitute a development decision affecting the physical condition of specific project areas or building sites and, therefore, are categorically excluded from the requirements of the National Environmental Policy Act, except for extraordinary circumstances, and no Finding of No Significant Impact is required.

Federalism Impact

Executive Order 13132 (entitled ''Federalism'') prohibits an agency from publishing any policy document that has federalism implications if the document either imposes substantial direct compliance costs on state and local governments and is not required by statute, or the document preempts state law, unless the agency meets the consultation and funding requirements of section 6 of the executive order. This notice merely designates ''Difficult Development Areas'' as required under section 42 of the Internal Revenue Code, as amended, for the use by political subdivisions of the states in allocating the Low-Income Housing Tax Credit. This notice also details the technical methodology used in making such

designations. As a result, this notice is not subject to review under the order.

Dated: February 16, 2006.

Darlene Williams,

Assistant Secretary for Policy Development and Research.

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2006 IRS SECTION 42(d)(5)(C) METROPOLITAN DIFFICULT DEVELOPMENT AREAS (MSA/PMSA DEFINITIONS June 30, 1999)

State	Metropolitan Area	Metropolitan Area Components			
Alabama	Mobile, AL MSA [GO Zone]	Baldwin County	Mobile County		
	Tuscaloosa, AL MSA [GO Zone]	Tuscaloosa County			
Arizona	Flagstaff, AZ-UT MSA (part)	Coconino County			
	Las Vegas, NV-AZ MSA	Mohave County			
	Yuma, AZ MSA	Yuma County			
California	Los Angeles-Long Beach, CA PMSA	Los Angeles County			
	Oakland, CA PMSA	Alameda County	Contra Costa County		
	Orange County, CA PMSA	Orange County			
	Sacramento, CA PMSA	El Dorado County	Placer County	Sacramento County	
	Salinas, CA MSA	Monterey County			
	San Diego, CA MSA	San Diego County			
	San Luis Obispo-Atascadero-Paso Robles, CA MSA	San Luis Obispo County			
	Santa Barbara-Santa Maria-Lompoc, CA MSA	Santa Barbara County			
	Santa Cruz-Watsonville, CA PMSA	Santa Cruz County			
	Santa Rosa, CA PMSA	Sonoma County			
	Ventura, CA PMSA	Ventura County			
	Yolo, CA PMSA	Yolo County			
Florida	Daytona Beach, FL MSA	Flagler County	Volusia County		
	Fort Lauderdale, FL PMSA [GO Zone]	Broward County			
	Fort Myers-Cape Coral, FL MSA [GO Zone]	Lee County			
	Fort Pierce-Port St. Lucie, FL MSA [GO Zone]	Martin County	St. Lucie County		
	Melbourne-Titusville-Palm Bay, FL MSA [GO Zone]	Brevard County			
	Miami, FL PMSA [GO Zone]	Miami-Dade County			
	Naples, FL MSA [GO Zone]	Collier County			
	Orlando, FL MSA	Lake County	Orange County	Osceola County	Seminole County
	Tampa-St. Petersburg-Clearwater, FL MSA	Hernando County	Hillsborough County	Pasco County	Pinellas County
	West Palm Beach-Boca Raton, FL MSA [GO Zone]	Palm Beach County			
Hawaii	Honolulu, HI MSA	Honolulu County			

Metropolitan DDAs labeled "[GO Zone]" are designated under the Gulf Opportunity Zone Act of 2005. Their populations do not count against the 20 percent population cap on metropolitan areas designated DDAs by reason of high construction, land, and utility costs relative to AMGI.

2006 IRS SECTION 42(d)(5)(C) METROPOLITAN DIFFICULT DEVELOPMENT AREAS (MSA/PMSA DEFINITIONS June 30, 1999)

State	Metropolitan Area	Metropolitan Area Components			
Louisiana	**Baton Rouge, LA MSA [GO Zone]**	Ascension Parish	East Baton Rouge Parish	Livingston Parish	West Baton Rouge Parish
	Houma, LA MSA [GO Zone]	Lafourche Parish	Terrebonne Parish		
	Lafayette, LA MSA [GO Zone]	Acadia Parish	Lafayette Parish	St. Landry Parish	St. Martin Parish
	Lake Charles, LA MSA [GO Zone]	Calcasieu Parish			
	New Orleans, LA MSA [GO Zone]	Jefferson Parish	Orleans Parish	Plaquemines Parish	St. Bernard Parish
		St. Charles Parish	St. James Parish	St. John the Baptist Parish	St. Tammany Parish
Maine	**Portland, ME MSA**	Buxton town	Cape Elizabeth town	Casco town	Cumberland town
		Falmouth town	Freeport town	Gorham town	Gray town
		Hollis town	Limington town	Long Island town	North Yarmouth town
		Old Orchard Beach town	Portland city	Raymond town	Scarborough town
		South Portland city	Standish town	Westbrook city	Windham town
		Yarmouth town			
Massachusetts	**Barnstable-Yarmouth, MA MSA**	Barnstable city	Brewster town	Chatham town	Dennis town
		Eastham town	Harwich town	Mashpee town	Orleans town
		Sandwich town	Yarmouth town		

Metropolitan DDAs labeled "[GO Zone]" are designated under the Gulf Opportunity Zone Act of 2005. Their populations do not count against the 20 percent population cap on metropolitan areas designated DDAs by reason of high construction, land, and utility costs relative to AMGI.

2006 IRS SECTION 42(d)(5)(C) METROPOLITAN DIFFICULT DEVELOPMENT AREAS (MSA/PMSA DEFINITIONS June 30, 1999)

State	Metropolitan Area	Metropolitan Area Components			
Massachusetts (continued)	Boston, MA-NH PMSA	Acton town	Amesbury town	Arlington town	Ashland town
		Ayer town	Bedford town	Bellingham town	Belmont town
		Berkley town	Berlin town	Beverly city	Blackstone town
		Bolton town	Boston city	Boxborough town	Braintree town
		Brookline town	Burlington town	Cambridge city	Canton town
		Carlisle town	Carver town	Chelsea city	Cohasset town
		Concord town	Danvers town	Dedham town	Dighton town
		Dover town	Duxbury town	Essex town	Everett city
		Foxborough town	Framingham town	Franklin city	Gloucester city
		Hamilton town	Hanover town	Harvard town	Hingham town
		Holbrook town	Holliston town	Hopedale town	Hopkinton town
		Hudson town	Hull town	Ipswich town	Kingston town
		Lancaster town	Lexington town	Lincoln town	Littleton town
		Lynn city	Lynnfield town	Malden city	Manchester-by-the-Sea town
		Mansfield town	Marblehead town	Marlborough city	Marshfield town
		Maynard town	Medfield town	Medford city	Medway town
		Melrose city	Mendon town	Middleton town	Milford town
		Millis town	Millville town	Milton town	Nahant town
		Natick town	Needham town	Newbury town	Newburyport city
		Newton city	Norfolk town	North Reading town	Norton town
		Norwell town	Norwood town	Peabody city	Pembroke town
		Plainville town	Plymouth town	Quincy city	Randolph town
		Reading town	Revere city	Rockland town	Rockport town
		Rowley town	Salem city	Salisbury town	Saugus town
		Scituate town	Sharon town	Sherborn town	Shirley town
		Somerville city	Southborough town	Stoneham town	Stoughton town
		Stow town	Sudbury town	Swampscott town	Taunton city
		Topsfield town	Townsend town	Upton town	Wakefield town
		Walpole town	Waltham city	Wareham town	Watertown city
		Wayland town	Wellesley town	Wenham town	Weston town
		Westwood town	Weymouth town	Wilmington town	Winchester town
		Winthrop town	Woburn city	Wrentham town	

Metropolitan DDAs labeled "[GO Zone]" are designated under the Gulf Opportunity Zone Act of 2005. Their populations do not count against the 20 percent population cap on metropolitan areas designated DDAs by reason of high construction, land, and utility costs relative to AMGI.

2006 IRS SECTION 42(d)(5)(C) METROPOLITAN DIFFICULT DEVELOPMENT AREAS (MSA/PMSA DEFINITIONS June 30, 1999)

State	Metropolitan Area	Metropolitan Area Components			
Massachusetts (continued)	Brockton, MA PMSA	Abington town	Avon town	Bridgewater town	Brockton city
		East Bridgewater town	Easton town	Halifax town	Hanson town
		Lakeville town	Middleborough town	Plympton town	Raynham town
		West Bridgewater town	Whitman town		
Mississippi	Biloxi-Gulfport-Pascagoula, MS MSA [GO Zone]	Hancock County	Harrison County	Jackson County	
	Hattiesburg, MS MSA [GO Zone]	Forrest County	Lamar County		
	Jackson, MS MSA [GO Zone]	Hinds County	Madison County	Rankin County	
Nevada	Las Vegas, NV-AZ MSA	Clark County	Nye County		
New Hampshire	Boston, MA-NH PMSA	Seabrook town	South Hampton town		
New Jersey	Jersey City, NJ PMSA	Hudson County			
	Vineland-Millville-Bridgeton, NJ PMSA	Cumberland County			
New York	New York, NY PMSA	Bronx County	Kings County	New York County	Putnam County
		Queens County	Richmond County	Rockland County	Westchester County
	Newburgh, NY-PA PMSA	Orange County			
Pennsylvania	Newburgh, NY-PA PMSA	Pike County			
Texas	Beaumont-Port Arthur, TX MSA [GO Zone]	Hardin County	Jefferson County	Orange County	
	Brazoria, TX PMSA [GO Zone]	Brazoria County			
	Corpus Christi, TX MSA	Nueces County	San Patricio County		
	Galveston-Texas City, TX PMSA [GO Zone]	Galveston County			
	Houston, TX PMSA (part) [GO Zone]	Chambers County	Fort Bend County	Harris County	Liberty County
		Montgomery County			
	McAllen-Edinburg-Mission, TX MSA	Hidalgo County			
Virginia	Clarke County, VA HUD Metro FMR Area	Clarke County			
Puerto Rico	Aguadilla, PR MSA	Aguada Municipio	Aguadilla Municipio	Moca Municipio	
	Caguas, PR PMSA	Caguas Municipio	Cayey Municipio	Cidra Municipio	Gurabo Municipio
		San Lorenzo Municipio			
	Mayaguez, PR MSA	Anasco Municipio	Cabo Rojo Municipio	Hormigueros Municipio	Mayaguez Municipio
		Sabana Grande Municipio	San German Municipio		

Metropolitan DDAs labeled "[GO Zone]" are designated under the Gulf Opportunity Zone Act of 2005. Their populations do not count against the 20 percent population cap on metropolitan areas designated DDAs by reason of high construction, land, and utility costs relative to AMGI.

2006 IRS SECTION 42(d)(5)(C) NONMETROPOLITAN DIFFICULT DEVELOPMENT AREAS (MSA/PMSA DEFINITIONS June 30, 1999)

State	Nonmetropolitan Counties or County Equivalents			
Alabama	Choctaw County [GO Zone]	Clarke County [GO Zone]	Greene County [GO Zone]	Hale County [GO Zone]
	Marengo County [GO Zone]	Pickens County [GO Zone]	Sumter County [GO Zone]	Washington County [GO Zone]
Alaska	Aleutians East Borough	Aleutians West Census Area	Bethel Census Area	Bristol Bay Borough
	Dillingham Census Area	Fairbanks North Star Borough	Haines Borough	Juneau City and Borough
	Ketchikan Gateway Borough	Kodiak Island Borough	Lake and Peninsula Borough	Nome Census Area
	North Slope Borough	Northwest Arctic Borough	Prince of Wales-Outer Ketchikan Census Area	Sitka City and Borough
	Skagway-Hoonah-Angoon Census Area	Southeast Fairbanks Census Area	Valdez-Cordova Census Area	Wade Hampton Census Area
	Wrangell-Petersburg Census Area	Yakutat City and Borough	Yukon-Koyukuk Census Area	
Arizona	Apache County	Cochise County	Gila County	Graham County
	Greenlee County	La Paz County	Navajo County	Santa Cruz County
	Yavapai County			
Arkansas	Baxter County	Carroll County	Cleburne County	Drew County
	Garland County	Hempstead County	Lafayette County	Mississippi County
	Montgomery County	Nevada County	Pike County	St. Francis County
California	Amador County	Colusa County	Del Norte County	Glenn County
	Humboldt County	Imperial County	Kings County	Lake County
	Lassen County	Mariposa County	Mendocino County	Modoc County
	Mono County	Nevada County	Plumas County	San Benito County
	Sierra County	Siskiyou County	Tehama County	Trinity County
	Tuolumne County			
Colorado	Archuleta County	Clear Creek County	Custer County	Dolores County
	Eagle County	Garfield County	Gunnison County	Hinsdale County
	Jackson County	La Plata County	Lake County	Mineral County
	Ouray County	Park County	Pitkin County	Rio Blanco County
	Routt County	San Juan County	San Miguel County	Summit County
	Teller County			
Florida	Citrus County	Columbia County	DeSoto County	Glades County [GO Zone]
	Hardee County	Hendry County [GO Zone]	Highlands County	Indian River County [GO Zone]
	Monroe County [GO Zone]	Okeechobee County [GO Zone]	Walton County	
Georgia	Gilmer County	Hall County	Towns County	
Hawaii	Hawaii County	Kalawao County	Kauai County	Maui County
Idaho	Benewah County	Bonner County	Boundary County	Camas County
	Cassia County	Gem County	Gooding County	Idaho County
	Jerome County	Kootenai County	Lincoln County	Twin Falls County

Nonmetropolitan DDAs labeled "[GO Zone]" are designated under the Gulf Opportunity Zone Act of 2005. Their populations do not count against the 20 percent population cap on nonmetropolitan areas designated DDAs by reason of high construction, land, and utility costs relative to AMGI.

2006 IRS SECTION 42(d)(5)(C) NONMETROPOLITAN DIFFICULT DEVELOPMENT AREAS (MSA/PMSA DEFINITIONS June 30, 1999)

State	Nonmetropolitan Counties or County Equivalents			
Kentucky	Butler County	Carlisle County	Fulton County	Lincoln County
	McLean County	Montgomery County	Nicholas County	Owen County
	Powell County	Rowan County	Simpson County	
Louisiana	Allen Parish [GO Zone]	Assumption Parish [GO Zone]	Beauregard Parish [GO Zone]	Bienville Parish
	Cameron Parish [GO Zone]	East Feliciana Parish [GO Zone]	Evangeline Parish [GO Zone]	Iberia Parish [GO Zone]
	Iberville Parish [GO Zone]	Jefferson Davis Parish [GO Zone]	Natchitoches Parish	Pointe Coupee Parish [GO Zone]
	Red River Parish	Sabine Parish [GO Zone]	St. Helena Parish [GO Zone]	St. Mary Parish [GO Zone]
	Tangipahoa Parish [GO Zone]	Vermilion Parish [GO Zone]	Vernon Parish [GO Zone]	Washington Parish [GO Zone]
	West Feliciana Parish [GO Zone]			
Maine	CUMBERLAND COUNTY (part) towns of	Baldwin town	Bridgton town	Brunswick town
	Harpswell town	Harrison town	Naples town	New Gloucester town
	Pownal town	Sebago town		
	Hancock County	Knox County	Lincoln County	Piscataquis County
	Sagadahoc County			
	WALDO COUNTY (part) towns of	Belfast city	Belmont town	Brooks town
	Burnham town	Frankfort town	Freedom town	Islesboro town
	Jackson town	Knox town	Liberty town	Lincolnville town
	Monroe town	Montville town	Morrill town	Northport town
	Palermo town	Prospect town	Searsmont town	Searsport town
	Stockton Springs town	Swanville town	Thorndike town	Troy town
	Unity town	Waldo town		
	YORK COUNTY (part) towns of	Acton town	Alfred town	Arundel town
	Biddeford city	Cornish town	Dayton town	Kennebunk town
	Kennebunkport town	Lebanon town	Limerick town	Lyman town
	Newfield town	North Berwick town	Ogunquit town	Parsonsfield town
	Saco city	Sanford town	Shapleigh town	Waterboro town
	Wells town			
Massachusetts	BARNSTABLE COUNTY (part) towns of	Bourne town	Falmouth town	Provincetown town
	Truro town	Wellfleet town		
	Dukes County			
	HAMPSHIRE COUNTY (part) towns of	Chesterfield town	Cummington town	Goshen town
	Middlefield town	Pelham town	Plainfield town	Westhampton town
	Worthington town			
	Nantucket County			

Nonmetropolitan DDAs labeled "[GO Zone]" are designated under the Gulf Opportunity Zone Act of 2005. Their populations do not count against the 20 percent population cap on nonmetropolitan areas designated DDAs by reason of high construction, land, and utility costs relative to AMGI.

2006 IRS SECTION 42(d)(5)(C) NONMETROPOLITAN DIFFICULT DEVELOPMENT AREAS (MSA/PMSA DEFINITIONS June 30, 1999)

State	Nonmetropolitan Counties or County Equivalents			
Michigan	Benzie County	Grand Traverse County	Otsego County	
Mississippi	Adams County [GO Zone]	Amite County [GO Zone]	Attala County [GO Zone]	Benton County
	Bolivar County	Chickasaw County	Choctaw County [GO Zone]	Claiborne County [GO Zone]
	Clarke County [GO Zone]	Coahoma County	Copiah County [GO Zone]	Covington County [GO Zone]
	Franklin County [GO Zone]	George County [GO Zone]	Greene County [GO Zone]	Holmes County [GO Zone]
	Humphreys County [GO Zone]	Issaquena County	Jasper County [GO Zone]	Jefferson County [GO Zone]
	Jefferson Davis County [GO Zone]	Jones County [GO Zone]	Kemper County [GO Zone]	Lafayette County
	Lauderdale County [GO Zone]	Lawrence County [GO Zone]	Leake County [GO Zone]	Leflore County
	Lincoln County [GO Zone]	Lowndes County [GO Zone]	Marion County [GO Zone]	Marshall County
	Neshoba County [GO Zone]	Newton County [GO Zone]	Noxubee County [GO Zone]	Oktibbeha County [GO Zone]
	Panola County	Pearl River County [GO Zone]	Perry County [GO Zone]	Pike County [GO Zone]
	Quitman County	Scott County [GO Zone]	Sharkey County	Simpson County [GO Zone]
	Smith County [GO Zone]	Stone County [GO Zone]	Tallahatchie County	Tunica County
	Walthall County [GO Zone]	Warren County [GO Zone]	Washington County	Wayne County [GO Zone]
	Wilkinson County [GO Zone]	Winston County [GO Zone]	Yazoo County [GO Zone]	
Missouri	Stone County	Taney County		
Montana	Beaverhead County	Flathead County	Gallatin County	Lincoln County
	Madison County	Meagher County	Mineral County	Park County
	Ravalli County	Sanders County		
Nevada	Carson City	Churchill County	Douglas County	Lyon County
	Storey County			
New Hampshire	Belknap County	Carroll County	Cheshire County	Grafton County
	HILLSBOROUGH COUNTY (part) towns of	Antrim town	Bennington town	Deering town
	Francestown town	Greenfield town	Hancock town	Hillsborough town
	Lyndeborough town	New Boston town	Peterborough town	Sharon town
	Temple town	Windsor town		
	MERRIMACK COUNTY (part) towns of	Andover town	Boscawen town	Bow town
	Bradford town	Canterbury town	Chichester town	Concord city
	Danbury town	Dunbarton town	Epsom town	Franklin city
	Henniker town	Hill town	Hopkinton town	Loudon town
	Newbury town	New London town	Northfield town	Pembroke town
	Pittsfield town	Salisbury town	Sutton town	Warner town
	Webster town	Wilmot town		
	ROCKINGHAM COUNTY (part) towns of	Deerfield town	Northwood town	Nottingham town
	STRAFFORD COUNTY (part) towns of	Middleton town	New Durham town	Strafford town

Nonmetropolitan DDAs labeled "[GO Zone]" are designated under the Gulf Opportunity Zone Act of 2005. Their populations do not count against the 20 percent population cap on nonmetropolitan areas designated DDAs by reason of high construction, land, and utility costs relative to AMGI.

2006 IRS SECTION 42(d)(5)(C) NONMETROPOLITAN DIFFICULT DEVELOPMENT AREAS (MSA/PMSA DEFINITIONS June 30, 1999)

State	Nonmetropolitan Counties or County Equivalents			
New Mexico	Chaves County	Grant County	Guadalupe County	Lincoln County
	McKinley County	Mora County	Rio Arriba County	San Juan County
	San Miguel County	Taos County		
New York	Cortland County	Greene County	Jefferson County	Sullivan County
	Tompkins County	Ulster County		
North Carolina	Avery County	Chowan County	Cleveland County	Dare County
	Gates County	Haywood County	Hoke County	Hyde County
	Jackson County	Jones County	Macon County	McDowell County
	Mitchell County	Pasquotank County	Perquimans County	Rutherford County
	Scotland County	Tyrrell County	Washington County	Watauga County
Oklahoma	Hughes County	Muskogee County	Okfuskee County	
Oregon	Clatsop County	Coos County	Crook County	Curry County
	Deschutes County	Douglas County	Gilliam County	Grant County
	Hood River County	Josephine County	Lincoln County	Linn County
	Morrow County	Tillamook County	Union County	Wheeler County
Pennsylvania	Monroe County	Wayne County		
Rhode Island	NEWPORT COUNTY (part) towns of	Middleton town	Newport city	Portsmouth town
South Carolina	Beaufort County			
Tennessee	Bedford County	Haywood County	Polk County	
Texas	Anderson County	Angelina County [GO Zone]	Aransas County	Brown County
	Camp County	Coke County	Coleman County	Comanche County
	Dallam County	Eastland County	Erath County	Frio County
	Gillespie County	Houston County	Jasper County [GO Zone]	Kendall County
	Kerr County	Kleberg County	Lamar County	Leon County
	Llano County	Madison County	Marion County	Medina County
	Mills County	Montague County	Morris County	Nacogdoches County [GO Zone]
	Navarro County	Newton County [GO Zone]	Palo Pinto County	Polk County [GO Zone]
	Red River County	Robertson County	Sabine County [GO Zone]	San Augustine County [GO Zone]
	San Jacinto County [GO Zone]	San Saba County	Shelby County [GO Zone]	Titus County
	Trinity County [GO Zone]	Tyler County [GO Zone]	Walker County [GO Zone]	
Utah	Beaver County	Cache County	Garfield County	Juab County
	Millard County	Piute County	Rich County	Sanpete County
	Sevier County	Summit County	Wasatch County	Washington County
	Wayne County			

Nonmetropolitan DDAs labeled "[GO Zone]" are designated under the Gulf Opportunity Zone Act of 2005. Their populations do not count against the 20 percent population cap on nonmetropolitan areas designated DDAs by reason of high construction, land, and utility costs relative to AMGI.

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State	Nonmetropolitan Counties or County Equivalents			
Vermont	Addison County	Bennington County		
	FRANKLIN COUNTY (part) towns of	Bakersfield town	Berkshire town	Enosburg town
	Fairfield town	Fletcher town	Franklin town	Highgate town
	Montgomery town	Richford town	Sheldon town	
	GRAND ISLE COUNTY (part) towns of	Alburg town	Isle La Motte town	North Hero town
	Windham County			
Virginia	Louisa County	Northampton County	Westmoreland County	
Washington	Clallam County	Douglas County	Grays Harbor County	Jefferson County
	Kittitas County	Klickitat County	Lewis County	Mason County
	San Juan County	Skagit County	Skamania County	
West Virginia	Calhoun County	Clay County	Doddridge County	Grant County
	Pendleton County	Preston County	Roane County	Taylor County
	Wirt County			
Wyoming	Teton County			
American Samoa	Eastern District	Manu'a District	Swains Island	Western District
Guam	Guam			
Northern Mariana Islands	Northern Islands Municipality	Rota Municipality	Saipan Municipality	Tinian Municipality
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	Ciales Municipio	Coamo Municipio	Culebra Municipio	Guanica Municipio
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	Lares Municipio	Las Marias Municipio	Maricao Municipio	Maunabo Municipio
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	Vieques Municipio			
Virgin Islands	St. Croix	St. John	St. Thomas	

Nonmetropolitan DDAs labeled "[GO Zone]" are designated under the Gulf Opportunity Zone Act of 2005. Their populations do not count against the 20 percent population cap on nonmetropolitan areas designated DDAs by reason of high construction, land, and utility costs relative to AMGI.

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