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4. An introduction to the finding aids of the FR/CFR system.

WHY: To provide the public with access to information necessary to research Federal agency regulations which directly affect them. There will be no discussion of specific agency regulations.

WHEN: Tuesday, March 13, 2007
9:00 a.m.–Noon

WHERE: Office of the Federal Register
Conference Room, Suite 700
800 North Capitol Street, NW.
Washington, DC 20002

RESERVATIONS: (202) 741–6008

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Rules and Regulations

Federal Register
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This section of the FEDERAL REGISTER contains regulatory documents having general applicability and legal effect, most of which are keyed to and codified in the Code of Federal Regulations, which is published under 50 titles pursuant to 44 U.S.C. 1510.

The Code of Federal Regulations is sold by the Superintendent of Documents. Prices of new books are listed in the first FEDERAL REGISTER issue of each week.

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 744

[Docket No. 070220040–7040–01]

RIN 0694-AD91

Addition of Entities to the Entity List

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Industry and Security (BIS) is amending the Export Administration Regulations (EAR) to add two entities located in the United Arab Emirates (U.A.E.) to the Entity List. The Entity List is a compilation of end-users that present an unacceptable risk of using or diverting certain items to activities related to weapons of mass destruction. BIS requires a license for most exports or reexports to these entities and maintains the Entity List to inform the public of these license requirements.

EFFECTIVE DATE: This rule is effective: March 2, 2007.

FOR FURTHER INFORMATION CONTACT: Michael Rithmire, Export Administration Intelligence Liaison, Bureau of Industry and Security, Telephone: (202) 482–6105.

SUPPLEMENTARY INFORMATION :

Background

This rule makes the following revisions to the Export Administration Regulations (EAR):

Additions to the Entity List

Pursuant to 15 CFR 744.3(b), this rule amends Supplement No. 4 to part 744 (the Entity List) by adding two entities located in the U.A.E. to the Entity List. This notifies the public that a license is required for the export or reexport of all items subject to the EAR to: Bazaar Trading Co., No. 212 Baniyas Tower, Dubai, U.A.E. 6708; and Elmstone Trading L.L.C., P.O. Box 24896, Sharjah, U.A.E. License applications to export, reexport, or transfer (in-country) items subject to the EAR to these entities will be reviewed based on the license review standards for certain rocket systems and unmanned air vehicles end-uses found in § 744.3 of the EAR. Therefore, applications will be considered on a case-by-case basis to determine whether the export, reexport, or transfer would make a material contribution to the proliferation of certain rocket systems, or unmanned air vehicles. When an export, reexport or transfer is deemed to make a material contribution, the license will be denied.

Savings Clause

Shipments of items removed from eligibility for a License Exception or for export or reexport without a license (NLR) as a result of this regulatory action that were on dock for loading, on lighter, laden aboard an exporting or reexporting carrier, or en route aboard a carrier to a port of export or reexport on March 2, 2007, pursuant to actual orders for export or reexport to a foreign destination, may proceed to that destination under the previous eligibility for a License Exception or export or reexport without a license (NLR) so long as they are exported or reexported before April 2, 2007. Any such items not actually exported or reexported before midnight on April 2, 2007 require a license in accordance with this rule.

Since August 21, 2001, the Export Administration Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), as extended most recently by the Notice of August 3, 2006, 71 FR 44551 (Aug. 7, 2006), has continued the EAR in effect under the International Emergency Economic Powers Act. BIS continues to carry out the provisions of the Act, as appropriate and to the extent permitted by law, pursuant to Executive Order 13222.

Rulemaking Requirements

1. This final rule has been determined to be not significant for purposes of Executive Order 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 a collection of information subject to the Paperwork Reduction Act of 1980 (44 U.S.C. 3501 *et seq.*). This collection has been approved by the 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. Send comments regarding these burden estimates or any other aspect of these collections of information, including suggestions for reducing the burden, to David Rostker, Office of Management and Budget (OMB), by e-mail to *David_Rostker@omb.eop.gov*, or by fax to (202) 395–7285; and to the Office of Administration, Bureau of Industry and Security, Department of Commerce, 14th and Pennsylvania Avenue, NW., Room 6883, Washington, DC 20230.

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

4. The provisions of the Administrative Procedure Act requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military and foreign affairs function of the United States (5 U.S.C. 553(a)(1)). Further, no other law requires that a notice of proposed rulemaking and an opportunity for public comment be given for this final rule. Because a notice of proposed rulemaking and an 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. Therefore, this regulation is issued in final form. Although there is no formal comment period, public comments on this regulation are welcome on a continuing basis. Comments should be submitted to Timothy Mooney, Office of Exporter Services, Bureau of Industry and Security, Department of Commerce, P.O. Box 273, Washington, DC 20044.

List of Subjects in 15 CFR Part 744

Exports, Reporting and recordkeeping requirements, Terrorism.

■ Accordingly, part 744 of the Export Administration Regulations (15 CFR parts 730–774) is amended as follows:

PART 744—[AMENDED]

■ 1. The authority citation for 15 CFR part 744 is revised to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *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; 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. 12947, 60 FR 5079, 3 CFR, 1995 Comp., p. 356; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13099, 63 FR 45167, 3 CFR, 1998 Comp., p. 208; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13224, 66 FR 49079, 3 CFR, 2001 Comp., p. 786; Notice of August 3, 2006, 71 FR 44551 (August 7, 2006); Notice of October 27, 2006, 71 FR 64109 (October 31, 2006).

■ 2. Supplement No. 4 to part 744 is amended immediately following the country of Syria, by adding, in alphabetical order, the country of United Arab Emirates and U.A.E. entities: ''Bazaar Trading Co., No. 212 Baniyas Tower, Dubai, U.A.E. 6708''; and ''Elmstone Trading L.L.C., P.O. Box 24896, Sharjah, U.A.E.''; and the License Requirement column, License Review Policy column and **Federal Register** Citation column for these entities, to read as follows.

SUPPLEMENT NO. 4 TO PART 744—ENTITY LIST

Country	Entity	License Requirement	License Review Policy	Federal Register Citation
*	* *	*	* *	*
United Arab Emirates	Bazaar Trading Co., No. 212 Baniyas Tower, Dubai, U.A.E. 6708.	For all items subject to the EAR.	See § 744.3(d) of this part	72 FR [insert FR page number], March 2, 2007.
	Elmstone Trading L.L.C., P.O. Box 24896, Sharjah, U.A.E.	For all items subject to the EAR.	See § 744.3(d) of this part	72 FR [Insert FR page number], March 2, 2007.

* * * * *

Dated: February 22, 2007.

Christopher A. Padilla,

Assistant Secretary for Export Administration.

[FR Doc. E7–3538 Filed 3–1–07; 8:45 am]

BILLING CODE 3510–33–P

FEDERAL TRADE COMMISSION

16 CFR Part 0

Rules of Practice

AGENCY: Federal Trade Commission.

ACTION: Final rule amendments.

SUMMARY: The Commission is updating the agency's description of its organization and activities in Part 0 of its Rules of Practice to include the Office of International Affairs.

DATES: *Effective Date:* March 2, 2007.

FOR FURTHER INFORMATION CONTACT: Lisa M. Harrison, Attorney, Office of the General Counsel, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–3204, *lharrison@ftc.gov.*

SUPPLEMENTARY INFORMATION: The Commission is amending Part 0 of its Rules of Practice, 16 CFR Part 0, to include the Office of International Affairs.

Rule 0.9, 16 CFR 0.9 (Organization structure). The Commission is revising this rule to include the Office of International Affairs.

Rule 0.20, 16 CFR 0.20 (Office of International Affairs). The Commission is adding this rule describing the functions of the Office of International Affairs, which comprises international antitrust, international consumer protection, and international technical assistance. The Office of International Affairs is responsible for designing and implementing the Commission's international program, which supports and promotes the Commission's core maintaining competition and consumer protection missions.

The Administrative Procedure Act does not require prior public notice and comment on these amendments because they relate solely to rules of agency organization, procedure or practice. 5 U.S.C. 553(b)(A). For this reason, the Regulatory Flexibility Act also does not require an initial or final regulatory flexibility analysis. See 5 U.S.C. 603, 604.

List of Subjects in 16 CFR Part 0

Organization and functions (Government Agencies).

■ For the reasons set forth in the preamble, the Federal Trade Commission amends Title 16, chapter I, subchapter A, of the Code of Federal Regulations as follows:

SUBCHAPTER A—ORGANIZATION, PROCEDURES, AND RULES OF PRACTICE

PART 0—ORGANIZATION

■ 1. The authority for part 0 remains as follows:

Authority: 5 U.S.C. 552(a)(1); 15 U.S.C. 46(g).

■ 2. Revise § 0.9 to read as follows:

§ 0.9 Organization structure.

The Federal Trade Commission comprises the following principal units: Office of the Executive Director; Office of the General Counsel; Office of the Secretary; Office of the Inspector General; Office of the Administrative Law Judges; Office of International Affairs; Bureau of Competition; Bureau of Consumer Protection; Bureau of Economics; and the Regional Offices.

■ 3. Add § 0.20 to read as follows:

§ 0.20 Office of International Affairs.

The Office of International Affairs (OIA) comprises international antitrust, international consumer protection, and international technical assistance. OIA is responsible for designing and implementing the Commission's international program, which provides support and advice to the Bureaus of Competition and Consumer Protection with regard to the international aspects of investigation and prosecution of unlawful conduct. OIA builds cooperative relationships between the Commission and foreign authorities; works closely with Bureau personnel to recommend agency priorities and policies and works, through bilateral relationships and multilateral organizations, to promote those policies internationally; and implements Commission policy and participation in the competition and consumer protection aspects of trade fora and negotiations, such as the U.S. inter-agency delegations negotiating bilateral and multilateral free trade agreements. OIA works with authorized funding

sources to develop and implement competition and consumer protection technical assistance programs.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. E7–3718 Filed 3–1–07; 8:45 am]

BILLING CODE 6750–01–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD13–06–048]

RIN 1625–AA09

Drawbridge Operation Regulations; Youngs Bay and Lewis and Clark River, OR

AGENCY: Coast Guard, DHS.

ACTION: Notice of final rule.

SUMMARY: The Coast Guard is changing the operating regulations for the New Youngs Bay, Old Youngs Bay, and the Lewis and Clark River Drawbridges near Astoria, Oregon. This change was requested by the Oregon Department of Transportation (ODOT), owner of the bridges, due to reduced demand for draw openings. This final rule reduces the period when a one-half hour notice is required for openings and also reduces the four-hour notice required at all other times to two hours.

DATES: This rule is effective April 2, 2007.

ADDRESSES: Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of the docket (CGD13–06–048) and are available for inspection or copying at Commander (dpw), 13th Coast Guard District, 915 Second Avenue, Seattle, WA 98174–1067 between 7:30 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Austin Pratt, Chief Bridge Section, (206) 220–7282.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On October 27, 2006, we published a notice of proposed rulemaking (NPRM) entitled ''Drawbridge Operation Regulations; Youngs Bay and Lewis and Clark River, Astoria, Oregon'' in the **Federal Register** (71 FR 62955). We received no comments on the proposed rule. No public meeting was requested and none was held.

Background and Purpose

The operating regulations currently in effect for the New Youngs Bay, Old Youngs Bay, and the Lewis and Clark River Drawbridges near Astoria, Oregon at 33 Code of Federal Regulations 117.89 provide that the spans need not open for the passage of vessels from 6 a.m. to 6 p.m. Monday through Friday and 8 a.m. to 4 p.m. Saturday and Sunday unless at least one half-hour notice is given. At all other times at least four hours notice must be given. This rule allows the bridge owner to reduce the shifts for staffing the drawbridges by reducing the period, Monday through Friday, where one-half hour notice is required for an opening. Additionally, the four-hour notice at most other times is also reduced to two hours. Weekend periods with half-hour notice required remain unchanged.

Discussion of Comments and Changes

The Coast Guard received no responses to the Notice of Proposed Rulemaking and no changes are made in this final rule from that notice.

Regulatory Evaluation

This rule is not a ''significant regulatory action'' under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order. The single commercial boat yard, which is the destination for most vessels that pass through the bridges, has indicated that they can tolerate the changes.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. We expect few vessel operators will be inconvenienced by the new operating schedule as it is quite similar to operating regulations that have been in effect without complaint for several years.

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we offered to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agricultural Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency's responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

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

List of Subjects in 33 CFR Part 117

Bridges.

Regulations

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

PART 117—DRAWBRIDGE OPERATION REGULATIONS

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

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

■ 2. Amend § 117.899 by revising paragraphs (a), (b) and (c) to read as follows:

§ 117.899 Youngs Bay and Lewis and Clark River.

(a) The draw of the US101 (New Youngs Bay) highway bridge, mile 0.7, across Youngs Bay at Smith Point, shall open on signal for the passage of vessels if at least one half-hour notice is given to the drawtender at the Lewis and Clark River Bridge by marine radio, telephone, or other suitable means from 7 a.m. to 5 p.m. Monday through Friday and from 8 a.m. to 4 p.m. on Saturday and Sunday. At all other times, including all Federal holidays but Columbus Day, at least a two-hour notice by telephone is required. The opening signal shall be two prolonged blasts followed by one short blast.

(b) The draw of the Oregon State (Old Youngs Bay) highway bridge, mile 2.4, across Youngs Bay foot of Fifth Street, shall open on signal for the passage of vessels if at least one half-hour notice is given to the drawtender at the Lewis and Clark River Bridge by marine radio, telephone, or other suitable means from 7 a.m. to 5 p.m. Monday through Friday and from 8 a.m. to 4 p.m. Saturday and Sunday. At all other times, including all Federal holidays but Columbus Day, at least a two-hour notice by telephone is required. The opening signal is two prolonged blasts followed by one short blast.

(c) The draw of the Oregon State (Lewis and Clark River) highway bridge, mile 1.0, across the Lewis and Clark River, shall open on signal for the passage of vessels if at least one half-hour notice is given by marine radio, telephone, or other suitable means from 7 a.m. to 5 p.m. Monday through Friday and from 8 a.m. to 4 p.m. on Saturday and Sunday. At all other times, including all Federal holidays but Columbus Day, at least a two-hour notice by telephone is required. The opening signal is one prolonged blast followed by four short blasts.

Dated: February 23, 2007.

R.R. Houck,

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

[FR Doc. E7–3679 Filed 3–1–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 165

[CGD05–06–091]

RIN 1625–AA00

Safety Zones; Fireworks Displays Within the Fifth Coast Guard District

AGENCY: Coast Guard, DHS.

ACTION: Final rule.

SUMMARY: The Coast Guard is establishing 49 permanent safety zones for fireworks displays at various locations within the geographic boundary of the Fifth Coast Guard District. This action is necessary to protect the life and property of the maritime public from the hazards posed by fireworks displays. Entry into or movement within these zones during the enforcement periods is prohibited without approval of the appropriate Captain of the Port.

DATES: This rule is effective April 2, 2007.

ADDRESSES: Comments and material received from the public, as well as

documents indicated in this preamble as being available in the docket, are part of docket CGD05–06–091 and are available for inspection or copying at Commander (dpi), Fifth Coast Guard District, Room 415, 431 Crawford Street, Portsmouth, Virginia 23704–5004, between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Dennis Sens, Project Manager, Inspections and Investigations Branch, at (757) 398–6204.

SUPPLEMENTARY INFORMATION:

Regulatory Information

On November 3, 2006, we published a Notice of proposed rulemaking (NPRM) entitled Safety Zones; Fireworks Displays Within the Fifth Coast Guard District in the **Federal Register** (71 FR 64662). We received no letters commenting on the proposed rule. No public meeting was requested, and none was held.

Background and Purpose

The Coast Guard is amending the list of permanent safety zones at 33 CFR 165.506, established for fireworks displays at various locations within the geographic boundary of the Fifth Coast Guard District. Currently there are 34 permanent safety zones established that are enforced for fireworks displays occurring throughout the year that are held on an annual basis and normally in one of these 34 locations. The 34 established permanent safety zone locations are: Patuxent River, Solomons Island, MD; Middle River, MD; Northeast River, MD; Potomac River, Charles County, MD; Baltimore Inner Harbor, Patapsco River, MD; Northwest Harbor (Western Section), Patapsco River, MD; Northwest Harbor (East Channel), Patapsco River, MD; Washington Channel, Upper Potomac River, Washington, DC; Dukeharts Channel, Potomac River, MD; Severn River and Spa Creek, Annapolis, MD; Miles River, St. Michaels, MD; Chesapeake Bay, Chesapeake Beach, MD; Choptank River, Cambridge, MD; Chester River, Kent Island Narrows, MD; Atlantic Ocean, Ocean City, MD; Isle of Wight Bay, Ocean City, MD; Assawoman Bay, Fenwick Island, MD; Atlantic Ocean, Rehoboth Beach, DE; Indian River Bay, DE; Little Egg Harbor, Parker Island, NJ; Barnegat Bay, Ocean Township, NJ; Delaware Bay, North Cape May, NJ; Delaware River, Philadelphia, PA; Morehead City Harbor Channel, Morehead City, NC; Green Creek and Smith Creek, Oriental, NC; Pamlico River, Washington, NC; Neuse River, New Bern, NC; Cape Fear River, Southport, NC; Cape Fear River, Wilmington, NC; Upper Potomac River, Alexandria, VA; Potomac River, Prince William County, VA; Chincoteague Channel, Chincoteague, VA; Atlantic Ocean, Virginia Beach, VA; and Elizabeth River, Southern Branch, Norfolk, VA.

The Coast Guard is amending the list of permanent safety zones at 33 CFR 165.506, established for fireworks displays, by adding 15 new locations and modifying 3 previously established locations within the geographic boundary of the Fifth Coast Guard District. This rule will increase the total number of permanent safety zones to 49 locations for fireworks displays within the boundary of the Fifth Coast Guard District.

The 15 new safety zone locations to be added by this rule are: Patapsco River (Middle Branch), Baltimore, MD; Susquehanna River, Havre de Grace, MD; Tred Avon River, Oxford, MD; Delaware River, Essington, PA; Chesapeake Bay, Norfolk, VA; Broad Bay, Virginia Beach, VA; Chickahominy River, Williamsburg, VA; York River, Yorktown, VA; James River, Newport News, VA; Chesapeake Bay, Virginia Beach, VA; York River, West Point, VA; Big Foot Slough, Ocracoke, NC; Pasquotank River, Elizabeth City, NC; Currituck Sound, Corolla, NC; and Middle Sound, Figure Eight Island, NC.

The previously established safety zone locations modified by this rule are: Potomac River, Charles County, MD; Dukeharts Channel, Potomac River, MD, and Chester River, Kent Island Narrows, MD.

Each year organizations in the Fifth Coast Guard District sponsor fireworks displays in the same general location and time period. Each event uses a barge or an on-shore site as the fireworks launch platform. A safety zone is used to control vessel movement within a specified distance surrounding the launch platforms to ensure the safety of persons and property. Coast Guard personnel on scene may allow persons within the safety zone if conditions permit.

The Coast Guard will publish notices in the **Federal Register** if an event sponsor reported a change to the listed event venue. Coast Guard Captains of the Port would give notice of the enforcement of each safety zone by all appropriate means to provide the widest publicity among the affected segments of the public. This would include publication in the Local Notice to Mariners and Marine Information Broadcasts. Marine information and facsimile broadcasts may also be made for these events, beginning 24 to 48 hours before the event is scheduled to begin, to notify the public. Fireworks barges or launch sites on land used in the locations stated in this rulemaking would also have a sign on the port and starboard side of the barge or mounted on a post 3 foot above ground level when on land and facing the water labeled ''FIREWORKS—DANGER—STAY AWAY''. This would provide on scene notice that the safety zone is or will be enforced on that day. This notice will consist of a diamond-shaped sign 4 foot by 4 foot with a 3-inch orange retroreflective border. The word ''DANGER'' shall be 10-inch black block letters centered on the sign with the words ''FIREWORKS'' and ''STAY AWAY'' in 6-inch black block letters placed above and below the word ''DANGER'' respectively on a white background. There would also be a Coast Guard patrol vessel on scene 30 minutes before the display is scheduled to start until 30 minutes after its completion to enforce the safety zone.

The enforcement period for these safety zones is from 5:30 p.m. (e.s.t.) to 1 a.m. (e.s.t.). However, vessels may enter, remain in, or transit through these safety zones during this timeframe if authorized by the Captain of the Port or designated Coast Guard patrol personnel on scene, as provided for in 33 CFR 165.23.

This rule is intended to provide for the safety of life on navigable waters during the events.

Discussion of Comments and Changes

The Coast Guard did not receive comments in response to the Notice of proposed rulemaking (NPRM) published in the **Federal Register**. Accordingly, the Coast Guard is establishing 49 permanent safety zones for fireworks displays at various locations within the geographic boundary of the Fifth Coast Guard District.

Regulatory Evaluation

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

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

This finding is based on the short amount of time that vessels would be restricted from the zones, and the small zone sizes positioned in low vessel traffic areas. Vessels would not be precluded from getting underway, or mooring at any piers or marinas currently located in the vicinity of the proposed safety zones. Advance notifications would also be made to the local maritime community by issuing Local Notice to Mariners. Marine information and facsimile broadcasts may also be made to notify the public. Additionally, the Coast Guard anticipates that these safety zones will only be enforced 2 to 3 times per year.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule would not have a significant economic impact on a substantial number of small entities. This rule will effect the following entities some of which may be small entities: The owners and operators of vessels intending to transit or anchor in the safety zones during the times these zones are enforced.

These safety zones will not have a significant economic impact on a substantial number of small entities for the following reasons: The enforcement period will be short in duration and in many of the zones vessels can transit safely around the safety zones. Generally, blanket permission to enter, remain in, or transit through these safety zones will be given except during the period that the Coast Guard patrol vessel is present. Before the enforcement period, we will issue maritime advisories widely.

Assistance for Small Entities

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

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this rule under Commandant Instruction M16475.lD and Department of Homeland Security Management Directive 5100.1, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically

excluded, under figure 2–1, paragraph (34)(g) and (35)(b) of the Instruction, from further environmental documentation. This rule fits the category selected from paragraph (34)(g), as it would establish 49 safety zones.

A ''Environmental Analysis Check List'' and ''Categorical Exclusion Determination'' are available in the docket where indicated under **ADDRESSES.**

List of Subjects in 33 CFR Part 165

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

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

PART 165—REGULATED NAVIGATION AREAS AND LIMITED ACCESS AREAS

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

Authority: 33 U.S.C. 1226, 1231; 46 U.S.C. Chapter 701; 50 U.S.C. 191, 195; 33 CFR 1.05–1(g), 6.04–1, 6.04–6 and 160.5; Pub. L. 107–295, 116 Stat. 2064; Department of Homeland Security Delegation No. 0170.1.

■ 2. Revise § 165.506 to read as follows:

§ 165.506 Safety Zones; Fifth Coast Guard District Fireworks Displays.

(a) *Locations. (1) Patuxent River, Solomons Island, MD, Safety Zone.* All waters of Patuxent River within a 300 yard radius of the fireworks barge in an area bound by the following points: 38°19′42″ N, 076°28′02″ W; thence to 38°19′26″ N, 076°28′18″ W; thence to 38°18′48″ N, 076°27′42″ W; thence to 38°19′06″ N, 076°27′25″ W; (Datum NAD 1983), thence to the point of origin, located near Solomons Island, MD.

(2) Middle River, Baltimore County, MD, Safety Zone. All waters of the Middle River within a 300 yard radius of the fireworks barge in approximate position 39°17′45″ N, 076°23′49″ W (Datum NAD 1983), approximately 300 yards east of Rockaway Beach, near Turkey Point.

(3) Northeast River, North East, MD, Safety Zone. All waters of the Northeast River within a 300 yard radius of the fireworks barge in approximate position 39°35′26″ N, 075°57′00″ W (Datum NAD 1983), approximately 400 yards south of North East Community Park.

(4) *Upper Potomac River, Alexandria, VA, Safety Zone.* All waters of the Upper Potomac River within a 300 yard radius of the fireworks barge in approximate position 38°48′37″ N, 077°02′02″ W (Datum NAD 1983), located near the waterfront of Alexandria, Virginia.

(5) Potomac River, Prince William County, VA, Safety Zone. All waters of the Potomac River within a 200 yard radius of the fireworks barge in approximate position 38°34′08″ N, 077°15′34″ W (Datum NAD 1983), located near Cherry Hill, Virginia.

(6) Potomac River, Charles County, MD, Safety Zone. All waters of the Potomac River within a 300 yard radius of the fireworks barge in approximate position 38°20′36″ N, 077°14′09″ W (Datum NAD 1983), approximately 1400 yards north of the shoreline at Fairview Beach, Virginia.

(7) Baltimore Inner Harbor, Patapsco River, MD, Safety Zone. All waters of the Patapsco River within a 150 yard radius of the fireworks barge in approximate position 39°16′55″ N, 076°36′17″ W (Datum NAD 1983), located at the entrance to Baltimore Inner Harbor, approximately 150 yards southwest of pier 6.

(8) Northwest Harbor (Western Section) Patapsco River, MD, Safety Zone. All waters of the Patapsco River within a 250 yard radius of the fireworks barge in approximate position 39°16′37″ N, 076°35′54″ W (Datum NAD 1983), located near the western end of Northwest Harbor.

(9) Northwest Harbor (East Channel), Patapsco River, MD, Safety Zone. All waters of the Patapsco River within a 300 yard radius of the fireworks barge in approximate position 39°15′55″ N, 076°34′35″ W (Datum NAD 1983), located adjacent to the East Channel of Northwest Harbor.

(10) Patapsco River (Middle Branch), Baltimore, MD, Safety Zone. All waters of the Patapsco River, Middle Branch, within an area bound by a line drawn from the following points: 39°15′22″ N, 076°36′36″ W; thence to 39°15′10″ N, 076°36′00″ W; thence to 39°15′40″ N, 076°35′23″ W; thence to 39°15′49″ N, 076°35′47″ W; thence to the point of origin, (Datum NAD 1983), located approximately 600 yards east of Hanover Street (SR–2) Bridge.

(11) Washington Channel, Upper Potomac River, Washington, DC, Safety Zone. All waters of the Upper Potomac River within a 150 yard radius of the fireworks barge in approximate position 38°52′09″ N, 077°01′13″ W (Datum NAD 1983), located within the Washington Channel in Washington Harbor, DC.

(12) Dukeharts Channel, Potomac River, MD, Safety Zone. All waters of the Potomac River within a 300 yard radius of the fireworks barge in approximate position 38°13′48″ N, 076°44′37″ W (Datum NAD 1983), located adjacent to Dukeharts Channel near Coltons Point, Maryland.

(13) Severn River and Spa Creek, Annapolis, MD, Safety Zone. All waters of the Severn River and Spa Creek within an area bounded by a line drawn from 38°58′39.6″ N, 076°28′49″ W; thence to 38°58′41″ N, 076°28′14″ W; thence to 38°59′01″ N, 076°28′37″ W; thence to 38°58′57″ N, 076°28′40″ W (Datum NAD 1983), located near the entrance to Spa Creek in Annapolis, Maryland.

(14) Miles River, St. Michaels, MD, Safety Zone. All waters of the Miles River within a 200 yard radius of the fireworks barge in approximate position 38°47′42″ N, 076°12′23″ W (Datum NAD 1983), located near the waterfront of St. Michaels, Maryland.

(15) Susquehanna River, Havre de Grace, MD, Safety Zone. All waters of the Susquehanna River within a 150 yard radius of the fireworks barge in approximate position 39°32′42″ N, 076°04′30″ W (Datum NAD 1983), approximately 800 yards east of the waterfront at Havre de Grace, MD.

(16) Chesapeake Bay, Chesapeake Beach, MD, Safety Zone. All waters of the Chesapeake Bay within a 150 yard radius of the fireworks barge in approximate position 38°41′33″ N, 076°31′48″ W (Datum NAD 1983), located near Chesapeake Beach, Maryland.

(17) Tred Avon River, Oxford, MD, Safety Zone. All waters of the Tred Avon River within a 150 yard radius of the fireworks barge in approximate position 38°41′48″ N, 076°10′38″ W (Datum NAD 1983), approximately 500 yards northwest of the waterfront at Oxford, MD.

(18) Choptank River, Cambridge, MD, Safety Zone. All waters of the Choptank River within a 300 yard radius of the fireworks launch site at Great Marsh Point, located at 38°35′06″ N, 076°04′46″ W (Datum NAD 1983).

(19) Chester River, Kent Island Narrows, MD, Safety Zone. All waters of the Chester River, within an area bound by a line drawn from the following points: 38°58′50″ N, 076°15′00″ W; thence north to 38°59′00″ N, 076°15′00″ W; thence east to 38°59′00″ N, 076°14′46″ W; thence southeast to 38°58′50″ N, 076°14′28″ W; thence southwest to 38°58′37″ N, 076°14′36″ W, thence northwest to 38°58′42″ N, 076°14′55″ W, thence to the point of origin, (Datum NAD 1983), located approximately 900 yards north of Kent Island Narrows (US–50/301) Bridge.

(20) Atlantic Ocean, Ocean City, MD, Safety Zone. All waters of the Atlantic Ocean in an area bound by the following points: 38°19′39.9″ N, 075°05′03.2″ W;

thence to 38°19′36.7″ N, 075°04′53.5″ W; thence to 38°19′45.6″ N, 075°04′49.3″ W; thence to 38°19′49.1″ N, 075°05′00.5″ W; (Datum NAD 1983), thence to point of origin. The size of the proposed zone extends approximately 300 yards offshore from the fireworks launch area located at the High Water mark on the beach.

(21) Isle of Wight Bay, Ocean City, MD, Safety Zone. All waters of Isle of Wight Bay within a 350 yard radius of the fireworks barge in approximate position 38°22′32″ N, 075°04′30″ W (Datum NAD 1983).

(22) Assawoman Bay, Fenwick Island—Ocean City, MD, Safety Zone. All waters of Assawoman Bay within a 360 yard radius of the fireworks launch location on the pier at the West end of Northside Park, in approximate position 38°25′57.6″ N, 075°03′55.8″ W (Datum NAD 1983).

(23) Atlantic Ocean, Rehoboth Beach, DE, Safety Zone. All waters of the Atlantic Ocean within a 360 yard radius of the fireworks barge in approximate position 38°43′01.2″ N, 075°04′21″ W (Datum NAD 1983), approximately 400 yards east of Rehoboth Beach, DE.

(24) Indian River Bay, DE, Safety Zone. All waters of the Indian River Bay within a 360 yard radius of the fireworks launch location on the pier in approximate position 38°36′42″ N, 075°08′18″ W (Datum NAD 1983), about 700 yards east of Pots Net Point, DE.

(25) Little Egg Harbor, Parker Island, NJ, Safety Zone. All waters of Little Egg Harbor within a 500 yard radius of the fireworks barge in approximate position 39°34′18″ N, 074°14′43″ W (Datum NAD 1983), approximately 100 yards north of Parkers Island.

(26) Barnegat Bay, Ocean Township, NJ, Safety Zone. All waters of Barnegat Bay within a 500 yard radius of the fireworks barge in approximate position 39°47′33″ N, 074°10′46″ W (Datum NAD 1983).

(27) Delaware Bay, North Cape May, NJ, Safety Zone. All waters of the Delaware Bay within a 500 yard radius of the fireworks barge in approximate position 38°58′00″ N, 074°58′30″ W (Datum NAD 1983).

(28) Delaware River, Essington, PA, Safety Zone. All waters of the Delaware River within a 300 yard radius of the fireworks barge in approximate position 39°51′18″ N, 075°18′57″ W (Datum NAD 1983), due west of Little Tinicum Island.

(29) Delaware River, Philadelphia, PA, Safety Zone. All waters of Delaware River, adjacent to Penns Landing, Philadelphia, PA, bounded from shoreline to shoreline, bounded on the south by a line running east to west from points along the shoreline at 39°56′31.2″ N, 075°08′28.1″ W; thence to 39°56′29.1″ N, 075°07′56.5″ W, and bounded on the north by the Benjamin Franklin Bridge (Datum NAD 1983).

(30) Chesapeake Bay, Norfolk, VA, Safety Zone. All waters of the Chesapeake Bay within a 400 yard radius of the fireworks display located in position 36°57′21″ N, 076°15′00″ W; (Datum NAD 1983), located near Ocean View Fishing Pier.

(31) Broad Bay, Virginia Beach, VA, Safety Zone. All waters of the Broad Bay within a 400 yard radius of the fireworks display in approximate position 36°52′08″ N, 076°00′46″ W (Datum NAD 1983), located on the shoreline near the Cavalier Golf and Yacht Club, Virginia Beach, Virginia.

(32) Chickahominy River, Williamsburg, VA, Safety Zone. All waters of the Chickahominy River within a 400 yard radius of the fireworks display in approximate position 37°14′50″ N, 076°52′17″ W (Datum NAD 1983), near Barrets Point, Virginia.

(33) York River, Yorktown, VA, Safety Zone. All waters of the York River within a 400 yard radius of the fireworks display in approximate position 37°14′14″ N, 076°30′02″ W (Datum NAD 1983), located near Yorktown, Virginia.

(34) James River, Newport News, VA, Safety Zone. All waters of the James River within a 325 yard radius of the fireworks barge in approximate position 36°58′30″ N, 076°26′19″ W (Datum NAD 1983), located in the vicinity of the Newport News Shipyard, Newport News, Virginia.

(35) Chesapeake Bay, Virginia Beach, VA, Safety Zone. All waters of the Chesapeake Bay 400 yard radius of the fireworks display in approximate position 36°55′02″ N, 076°03′27″ W (Datum NAD 1983), located at the First Landing State Park at Virginia Beach, Virginia.

(36) York River, West Point, VA, Safety Zone. All waters of the York River near West Point, VA within a 400 yard radius of the fireworks display located in approximate position 37–31′–25″ N/076–47′–19″ W (Datum NAD 1983).

(37) Chincoteague Channel, Chincoteague, VA, Safety Zone. All waters of the Chincoteague Channel within a 360 yard radius of the fireworks launch location at the Chincoteague carnival waterfront in approximate position 37°55′40.3″ N, 075°23′10.7″ W (Datum NAD 1983), approximately 900 yards southwest of Chincoteague Swing Bridge.

(38) Atlantic Ocean, Virginia Beach, VA, Safety Zone. All waters of the Atlantic Ocean enclosed within a 360 yard radius of the center located on the beach at approximate position 36°51′34.8″ N, 075°58′30″ W (Datum NAD 1983).

(39) Elizabeth River, Southern Branch, Norfolk, VA, Safety Zone. All waters of the Elizabeth River Southern Branch in an area bound by the following points: 36°50′54.8″; N, 076°18′10.7″ W; thence to 36°51′7.9″ N, 076°18′01″ W; thence to 36°50′45.6″ N, 076°17′44.2″ W; thence to 36°50′29.6″ N, 076°17′23.2″ W; thence to 36°50′7.7″ N, 076°17′32.3″ W; thence to 36°49′58″ N, 076°17′28.6″ W; thence to 36°49′52.6″ N, 076°17′43.8″ W; thence to 36°50′27.2″ N, 076°17′45.3″ W thence to the point of origin (Datum NAD 1983).

(40) Morehead City Harbor Channel, NC, Safety Zone. All waters of the Morehead City Harbor Channel that fall within a 360 yard radius of latitude 34°43′01″ N, 076°42′59.6″ W, a position located at the west end of Sugar Loaf Island, NC.

(41) Cape Fear River, Wilmington, NC, Safety Zone. All waters of the Cape Fear River within an area bound by a line drawn from the following points: 34°14′12″ N, 077°57′07.2″ W; thence to 34°14′12″ N, 077°57′06″ W; thence to 34°13′54″ N, 077°57′00″ W; thence to 34°13′54″ N, 077°57′06″ W; thence to the point of origin (Datum NAD 1983), located 500 yards north of Cape Fear Memorial Bridge.

(42) Cape Fear River, Southport, NC, Safety Zone. All waters of the Cape Fear River within a 600 yard radius of the fireworks barge in approximate position 33°54′40″ N, 078°01′18″ W (Datum NAD 1983), approximately 700 yards south of the waterfront at Southport, NC.

(43) Big Foot Slough, Ocracoke, NC, Safety Zone. All waters of Big Foot Slough within a 300 yard radius of the fireworks launch site in approximate position 35°06′54″ N, 075°59′24″ W (Datum NAD 1983), approximately 100 yards west of the Silver Lake Entrance Channel at Orcacoke, NC.

(44) Green Creek and Smith Creek, Oriental, NC, Safety Zone. All waters of Green Creek and Smith Creek that fall within a 300 yard radius of the fireworks launch site at 35°01′29.6″ N, 076°42′10.4″ W (Datum NAD 1983), located near the entrance to the Neuse River in the vicinity of Oriental, NC.

(45) Pasquotank River, Elizabeth City, NC, Safety Zone. All waters of the Pasquotank River within a 300 yard radius of the fireworks launch site in approximate position 36°18′00″ N, 076°13′00″ W (Datum NAD 1983), approximately 200 yards south of the

east end of the Elizabeth City Bascule Bridges.

(46) Currituck Sound, Corolla, NC, Safety Zone. All waters of the Croatan Sound within a 300 yard radius of the fireworks barge in approximate position 36°22′48″ N, 075°51′15″ W (Datum NAD 1983).

(47) Middle Sound, Figure Eight Island, NC, Safety Zone. All waters of the Figure Eight Island Causeway Channel from latitude 34°16′32″ N, 077°45′32″ W, thence east along the marsh to a position located at 34°16′19″ N, 077°44′55″ W, thence south to the causeway at position 34°16′16″ N, 077°44′58″ W, thence west along the shoreline to position 34°16′29″ N, 077°45′34″ W, (Datum NAD 1983), thence back to the point of origin.

(48) Pamlico River, Washington, NC, Safety Zone. All waters of the Pamlico River that fall within a 300 yard radius of the fireworks launch site at 35°32′19″ N, 077°03′20.5″ W (Datum NAD 1983), located 500 yards north of Washington railroad trestle bridge.

(49) Neuse River, New Bern, NC, Safety Zone. All waters of the Neuse River within a 360 yard radius of the fireworks barge in approximate position 35°06′07.1″ N, 077°01′35.8″ W (Datum NAD 1983); located 420 yards north of the New Bern, Twin Span, high rise bridge.

(b) Notification. (1) Fireworks barges and launch sites on land in paragraph (a) of this section will have a sign on the port and starboard side of the barge or mounted on a post 3 foot above ground level when on land and facing the water labeled ''FIREWORKS—DANGER—STAY AWAY''. This will provide on scene notice that the safety zone will be enforced on that day. This notice will consist of a diamond shaped sign 4 foot by 4 foot with a 3-inch orange retro reflective border. The word ''DANGER'' shall be 10 inch black block letters centered on the sign with the words ''FIREWORKS'' and ''STAY AWAY'' in 6 inch black block letters placed above and below the word ''DANGER'' respectively on a white background.

(2) Coast Guard Captains of the Port in the Fifth Coast Guard District will notify the public of the enforcement of these safety zones by all appropriate means to effect the widest publicity among the affected segments of the public. Publication in the local notice to mariners, marine information broadcasts, and facsimile broadcasts may be made for these events, beginning 24 to 48 hours before the event is scheduled to begin, to notify the public.

(c) *Enforcement Period.* The safety zones in paragraph (a) of this section will be enforced from 5:30 p.m. to 1 a.m. each day a barge with a ''FIREWORKS—DANGER—STAY AWAY'' sign on the port and starboard side is on-scene or a ''FIREWORKS—DANGER—STAY AWAY'' sign is posted on land, in a location listed in paragraph (a) of this section. Vessels may not enter, remain in, or transit through the safety zones during these enforcement periods unless authorized by the Captain of the Port or designated Coast Guard patrol personnel on scene.

(d) *Regulations.* (1) The general regulations contained in 33 CFR 165.23 apply.

(2) All persons and vessels shall comply with the instructions of the Coast Guard Captain of the Port or the designated on-scene-patrol personnel. Those personnel are compromised of commissioned, warrant, and petty officers of the Coast Guard. Other Federal, State and local agencies may assist these personnel in the enforcement of the safety zone. Upon being hailed by the U.S. Coast Guard vessel by siren, radio, flashing light or other means, the operator of a vessel shall proceed as directed.

(e) *Definitions.*

Captain of the Port means any Coast Guard commissioned, warrant or petty officer who has been authorized by the Captain of the Port to act on his or her behalf.

State or local law enforcement officers mean any State or local government law enforcement officer who has the authority to enforce State criminal laws.

Dated: February 14, 2007.

Larry L. Hereth,

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

[FR Doc. E7–3637 Filed 3–1–07; 8:45 am]

BILLING CODE 4910–15–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2006–0921; FRL–8282–9]

Approval and Promulgation of Air Quality Implementation Plans; Virginia; Amendments to VOC and NO_X Emission Control Areas and VOC Control Regulations

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is approving State Implementation Plan (SIP) revisions submitted by the Commonwealth of Virginia. These revisions amend existing volatile organic compound (VOC) and nitrogen oxide (NO_X) emissions control areas, and amend certain VOC and NO_X regulations in order to manage the extension of applicability of these provisions to the amended VOC and NO_X emission control areas. EPA is approving these revisions in accordance with the requirements of the Clean Air Act (CAA).

EFFECTIVE DATE: This final rule is effective on April 2, 2007.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2006–0921. All documents in the docket are listed in the *http://www.regulations.gov* Web site. Although listed in the electronic docket, some information is not publicly available, i.e., confidential business information (CBI) or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy for public inspection during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Virginia Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219.

FOR FURTHER INFORMATION CONTACT: Ellen Wentworth, (215) 814–2034, or by e-mail at *wentworth.ellen@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On December 26, 2006 (71 FR 77353), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Virginia. The NPR proposed approval of amendments to 9 VAC 5 Chapter 20, Volatile Organic Compound and Nitrogen Oxides Emissions Control Areas, (9 VAC 5–20–206), and also proposed approval of amendments to 9 VAC 5 Chapter 40, Articles 4, Emission Standards for General Process Operations; Article 36, Emission Standards for Flexographic, Packaging Rotogravure, and Publication Rotogravure Printing Lines; Article 37, Emission Standards for Petroleum Liquid Storage and Transfer Operations; and Article 53, Emission Standards for Lithographic Printing Processes. The formal SIP revisions were submitted by the Commonwealth of Virginia on September 12, 2006, and October 2, 2006.

II. Summary of SIP Revisions

The September 12, 2006 formal SIP revision consists of amendments to 9 VAC 5–20–206 of Chapter 20, Volatile Organic Compound and Nitrogen Oxides Emission Control Areas. Specifically, this revision creates a new VOC and NO_X emissions control area (the Fredericksburg Area), consisting of Spotsylvania County and Fredericksburg City, and expands the existing Richmond VOC and NO_X Emissions Control Areas to include Prince George County and Petersburg City. In addition this revision expands the existing Hampton Roads VOC and NO_X Emissions Control Areas to include Gloucester and Isle of Wight Counties. These amendments are necessary to implement VOC control and contingency measures within the 8-hour ozone nonattainment areas and 1-hour ozone maintenance areas.

The October 2, 2006 formal SIP revision consists of amendments to 9 VAC 5 Chapter 40 that implement non-CTG and CTG VOC RACT control requirements within those areas that are designated as VOC emissions control areas. While most of the Chapter 40 rules apply to sources of VOCs in VOC emissions control areas designated in Chapter 20, 9 VAC 5–206, certain Chapter 40 rules (specifically Articles 4, 36, 37, and 53) have provisions mandating that these regulations apply only to certain VOC and NO_X emission control areas. Article 4, Emission Standards for General Process Operations is being amended to ensure that VOC RACT is not required from large VOC sources in the new areas within the expanded Richmond VOC Emissions Control Areas; Article 36, Packaging and Publishing Rotogravure Printing, and Flexographic Printing, is being amended to add appropriate exemptions for small facilities in those VOC emissions control areas that currently have no such exemptions; and Article 37, Storage or Transfer of Petroleum Liquids, is also being amended to ensure that Stage II Vapor Recovery is not required at gasoline dispensing stations in the new areas within the expanded Richmond VOC Emissions Control Area. Lastly, Article 53, Lithographic Printing, is being amended to apply in all VOC emissions control areas instead of just in the Northern Virginia and Richmond VOC Emissions Control Areas, and is also being amended to provide appropriate exemptions for small facilities in the newly applicable VOC emissions control areas. In this rulemaking, EPA is also recodifying the lithographic printing rule (9 VAC 5–40–7800–7940, inclusive) as Article 53 and Rule 4–53. Other specific requirements and the rationale for EPA's proposed action are explained in the NPR and will not be restated here. No public comments were received on the NPR.

III. General Information Pertaining to SIP Submittals From the Commonwealth of Virginia

In 1995, Virginia adopted legislation that provides, subject to certain conditions, for an environmental assessment (audit) ''privilege'' for voluntary compliance evaluations performed by a regulated entity. The legislation further addresses the relative burden of proof for parties either asserting the privilege or seeking disclosure of documents for which the privilege is claimed. Virginia's legislation also provides, subject to certain conditions, for a penalty waiver for violations of environmental laws when a regulated entity discovers such violations pursuant to a voluntary compliance evaluation and voluntarily discloses such violations to the Commonwealth and takes prompt and appropriate measures to remedy the violations. Virginia's Voluntary Environmental Assessment Privilege Law, Va. Code Sec. 10.1–1198, provides a privilege that protects from disclosure documents and information about the content of those documents that are the product of a voluntary environmental assessment. The Privilege Law does not extend to documents or information (1) that are generated or developed before the commencement of a voluntary environmental assessment; (2) that are prepared independently of the assessment process; (3) that demonstrate a clear, imminent and substantial danger to the public health or environment; or (4) that are required by law.

On January 12, 1998, the Commonwealth of Virginia Office of the Attorney General provided a legal opinion that states that the Privilege law,Va. Code Sec. 10.1–1198, precludes granting a privilege to documents and information ''required by law,'' including documents and information ''required by Federal law to maintain program delegation, authorization or approval,'' since Virginia must ''enforce Federally authorized environmental programs in a manner that is no less stringent than their Federal counterparts * * * .'' The opinion concludes that ''[r]egarding § 10.1–1198, therefore, documents or other information needed for civil or criminal enforcement under one of these programs could not be privileged because such documents and information are essential to pursuing enforcement in a manner required by Federal law to maintain program delegation, authorization or approval.''

Virginia's Immunity law, Va. Code Sec. 10.1–1199, provides that ''[t]o the extent consistent with requirements imposed by Federal law,'' any person making a voluntary disclosure of information to a state agency regarding a violation of an environmental statute, regulation, permit, or administrative order is granted immunity from administrative or civil penalty. The Attorney General's January 12, 1998 opinion states that the quoted language renders this statute inapplicable to enforcement of any Federally authorized programs, since ''no immunity could be afforded from administrative, civil, or criminal penalties because granting such immunity would not be consistent with Federal law, which is one of the criteria for immunity.''

Therefore, EPA has determined that Virginia's Privilege and Immunity statutes will not preclude the Commonwealth from enforcing its program consistent with the Federal requirements. In any event, because EPA has also determined that a state audit privilege and immunity law can affect only state enforcement and cannot have any impact on Federal enforcement authorities, EPA may at any time invoke its authority under the Clean Air Act, including, for example, sections 113, 167, 205, 211 or 213, to enforce the requirements or prohibitions of the state plan, independently of any state enforcement effort. In addition, citizen enforcement under section 304 of the Clean Air Act is likewise unaffected by this, or any, state audit privilege or immunity law.

IV. Final Action

EPA is approving Virginia SIP revisions submitted on September 12, and October 2, 2006, amending the VOC and NO_X emission control areas found in Chapter 20, and amending certain provisions found in Chapter 40 which implement non-CTG and CTG VOC RACT control requirements within certain areas designated as VOC emissions control areas.

V. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That

Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

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

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by May 1, 2007. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action, pertaining to amendments to Chapter 20 and Chapter 40 of Virginia's regulations, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

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

Dated: February 21, 2007.

Donald S. Welsh,

Regional Administrator, Region III.

■ 40 CFR Part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart VV—Virginia

■ 2. In § 52.2420, the table in paragraph (c) is amended by:

■ a. Revising the entries for 5–20–206, 5–40–300, 5–40–5060, and 5–40–5200.

■ b. For Chapter 40, Part II, removing the entry for Article 45 and replacing it with an entry for Article 53.

§ 52.2420 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
*	*	*	*	*
Chapter 20—General Provisions				
*	*	*	*	*
Part II—Air Quality Programs				
*	*	*	*	*
5–20–206	Volatile organic compound and nitrogen oxides emissions control areas.	10/04/06	3/2/07 [Insert page number where the document begins].	Addition of new Fredericksburg area and expansion of Richmond and Hampton Roads emission control areas

EPA-APPROVED VIRGINIA REGULATIONS AND STATUTES—Continued

State citation (9 VAC 5)	Title/subject	State effective date	EPA approval date	Explanation [former SIP citation]
*	*	*	*	*
Chapter 40—Existing Stationary Sources				
*	*	*	*	*
Part II—Emission Standards				
*	*	*	*	*
Article 4—Emission Standards for General Process Operations (Rule 4–4)				
*	*	*	*	*
5–40–300	Standard for volatile organic compounds.	10/04/06	3/2/07 [Insert page number where the document begins.	
*	*	*	*	*
Article 36—Flexographic, Packaging Rotogravure, and Publication Rotogravure Printing Lines (Rule 4–36)				
5–40–5060	Applicability and designation of affected facility.	04/01/96 10/04/06	3/2/07 [Insert page number where the document begins.	
*	*	*	*	*
Article 37—Emission Standards for Petroleum Liquid Storage and Transfer Operations (Rule 4–37)				
5–40–5200	Applicability and designation of affected facility.	04/01/96 10/04/06	3/2/07 [Insert page number where the document begins.	
*	*	*	*	*
Article 53—Emission Standards for Lithographic Printing Processes (Rule 4–53) [Formerly Article 45]				
5–40–7800	Applicability and designation of affected facility.	10/04/06	3/2/07 [Insert page number where the document begins.	Revised to include and exempt certain emission control areas.
5–40–7810	Definitions of ''alcohol,'' ''Cleaning solution,'' ''fountain solution,'' ''lithographic printing,'' ''printing process''.	04/01/96 10/04/06	3/2/07 Insert page number where the document begins.	
5–40–7820	Standard for Volatile Organic Compounds.	04/01/96 10/04/06	3/2/07 Insert page number where the document begins.	
5–40–7840	Standard for Visible Emissions ..	04/01/96 10/04/06	3/2/07 [Insert page number where the document begins.	
5–40–7850	Standard for Fugitive Dust Emissions.	04/01/96 10/04/06	3/2/07 [Insert page number where the document begins.	
5–40–7880	Compliance	10/04/06	3/2/07 [Insert page number where the document begins.	Revisions to compliance dates.
5–40–7890	Test Methods and Procedures ...	04/01/96 10/04/06	3/2/07 [Insert page number where the document begins.	
5–40–7900	Monitoring	04/01/96 10/04/06	3/2/07 [Insert page number where the document begins.	
5–40–7910	Notification, Records and Reporting.	04/01/96 10/04/06	3/2/07 [Insert page number where the document begins.	
5–40–7920	Registration	04/01/96 10/04/06	3/2/07 [Insert page number where the document begins.	
5–40–7930	Facility and Control Equipment Maintenance and Malfunction.	04/01/96 10/04/06	3/2/07 [Insert page number where the document begins.	
5–40–7940	Permits	04/01/96 10/04/06	3/2/07 [Insert page number where the document begins.	
*	*	*	*	*

* * * * *

[FR Doc. E7–3586 Filed 3–1–07; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

48 CFR Chapter 44

[Docket ID FEMA–2006–0033]

RIN 1660–AA46

Federal Emergency Management Agency (FEMA) Acquisition Regulation System; Removal of Chapter 44

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Direct final rule.

SUMMARY: This direct final rule removes the Federal Emergency Management Agency Acquisition Regulation in its entirety. This removal is a result of the establishment of the Department of Homeland Security and its subsequent Homeland Security Acquisition Regulation supplement to the Federal Acquisition Regulation.

DATES: This rule is effective May 1, 2007, unless adverse comment is received by April 2, 2007. If adverse comment is received, FEMA will publish a timely withdrawal of the rule in the **Federal Register**.

ADDRESSES: You may submit comments, identified by Docket ID FEMA–2006–0033, by one of the following methods:

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

E-mail: FEMA-RULES@dhs.gov. Include Docket ID FEMA–2006–0033 in the subject line of the message.

Fax: 866–466–5370.

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

Instructions: All Submissions received must include the agency name and Docket ID. Regardless of the method used for submitting comments or material, all submissions will be posted, without change, to the Federal eRulemaking Portal at *http://www.regulations.gov,* and will include any personal information you provide. Therefore, submitting this information makes it public. You may wish to read the Privacy Act notice that is available on the Privacy and Use Notice link on the Administration Navigation Bar of www.regulations.gov.

Docket: For access to the docket to read background documents or comments received, go to the Federal eRulemaking Portal at *http://www.regulations.gov.* Submitted comments may also be inspected at FEMA.

FOR FURTHER INFORMATION CONTACT: Joyce M. Ard, Federal Emergency Management Agency, 500 C Street, SW., Patriot Plaza Room 201, Washington, DC 20472, (phone) 202–646–3213, (facsimile) 202–646–2928, or (e-mail) *joyce.ard@dhs.gov.*

SUPPLEMENTARY INFORMATION: The Federal Emergency Management Agency (FEMA) is issuing this action as a direct final rule without prior proprosal because FEMA believes that this action is not controversial and will not result in any adverse comments. This direct final rule removes the FEMA Acquisition Regulation (FEMAAR) at 48 CFR Chapter 44 in its entirety. (FEMAAR was published in 50 FR 31316, Aug. 1, 1985, and amended at 55 FR 28206, July 10, 1990). The specific language and subsequent clauses are removed as a result of the transfer of FEMA to the Department of Homeland Security (DHS) on March 1, 2003. The Homeland Security Acquisition Regulation (HSAR), 48 CFR Chapter 30, issued in 68 FR 67867, Dec. 4, 2003 and amended as a final rule in 71 FR 25759, May 2, 2006, 71 FR 48800, Aug. 22, 2006 and in 72 FR 1296, Jan. 11, 2007 established a uniform department-wide acquisition regulation for DHS and for purposes of 48 CFR Chapter 30 listed all entities for which the chapter applied to include FEMA.

FEMA believes it is important to make this action effective as soon as possible not only to remove inapplicable regulatory text, but to be consistent with DHS uniform department-wide acquisition regulations. For these reasons, FEMA believes that it is appropriate to issue this rule as a direct final rule. This rule conforms with the good cause exemption under section 553(b)(B) of the Administrative Procedure Act (5 U.S.C. 553(b)(B)), because notice and comment is unnecessary. As stated above, this rulemaking simply completes an administrative task by removing inapplicable and inconsistent regulatory text. However, if FEMA receives a significant adverse comment within 30 days of publication of this direct final rule, FEMA will publish a timely notice of withdrawal in the **Federal Register**. If FEMA receives no significant adverse comment, before the effective date, FEMA will publish a document in the **Federal Register** stating that no adverse comment was received and confirming that this rule will be effective as scheduled.

Regulatory Flexibility Act

The Regulatory Flexibility Act (RFA) mandates that an agency conduct a RFA analysis when an agency is ''required by section 553 * * * to publish general notice of proposed rulemaking for any proposed rule.'' 5 U.S.C. 603(a). Accordingly, RFA analysis is not required when a rule is exempt from notice and comment rulemaking under 5 U.S.C. 553(b). Here, FEMA is issuing this action as a direct final rule without prior proposal because FEMA believes that this action is not controversial and will not result in any adverse comments. Moreover, as stated previously, good cause exists under 5 U.S.C. 553(b)(B) to exempt this rule from the notice and comment requirements of 5 U.S.C. 553(b). Therefore no RFA analysis under 5 U.S.C. 603 is required for this rule.

Executive Order 12866—Regulatory Planning and Review

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

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

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

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

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

Sections 503(1), 701(a)(2), 1511(d)(2) of the Homeland Security Act, 6 U.S.C. 313(1), 341(a)(2), 551(d)(2), established FEMA as a component within DHS. As a DHS component FEMA adheres to the HSAR, 48 CFR 3001.105–2(a) and 3001.301(a)(1). This direct final rule removes the FEMAAR as a result of the establishment of FEMA as a DHS component. Therefore, this rulemaking is not considered to be an economically significant regulatory action under

section 3(f) of Executive Order 12866. This rule adheres to the principles of regulation as set forth in the Executive Order.

Executive Order 13132, Federalism

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

National Environmental Policy Act

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

Paperwork Reduction Act of 1995

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

Executive Order 12988

This direct final rule meets the applicable standards of Executive Order 12988.

List of Subjects in 48 CFR Chapter 44

Government procurement.

■ Accordingly, under the authority of sections 503(1), 701(a)(2), 1511(d)(2) of the Homeland Security Act, 6 U.S.C. 313(1), 341(a)(2), 551(d)(2), FEMA amends 48 CFR by removing chapter 44.

Dated: February 22, 2007.

R. David Paulison,

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

[FR Doc. E7–3650 Filed 3–1–07; 8:45 am]

BILLING CODE 9110–49–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 030221039–7043–42; I.D. 022707B]

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan

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

ACTION: Temporary rule.

SUMMARY: The Assistant Administrator for Fisheries (AA), NOAA, announces temporary restrictions consistent with the requirements of the Atlantic Large Whale Take Reduction Plan's (ALWTRP) implementing regulations. These regulations apply to lobster trap/pot and anchored gillnet fishermen in an area totaling approximately 2,201 nm^2 (7,549 km^2), east of Portsmouth, New Hampshire, for 15 days. The purpose of this action is to provide protection to an aggregation of northern right whales (right whales).

DATES: Effective beginning at 0001 hours March 4, 2007, through 2400 hours March 18, 2007.

ADDRESSES: Copies of the proposed and final Dynamic Area Management (DAM) rules, Environmental Assessments (EAs), Atlantic Large Whale Take Reduction Team (ALWTRT) meeting summaries, and progress reports on implementation of the ALWTRP may also be obtained by writing Diane Borggaard, NMFS/Northeast Region, One Blackburn Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Diane Borggaard, NMFS/Northeast Region, 978–281–9300 x6503; or Kristy Long, NMFS, Office of Protected Resources, 301–713–2322.

SUPPLEMENTARY INFORMATION:

Electronic Access

Several of the background documents for the ALWTRP and the take reduction planning process can be downloaded from the ALWTRP web site at *http://www.nero.noaa.gov/whaletrp/*.

Background

The ALWTRP was developed pursuant to section 118 of the Marine Mammal Protection Act (MMPA) to reduce the incidental mortality and serious injury of three endangered species of whales (right, fin, and humpback) due to incidental interaction with commercial fishing activities. In addition, the measures identified in the ALWTRP would provide conservation benefits to a fourth species (minke), which are neither listed as endangered nor threatened under the Endangered Species Act (ESA). The ALWTRP, implemented through regulations codified at 50 CFR 229.32, relies on a combination of fishing gear modifications and time/area closures to reduce the risk of whales becoming entangled in commercial fishing gear (and potentially suffering serious injury or mortality as a result).

On January 9, 2002, NMFS published the final rule to implement the ALWTRP's DAM program (67 FR 1133). On August 26, 2003, NMFS amended the regulations by publishing a final rule, which specifically identified gear modifications that may be allowed in a DAM zone (68 FR 51195). The DAM program provides specific authority for NMFS to restrict temporarily on an expedited basis the use of lobster trap/pot and anchored gillnet fishing gear in areas north of 40° N. lat. to protect right whales. Under the DAM program, NMFS may: (1) require the removal of all lobster trap/pot and anchored gillnet fishing gear for a 15–day period; (2) allow lobster trap/pot and anchored gillnet fishing within a DAM zone with gear modifications determined by NMFS to sufficiently reduce the risk of entanglement; and/or (3) issue an alert to fishermen requesting the voluntary removal of all lobster trap/pot and anchored gillnet gear for a 15–day period and asking fishermen not to set any additional gear in the DAM zone during the 15–day period.

A DAM zone is triggered when NMFS receives a reliable report from a qualified individual of three or more right whales sighted within an area (75 nm^2 (139 km^2)) such that right whale density is equal to or greater than 0.04 right whales per nm^2 (1.85 km^2). A qualified individual is an individual ascertained by NMFS to be reasonably able, through training or experience, to identify a right whale. Such individuals include, but are not limited to, NMFS staff, U.S. Coast Guard and Navy personnel trained in whale identification, scientific research survey

personnel, whale watch operators and naturalists, and mariners trained in whale species identification through disentanglement training or some other training program deemed adequate by NMFS. A reliable report would be a credible right whale sighting.

On February 21, 2007, an aerial survey reported a sighting of nine right whales in the proximity 42° 57′ N. lat. and 70° 04′ W. long. This position lies east of Portsmouth, NH. After conducting an investigation, NMFS ascertained that the report came from a qualified individual and determined that the report was reliable. Thus, NMFS has received a reliable report from a qualified individual of the requisite right whale density to trigger the DAM provisions of the ALWTRP.

Once a DAM zone is triggered, NMFS determines whether to impose restrictions on fishing and/or fishing gear in the zone. This determination is based on the following factors, including but not limited to: the location of the DAM zone with respect to other fishery closure areas, weather conditions as they relate to the safety of human life at sea, the type and amount of gear already present in the area, and a review of recent right whale entanglement and mortality data.

NMFS has reviewed the factors and management options noted above relative to the DAM under consideration. As a result of this review, NMFS prohibits lobster trap/pot and anchored gillnet gear in this area during the 15–day restricted period unless it is modified in the manner described in this temporary rule.

The DAM Zone is bound by the following coordinates:

43° 19′ N., 70° 38′ W. (NW Corner)
43° 19′ N., 69° 35′ W.
42° 31′ N., 69° 35′ W.
42° 31′ N., 70° 38′ W.
42° 37′ N., 70° 38′ W. and follow the coastline north to
42° 39′ N., 70° 38′ W.
43° 09′ N., 70° 38′ W. and follow the coastline north to
43° 19′ N., 70° 38′ W. (NW Corner)

In addition to those gear modifications currently implemented under the ALWTRP at 50 CFR 229.32, the following gear modifications are required in the DAM zone. If the requirements and exceptions for gear modification in the DAM zone, as described below, differ from other ALWTRP requirements for any overlapping areas and times, then the more restrictive requirements will apply in the DAM zone. Special note for gillnet fisherman: A portion of this DAM zone overlaps the year-round Western Gulf of Maine Closure Area for Northeast Multispecies found at 50 CFR 648.81(e). Due to this closure, sink gillnet gear is prohibited from this portion of the DAM zone.

Lobster Trap/Pot Gear

Fishermen utilizing lobster trap/pot gear within the portion of the Northern Inshore State Lobster Waters, Northern Nearshore Lobster Waters and Stellwagen Bank/Jeffreys Ledge that overlap with the DAM zone are required to utilize all of the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;
2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;
3. Fishermen are allowed to use two buoy lines per trawl; and
4. A weak link with a maximum breaking strength of 600 lb (272.4 kg) must be placed at all buoys.

Fishermen utilizing lobster trap/pot gear within the portion of the Offshore Lobster Waters Area that overlap with the DAM zone are required to utilize all of the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;
2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;
3. Fishermen are allowed to use two buoy lines per trawl; and
4. A weak link with a maximum breaking strength of 1,500 lb (680.4 kg) must be placed at all buoys.

Anchored Gillnet Gear

Fishermen utilizing anchored gillnet gear within the portions of the Other Northeast Gillnet Waters Area and Stellwagen Bank/Jeffreys Ledge Restricted Area that overlap with the DAM zone are required to utilize all the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;
2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;
3. Fishermen are allowed to use two buoy lines per string;
4. Each net panel must have a total of five weak links with a maximum breaking strength of 1,100 lb (498.8 kg). Net panels are typically 50 fathoms (91.4 m) in length, but the weak link requirements would apply to all variations in panel size. These weak links must include three floatline weak links. The placement of the weak links on the floatline must be: one at the center of the net panel and one each as close as possible to each of the bridle ends of the net panel. The remaining two weak links must be placed in the center of each of the up and down lines at the panel ends;
5. A weak link with a maximum breaking strength of 1,100 lb (498.8 kg) must be placed at all buoys; and
6. All anchored gillnets, regardless of the number of net panels, must be securely anchored with the holding power of at least a 22 lb (10.0 kg) Danforth-style anchor at each end of the net string.

The restrictions will be in effect beginning at 0001 hours March 4, 2007, through 2400 hours March 18, 2007, unless terminated sooner or extended by NMFS through another notification in the **Federal Register**.

The restrictions will be announced to state officials, fishermen, ALWTRT members, and other interested parties through e-mail, phone contact, NOAA website, and other appropriate media immediately upon issuance of the rule by the AA.

Classification

In accordance with section 118(f)(9) of the MMPA, the Assistant Administrator (AA) for Fisheries has determined that this action is necessary to implement a take reduction plan to protect North Atlantic right whales.

Environmental Assessments for the DAM program were prepared on December 28, 2001, and August 6, 2003. This action falls within the scope of the analyses of these EAs, which are available from the agency upon request.

NMFS provided prior notice and an opportunity for public comment on the regulations establishing the criteria and procedures for implementing a DAM zone. Providing prior notice and opportunity for comment on this action, pursuant to those regulations, would be impracticable because it would prevent NMFS from executing its functions to protect and reduce serious injury and mortality of endangered right whales. The regulations establishing the DAM program are designed to enable the agency to help protect unexpected concentrations of right whales. In order to meet the goals of the DAM program, the agency needs to be able to create a

DAM zone and implement restrictions on fishing gear as soon as possible once the criteria are triggered and NMFS determines that a DAM restricted zone is appropriate. If NMFS were to provide prior notice and an opportunity for public comment upon the creation of a DAM restricted zone, the aggregated right whales would be vulnerable to entanglement which could result in serious injury and mortality. Additionally, the right whales would most likely move on to another location before NMFS could implement the restrictions designed to protect them, thereby rendering the action obsolete. Therefore, pursuant to 5 U.S.C. 553(b)(B), the AA finds that good cause exists to waive prior notice and an opportunity to comment on this action to implement a DAM restricted zone to reduce the risk of entanglement of endangered right whales in commercial lobster trap/pot and anchored gillnet gear as such procedures would be impracticable.

For the same reasons, the AA finds that, under 5 U.S.C. 553(d)(3), good cause exists to waive the 30–day delay in effective date. If NMFS were to delay for 30 days the effective date of this action, the aggregated right whales would be vulnerable to entanglement, which could cause serious injury and mortality. Additionally, right whales would likely move to another location between the time NMFS approved the action creating the DAM restricted zone and the time it went into effect, thereby rendering the action obsolete and ineffective. Nevertheless, NMFS recognizes the need for fishermen to have time to either modify or remove (if not in compliance with the required restrictions) their gear from a DAM zone once one is approved. Thus, NMFS makes this action effective 2 days after the date of publication of this document in the **Federal Register**. NMFS will also endeavor to provide notice of this action to fishermen through other means upon issuance of the rule by the AA, thereby providing approximately 3 additional days of notice while the Office of the Federal Register processes the document for publication.

NMFS determined that the regulations establishing the DAM program and actions such as this one taken pursuant to those regulations are consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program of the U.S. Atlantic coastal states. This determination was submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act. Following state review of the regulations creating the DAM program, no state disagreed with NMFS' conclusion that the DAM program is consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program for that state.

The DAM program under which NMFS is taking this action contains policies with federalism implications warranting preparation of a federalism assessment under Executive Order 13132. Accordingly, in October 2001 and March 2003, the Assistant Secretary for Intergovernmental and Legislative Affairs, Department of Commerce, provided notice of the DAM program and its amendments to the appropriate elected officials in states to be affected by actions taken pursuant to the DAM program. Federalism issues raised by state officials were addressed in the final rules implementing the DAM program. A copy of the federalism Summary Impact Statement for the final rules is available upon request (**ADDRESSES**).

The rule implementing the DAM program has been determined to be not significant under Executive Order 12866.

Authority: 16 U.S.C. 1361 *et seq.* and 50 CFR 229.32(g)(3)

Dated: February 26, 2007.

Samuel D. Rauch III,

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

[FR Doc. 07–952 Filed 2–27–07; 2:41 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 229

[Docket No. 030221039–7044–43; I.D. 022707C]

Taking of Marine Mammals Incidental to Commercial Fishing Operations; Atlantic Large Whale Take Reduction Plan

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

ACTION: Temporary rule.

SUMMARY: The Assistant Administrator for Fisheries (AA), NOAA, announces temporary restrictions consistent with the requirements of the Atlantic Large Whale Take Reduction Plan's (ALWTRP) implementing regulations. These regulations apply to lobster trap/pot and anchored gillnet fishermen in an area totaling approximately 1,753 nm^2 (6,012 km^2), southeast of Portland, Maine, for 15 days. The purpose of this action is to provide protection to an aggregation of northern right whales (right whales).

DATES: Effective beginning at 0001 hours March 4, 2007, through 2400 hours March 18, 2007.

ADDRESSES: Copies of the proposed and final Dynamic Area Management (DAM) rules, Environmental Assessments (EAs), Atlantic Large Whale Take Reduction Team (ALWTRT) meeting summaries, and progress reports on implementation of the ALWTRP may also be obtained by writing Diane Borggaard, NMFS/Northeast Region, One Blackburn Drive, Gloucester, MA 01930.

FOR FURTHER INFORMATION CONTACT: Diane Borggaard, NMFS/Northeast Region, 978–281–9300 x6503; or Kristy Long, NMFS, Office of Protected Resources, 301–713–2322.

SUPPLEMENTARY INFORMATION:

Electronic Access

Several of the background documents for the ALWTRP and the take reduction planning process can be downloaded from the ALWTRP web site at *http://www.nero.noaa.gov/whaletrp/*.

Background

The ALWTRP was developed pursuant to section 118 of the Marine Mammal Protection Act (MMPA) to reduce the incidental mortality and serious injury of three endangered species of whales (right, fin, and humpback) due to incidental interaction with commercial fishing activities. In addition, the measures identified in the ALWTRP would provide conservation benefits to a fourth species (minke), which are neither listed as endangered nor threatened under the Endangered Species Act (ESA). The ALWTRP, implemented through regulations codified at 50 CFR 229.32, relies on a combination of fishing gear modifications and time/area closures to reduce the risk of whales becoming entangled in commercial fishing gear (and potentially suffering serious injury or mortality as a result).

On January 9, 2002, NMFS published the final rule to implement the ALWTRP's DAM program (67 FR 1133). On August 26, 2003, NMFS amended the regulations by publishing a final rule, which specifically identified gear modifications that may be allowed in a DAM zone (68 FR 51195). The DAM program provides specific authority for NMFS to restrict temporarily on an expedited basis the use of lobster trap/

pot and anchored gillnet fishing gear in areas north of 40° N. lat. to protect right whales. Under the DAM program, NMFS may: (1) require the removal of all lobster trap/pot and anchored gillnet fishing gear for a 15–day period; (2) allow lobster trap/pot and anchored gillnet fishing within a DAM zone with gear modifications determined by NMFS to sufficiently reduce the risk of entanglement; and/or (3) issue an alert to fishermen requesting the voluntary removal of all lobster trap/pot and anchored gillnet gear for a 15–day period and asking fishermen not to set any additional gear in the DAM zone during the 15–day period.

A DAM zone is triggered when NMFS receives a reliable report from a qualified individual of three or more right whales sighted within an area (75 nm^2 (139 km^2)) such that right whale density is equal to or greater than 0.04 right whales per nm^2 (1.85 km^2). A qualified individual is an individual ascertained by NMFS to be reasonably able, through training or experience, to identify a right whale. Such individuals include, but are not limited to, NMFS staff, U.S. Coast Guard and Navy personnel trained in whale identification, scientific research survey personnel, whale watch operators and naturalists, and mariners trained in whale species identification through disentanglement training or some other training program deemed adequate by NMFS. A reliable report would be a credible right whale sighting.

On February 22, 2007, an aerial survey reported a sighting of twelve right whales in the proximity 42° 54′ N. lat. and 69° 00′ W. long. This position lies southeast of Portland, ME. After conducting an investigation, NMFS ascertained that the report came from a qualified individual and determined that the report was reliable. Thus, NMFS has received a reliable report from a qualified individual of the requisite right whale density to trigger the DAM provisions of the ALWTRP.

Once a DAM zone is triggered, NMFS determines whether to impose restrictions on fishing and/or fishing gear in the zone. This determination is based on the following factors, including but not limited to: the location of the DAM zone with respect to other fishery closure areas, weather conditions as they relate to the safety of human life at sea, the type and amount of gear already present in the area, and a review of recent right whale entanglement and mortality data.

NMFS has reviewed the factors and management options noted above relative to the DAM under consideration. As a result of this review, NMFS prohibits lobster trap/pot and anchored gillnet gear in this area during the 15–day restricted period unless it is modified in the manner described in this temporary rule.

The DAM Zone is bound by the following coordinates:

43° 16′ N., 69° 30′ W. (NW Corner)
43° 16′ N., 68° 33′ W.
42° 34′ N., 68° 33′ W.
42° 34′ N., 69° 30′ W.
43° 16′ N., 69° 30′ W. (NW Corner)

In addition to those gear modifications currently implemented under the ALWTRP at 50 CFR 229.32, the following gear modifications are required in the DAM zone. If the requirements and exceptions for gear modification in the DAM zone, as described below, differ from other ALWTRP requirements for any overlapping areas and times, then the more restrictive requirements will apply in the DAM zone. Special note for gillnet fisherman: A portion of this DAM zone overlaps the year-round Cashes Ledge Groundfish Closure Area for Northeast Multispecies found at 50 CFR 648.81(d). Due to this closure, sink gillnet gear is prohibited from this portion of the DAM zone.

Lobster Trap/Pot Gear

Fishermen utilizing lobster trap/pot gear within the portion of the Nearshore Lobster Waters that overlap with the DAM zone are required to utilize all of the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;
2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;
3. Fishermen are allowed to use two buoy lines per trawl; and
4. A weak link with a maximum breaking strength of 600 lb (272.4 kg) must be placed at all buoys.

Fishermen utilizing lobster trap/pot gear within the portion of the Offshore Lobster Waters Area that overlap with the DAM zone are required to utilize all of the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;
2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;
3. Fishermen are allowed to use two buoy lines per trawl; and
4. A weak link with a maximum breaking strength of 1,500 lb (680.4 kg) must be placed at all buoys.

Anchored Gillnet Gear

Fishermen utilizing anchored gillnet gear within the portions of the Other Northeast Gillnet Waters Area that overlaps with the DAM zone are required to utilize all the following gear modifications while the DAM zone is in effect:

1. Groundlines must be made of either sinking or neutrally buoyant line. Floating groundlines are prohibited;
2. All buoy lines must be made of either sinking or neutrally buoyant line, except the bottom portion of the line, which may be a section of floating line not to exceed one-third the overall length of the buoy line;
3. Fishermen are allowed to use two buoy lines per string;
4. Each net panel must have a total of five weak links with a maximum breaking strength of 1,100 lb (498.8 kg). Net panels are typically 50 fathoms (91.4 m) in length, but the weak link requirements would apply to all variations in panel size. These weak links must include three floatline weak links. The placement of the weak links on the floatline must be: one at the center of the net panel and one each as close as possible to each of the bridle ends of the net panel. The remaining two weak links must be placed in the center of each of the up and down lines at the panel ends;
5. A weak link with a maximum breaking strength of 1,100 lb (498.8 kg) must be placed at all buoys; and
6. All anchored gillnets, regardless of the number of net panels, must be securely anchored with the holding power of at least a 22 lb (10.0 kg) Danforth-style anchor at each end of the net string.

The restrictions will be in effect beginning at 0001 hours March 4, 2007, through 2400 hours March 18, 2007, unless terminated sooner or extended by NMFS through another notification in the **Federal Register**.

The restrictions will be announced to state officials, fishermen, ALWTRT members, and other interested parties through e-mail, phone contact, NOAA website, and other appropriate media immediately upon issuance of the rule by the AA.

Classification

In accordance with section 118(f)(9) of the MMPA, the Assistant Administrator (AA) for Fisheries has determined that this action is necessary to implement a take reduction plan to protect North Atlantic right whales.

Environmental Assessments for the DAM program were prepared on December 28, 2001, and August 6, 2003. This action falls within the scope of the analyses of these EAs, which are available from the agency upon request.

NMFS provided prior notice and an opportunity for public comment on the regulations establishing the criteria and procedures for implementing a DAM zone. Providing prior notice and opportunity for comment on this action, pursuant to those regulations, would be impracticable because it would prevent NMFS from executing its functions to protect and reduce serious injury and mortality of endangered right whales. The regulations establishing the DAM program are designed to enable the agency to help protect unexpected concentrations of right whales. In order to meet the goals of the DAM program, the agency needs to be able to create a DAM zone and implement restrictions on fishing gear as soon as possible once the criteria are triggered and NMFS determines that a DAM restricted zone is appropriate. If NMFS were to provide prior notice and an opportunity for public comment upon the creation of a DAM restricted zone, the aggregated right whales would be vulnerable to entanglement which could result in serious injury and mortality. Additionally, the right whales would most likely move on to another location before NMFS could implement the restrictions designed to protect them, thereby rendering the action obsolete. Therefore, pursuant to 5 U.S.C. 553(b)(B), the AA finds that good cause exists to waive prior notice and an opportunity to comment on this action to implement a DAM restricted zone to reduce the risk of entanglement of endangered right whales in commercial lobster trap/pot and anchored gillnet gear as such procedures would be impracticable.

For the same reasons, the AA finds that, under 5 U.S.C. 553(d)(3), good cause exists to waive the 30–day delay in effective date. If NMFS were to delay for 30 days the effective date of this action, the aggregated right whales would be vulnerable to entanglement, which could cause serious injury and mortality. Additionally, right whales would likely move to another location between the time NMFS approved the action creating the DAM restricted zone and the time it went into effect, thereby rendering the action obsolete and ineffective. Nevertheless, NMFS recognizes the need for fishermen to have time to either modify or remove (if not in compliance with the required restrictions) their gear from a DAM zone once one is approved. Thus, NMFS makes this action effective 2 days after the date of publication of this document in the **Federal Register**. NMFS will also endeavor to provide notice of this action to fishermen through other means upon issuance of the rule by the AA, thereby providing approximately 3 additional days of notice while the Office of the Federal Register processes the document for publication.

NMFS determined that the regulations establishing the DAM program and actions such as this one taken pursuant to those regulations are consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program of the U.S. Atlantic coastal states. This determination was submitted for review by the responsible state agencies under section 307 of the Coastal Zone Management Act. Following state review of the regulations creating the DAM program, no state disagreed with NMFS' conclusion that the DAM program is consistent to the maximum extent practicable with the enforceable policies of the approved coastal management program for that state.

The DAM program under which NMFS is taking this action contains policies with federalism implications warranting preparation of a federalism assessment under Executive Order 13132. Accordingly, in October 2001 and March 2003, the Assistant Secretary for Intergovernmental and Legislative Affairs, Department of Commerce, provided notice of the DAM program and its amendments to the appropriate elected officials in states to be affected by actions taken pursuant to the DAM program. Federalism issues raised by state officials were addressed in the final rules implementing the DAM program. A copy of the federalism Summary Impact Statement for the final rules is available upon request (**ADDRESSES**).

The rule implementing the DAM program has been determined to be not significant under Executive Order 12866.

Authority: 16 U.S.C. 1361 *et seq.* and 50 CFR 229.32(g)(3)

Dated: February 26, 2007.

Samuel D. Rauch III,

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

[FR Doc. 07–953 Filed 2–27–07; 2:41 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 070213032–7032–01; I.D. 022607C]

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Vessels Catching Pacific Cod for Processing by the Inshore 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 inshore component in the Central Regulatory Area of the Gulf of Alaska (GOA). This action is necessary to prevent exceeding the 2007 total allowable catch (TAC) of Pacific cod apportioned to vessels catching Pacific cod for processing by the inshore component of the Central Regulatory Area of the GOA.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), February 27, 2007, until 1200 hrs, A.l.t., September 1, 2007.

FOR FURTHER INFORMATION CONTACT: Jennifer Hogan, 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 2007 TAC of Pacific cod apportioned to vessels catching Pacific cod for processing by the inshore component of the Central Regulatory Area of the GOA is 15,339 metric tons (mt) as established by the 2007 and 2008 harvest specifications for groundfish of the GOA that will publish in March, 2007.

In accordance with § 679.20(d)(1)(i), the Administrator, Alaska Region, NMFS (Regional Administrator), has determined that the A season allocation of the 2007 TAC of Pacific cod apportioned to vessels catching Pacific cod for processing by the inshore

component of the Central Regulatory Area of the GOA will soon be reached. Therefore, the Regional Administrator is establishing a directed fishing allowance of 8,519 mt, and is setting aside the remaining 2,500 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 inshore 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 inshore 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 23, 2007.

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: January 26, 2007.

James P. Burgess,

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

[FR Doc. 07–954 Filed 2–27–07; 2:41 pm]

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DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 070213033–7033–01; I.D. 112706A]

Fisheries of the Exclusive Economic Zone Off Alaska; Bering Sea and Aleutian Islands; 2007 and 2008 Final Harvest Specifications for Groundfish

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

ACTION: Final rule; closures.

SUMMARY: NMFS announces 2007 and 2008 final harvest specifications and prohibited species catch (PSC) allowances for the groundfish fishery of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to establish harvest limits for groundfish during the 2007 and 2008 fishing years and to accomplish the goals and objectives of the Fishery Management Plan for Groundfish of the Bering Sea and Aleutian Islands Management Area (FMP). The intended effect of this action is to conserve and manage the groundfish resources in the BSAI in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (MSA).

DATES: The 2007 and 2008 final harvest specifications and associated apportionment of reserves are effective at 1200 hrs, Alaska local time (A.l.t.), March 2, 2007, through 2400 hrs, A.l.t., December 31, 2008.

ADDRESSES: Copies of the Final Alaska Groundfish Harvest Specifications Environmental Impact Statement (EIS), Record of Decision (ROD), and Final Regulatory Flexibility Analysis (FRFA) prepared for this action are available from Alaska Region, NMFS, P.O. Box 21668, Juneau, AK 99802, Attn: Ellen Sebastian, or from the Alaska Region Web site at *http://www.fakr.noaa.gov*. Copies of the 2006 Stock Assessment and Fishery Evaluation (SAFE) report for the groundfish resources of the BSAI, dated November 2006, are available from the North Pacific Fishery Management Council, West 4th Avenue, Suite 306, Anchorage, AK 99510–2252, 907–271–2809, or from its Web site at *http://www.fakr.noaa.gov/npfmc*.

FOR FURTHER INFORMATION CONTACT: Mary Furuness, 907–586–7228, or e-mail *mary.furuness@noaa.gov*.

SUPPLEMENTARY INFORMATION: Federal regulations at 50 CFR part 679 implement the FMP and govern the groundfish fisheries in the BSAI. The North Pacific Fishery Management Council (Council) prepared the FMP, and NMFS approved it under the MSA. General regulations governing U.S. fisheries also appear at 50 CFR part 600.

The FMP and its implementing regulations require NMFS, after consultation with the Council, to specify the total allowable catch (TAC) for each target species and for the ''other species'' category, the sum must be within the optimum yield (OY) range of 1.4 million to 2.0 million metric tons (mt) (see § 679.20(a)(1)(i)). Also specified are apportionments of TACs, and Community Development Quota (CDQ) reserve amounts, PSC allowances, and prohibited species quota (PSQ) reserve amounts. The final harvest specifications listed in Tables 1 through 15 of this action satisfy these requirements. For 2007 and 2008, the sum of TACs for each year is 2 million mt.

Section 679.20(c)(3) further requires NMFS to consider public comment on the proposed annual TACs and apportionments thereof and the proposed PSC allowances, and to publish final harvest specifications in the **Federal Register**. The 2007 and 2008 proposed harvest specifications and PSC allowances for the groundfish fishery of the BSAI were published in the **Federal Register** on December 15, 2006 (71 FR 75460). Comments were invited and accepted through January 16, 2007. NMFS received 4 letters with several comments on the proposed harvest specifications. These comments are summarized and responded to in the Response to Comments section of this rule. NMFS consulted with the Council during the December 2006 Council meeting in Anchorage, AK. After considering public comments, as well as biological and economic data that were available at the Council's December meeting, NMFS is implementing the 2007 and 2008 final harvest specifications as recommended by the Council.

Acceptable Biological Catch (ABC) and TAC Harvest Specifications

The final ABC levels are based on the best available biological and socioeconomic information, including projected biomass trends, information on assumed distribution of stock biomass, and revised technical methods used to calculate stock biomass. In general, the development of ABCs and overfishing levels (OFLs) involves sophisticated statistical analyses of fish populations and is based on a successive series of six levels, or tiers,

of reliable information available to fishery scientists. Tier 1 represents the highest level of data quality and tier 6 the lowest level of data quality available.

In December 2006, the Scientific and Statistical Committee (SSC), Advisory Panel (AP), and Council reviewed current biological information about the condition of the BSAI groundfish stocks. The Council's Plan Team compiled and presented this information in the 2006 SAFE report for the BSAI groundfish fisheries, dated November 2006. The SAFE report contains a review of the latest scientific analyses and estimates of each species' biomass and other biological parameters, as well as summaries of the available information on the BSAI ecosystem and the economic condition of groundfish fisheries off Alaska. The SAFE report is available for public review (see **ADDRESSES**). From these data and analyses, the Plan Team estimates an OFL and ABC for each species or species category.

In December 2006 the SSC, AP, and Council reviewed the Plan Team's recommendations. Except for Bering Sea subarea and Aleutian Islands (AI) subarea pollock, yellowfin sole, rock sole, and the ''other species'' category, the SSC, AP, and Council endorsed the Plan Team's ABC recommendations. For 2007 and 2008, the SSC recommended higher pollock OFLs and ABCs than the OFLs and ABCs recommended by the Plan Team. For Bering Sea subarea pollock, the SSC recommended using a procedure that sets the ABCs at the $F_{40\%}$ level which results in ABCs lower than the maximum permissible, but higher than the Plan Teams recommendations. For AI subarea pollock, the SSC recommended using tier 3 management which results in maximum permissible ABCs and OFLs higher than the tier 5 management recommended by the Plan Team. For yellowfin sole and rock sole, the SSC recommended using tier 1 management which results in maximum permissible ABCs and OFLs higher than the tier 3 management recommended by the Plan Team. For ''other species,'' the SSC recommended using tier 6 management for shark and octopus species resulting in lower ABCs than the Plan Team's recommended tier 5 management. The SSC provided 2007 and 2008 ABC and OFL amounts obtained as the sum of the individual species ABCs in the ''other species'' category since the current FMP specifies management at the group level. For all species, the AP endorsed the ABCs recommended by the SSC, and the Council adopted them.

The Plan Team, SSC, AP and Council recommended that total removals of Pacific cod from the BSAI not exceed ABC recommendations. In 2006, the Board of Fisheries for the State of Alaska (State) established a guideline harvest level (GHL) west of 170 degrees west longitude in the AI subarea equal to 3 percent of the Pacific cod ABC in the BSAI. Accordingly, the Council recommended that the 2007 and 2008 TACs be adjusted downward from the ABCs by amounts equal to the 2007 and 2008 GHLs.

The final TAC recommendations were based on the ABCs as adjusted for other biological and socioeconomic considerations, including maintaining the sum of the TACs within the required OY range of 1.4 million to 2.0 million mt. The Council adopted the AP's 2007 and 2008 TAC recommendations. None of the Council's recommended TACs for 2007 or 2008 exceeds the final 2007 or 2008 ABC for any species category. The 2007 and 2008 harvest specifications approved by the Secretary of Commerce (Secretary) are unchanged from those recommended by the Council and are consistent with the preferred harvest strategy alternative in the EIS. The 2007 and 2008 TACs are less than the maximum permissible ABCs recommended by the Council's plan teams and SSC. NMFS finds that the recommended OFLs, ABCs, and TACs are consistent with the biological condition of groundfish stocks as described in the 2006 SAFE report that was approved by the Council.

Other Rules Affecting the 2007 and 2008 Harvest Specifications

The following paragraphs identify actions that are currently under consideration by the Council and that, if submitted to and approved by the Secretary, could change the 2007 and 2008 final harvest specifications. The existing 2007 harvest specifications will be updated in early 2007 when final harvest specifications for 2007 and new harvest specifications for 2008 are implemented. The 2008 harvest specifications will be updated in early 2008, when new harvest specifications for 2008 and 2009 are implemented.

In April 2006, the Council adopted Amendment 85 to the FMP. Amendment 85 would revise the BSAI Pacific cod sector allocations. If approved by the Secretary, final regulations implementing Amendment 85 are anticipated to be effective for the 2008 fishing year. The notice of availability of Amendment 85 to the FMP was published December 7, 2006 (71 FR 70943), and the comment period ended February 5, 2007. In June 2006 the Council adopted Amendment 80 to the FMP. Amendment 80 would provide specific groundfish allocations to the non-American Fisheries Act (AFA) trawl catcher/processor sector and allow the formation of cooperatives. If approved by the Secretary, final regulations implementing Amendment 80 also are anticipated to be effective for the 2008 fishing year. The Council also adopted Amendment 84 that would modify current regulations for managing incidental catch of Chinook and chum salmon and may change the PSC limits. The Council also is considering two proposals. One would allocate the Pacific cod TAC by Bering Sea subarea and AI subarea instead of a combined BSAI TAC. The other would separate some species from the ''other rockfish'' or ''other species'' categories to establish individual OFLs, ABCs, and TACs.

Changes From the 2007 and 2008 Proposed Harvest Specifications in the BSAI

In October 2006 the Council's recommendations for the 2007 and 2008 proposed harvest specifications (71 FR 75460, December 15, 2006) were based largely on information contained in the 2005 SAFE report for the BSAI groundfish fisheries, dated November 2005. The Council recommended that OFLs and ABCs for stocks in tiers 1 through 3 be based on biomass projections as set forth in the 2005 SAFE report and estimates of groundfish harvests through the 2006 fishing year. For stocks in tiers 4 through 6, for which biomass projections could not be made, the Council recommended that OFLs and ABCs be unchanged from 2006 until the 2006 SAFE report could be completed. The 2006 SAFE report (dated November 2006), which was not available when the Council made its recommendations in October 2006, contains the best and most recent scientific information on the condition of the groundfish stocks. In December 2006, the Council considered the 2006 SAFE report in making its recommendations for the 2007 and 2008 final harvest specifications. Based on the 2006 SAFE report, the sum of the 2007 and 2008 recommended final TACs for the BSAI (2,000,000 mt) is the same as the sum of the 2007 and 2008 proposed TACs. Compared to the 2007 and 2008 proposed harvest specifications, the Council's 2006 final TAC recommendations increase fishing opportunities for fishermen and economic benefits to the nation for species for which the Council had sufficient information to raise TAC levels. These species include BSAI flathead sole, Pacific cod, sablefish,

yellowfin sole, ''other flatfish,'' Pacific ocean perch, northern rockfish, ''other rockfish,'' and squid. Conversely, the Council reduced TAC levels to provide greater protection for several species including Bering Sea subarea pollock, rock sole, Greenland turbot, shortraker rockfish, rougheye rockfish, and ''other species.'' The changes recommended by the Council were based on the best scientific information available, consistent with National Standard 2 of the MSA, and within a reasonable range of variation from the proposed TAC recommendations so that the affected public was fairly apprised and could make meaningful comments.

COMPARISON OF FINAL 2007 AND 2008 WITH PROPOSED 2007 AND 2008 TOTAL ALLOWABLE CATCH IN THE BSAI

Species	Area	2007 final TAC	2007 proposed TAC	2007 final minus proposed	2008 final TAC	2008 proposed TAC	2008 final minus proposed
Pollock	BS	1,394,000	1,419,800	−25,800	1,318,000	1,168,700	149,300
	AI	19,000	19,000	0	19,000	19,000	0
	Bogoslof	10	10	0	10	10	0
Pacific cod	BSAI	170,720	144,045	26,675	127,070	118,049	9,021
Sablefish	BS	2,980	2,580	400	2,970	2,240	730
	AI	2,810	2,620	190	2,800	2,260	540
Atka mackerel	EAI/BS	23,800	16,782	7,018	17,600	24,481	*−6,881
	CAI	29,600	38,718	−9,118	22,000	27,728	−5,728
	WAI	9,600	7,500	2,100	15,300	12,891	2,409
Yellowfin sole	BSAI	136,000	117,100	18,900	150,000	106,400	43,600
Rock sole	BSAI	55,000	85,736	−30,736	75,000	111,600	−36,600
Greenland turbot	BS	1,680	1,815	−135	1,720	1,815	−95
	AI	760	815	−55	770	815	−45
Arrowtooth flounder	BSAI	20,000	20,000	0	30,000	144,800	−114,800
Flathead sole	BSAI	30,000	22,000	8,000	45,000	52,200	−7,200
Other flatfish	BSAI	10,000	5,000	5,000	21,400	18,100	3,300
Alaska plaice	BSAI	25,000	32,000	−7,000	60,000	129,637	−69,637
Pacific ocean perch	BS	2,160	3,020	−860	4,080	3,020	1,060
	EAI	4,970	3,322	1,648	4,900	3,322	1,578
	CAI	5,050	3,277	1,773	5,000	3,277	1,723
	WAI	7,720	5,481	2,239	7,620	5,481	2,139
Northern rockfish	BSAI	8,190	5,000	3,190	8,150	5,000	3,150
Shortraker rockfish	BSAI	424	580	−156	424	580	−156
Rougheye rockfish	BSAI	202	224	−22	202	224	−22
Other rockfish	BS	414	810	−396	414	810	−396
	AI	585	590	−5	585	590	−5
Squid	BSAI	1,970	1,275	695	1,970	1,970	0
Other species	BSAI	37,355	40,900	−3,545	58,015	35,000	23,015
Total		2,000,000	2,000,000	0	2,000,000	2,000,000	0

As mentioned in the 2007 and 2008 proposed harvest specifications, NMFS is apportioning the amounts shown in Table 2 from the non-specified reserve to increase the initial TAC (ITAC) of several target species.

NMFS is revising the BSAI species that will be allocated to the CDQ Program to include Bering Sea pollock, AI pollock, Pacific cod, sablefish from both the fixed gear and trawl gear allocations, Atka mackerel, yellowfin sole, rock sole, Bering Sea Greenland turbot, arrowtooth flounder, flathead sole, and AI Pacific ocean perch. This differs from the suite of species that NMFS proposed to allocate to the CDQ Program, as described in the 2007 and 2008 proposed harvest specifications (71 FR 75460, December 15, 2006). NMFS originally proposed, in addition to the species listed above, allocating AI Greenland turbot, ''other flatfish,'' and Alaska plaice to the CDQ Program. NMFS also proposed to not allocate sablefish from the trawl allocation to the CDQ Program.

Furthermore, NMFS is increasing the 2008 CDQ reserve allocations in Table 1 to 10.7 percent from 7.5 percent, except for pollock and sablefish. The statutory requirements and agency determination for changing the suite of species and percentage allocations made to the CDQ Program are described both in the 2007 and 2008 proposed harvest specifications and in the response to Comment 3 in the Response to Comments section of this action.

Catch in the CDQ fisheries of species in TAC categories that are not allocated to the CDQ Program will be managed under the regulations and fishery status that applies to the TAC category in the non-CDQ groundfish fisheries. Retention of species closed to directed fishing will either be limited to maximum retainable amounts or all catch of the species will be required to be discarded. Notices of closures to directed fishing and retention requirements for these species will apply to the CDQ and non-CDQ sectors. The catch of these species in the CDQ fisheries would not constrain the catch of other CDQ species unless catch by all sectors approached an OFL.

The 2007 and 2008 final TAC recommendations for the BSAI are within the OY range established for the BSAI and do not exceed ABCs for any single species or complex. Table 1 lists the 2007 and 2008 final OFL, ABC, TAC, ITAC, and CDQ reserve amounts of the BSAI groundfish. The apportionment of TAC amounts among fisheries and seasons is discussed below.

TABLE 1.—2007 AND 2008 OVERFISHING LEVEL (OFL), ACCEPTABLE BIOLOGICAL CATCH (ABC), TOTAL ALLOWABLE CATCH (TAC), INITIAL TAC (ITAC), AND CDQ RESERVE ALLOCATION OF GROUNDFISH IN THE BSAI [1]

[Amounts are in metric tons]

Species	Area	2007					2008				
		OFL	ABC	TAC	ITAC [2]	CDQ [3]	OFL	ABC	TAC	ITAC [2]	CDQ [3]
Pollock [4]	BS [2]	1,640,000	1,394,000	1,394,000	1,254,600	139,400	1,431,000	1,318,000	1,318,000	1,186,200	131,800
	AI [2]	54,500	44,500	19,000	17,100	1,900	50,300	41,000	19,000	17,100	1,900
	Bogoslof	48,000	5,220	10	10	0	48,000	5,220	10	10	0
Pacific cod [5]	BSAI	207,000	176,000	170,720	145,112	12,804	154,000	131,000	127,070	108,010	13,596
Sablefish [6]	BS	3,520	2,980	2,980	2,458	410	3,290	2,970	2,970	1,263	111
	AI	3,320	2,810	2,810	2,284	474	3,100	2,800	2,800	596	52
Atka mackerel	BSAI	86,900	74,000	63,000	53,550	4,725	64,200	54,900	54,900	46,665	5,874
	EAI/BS	n/a	23,800	23,800	20,230	1,785	n/a	17,600	17,600	14,960	1,883
	CAI	n/a	29,600	29,600	25,160	2,220	n/a	22,000	22,000	18,700	2,354
	WAI	n/a	20,600	9,600	8,160	720	n/a	15,300	15,300	13,005	1,637
Yellowfin sole	BSAI	240,000	225,000	136,000	115,600	10,200	261,000	245,000	150,000	127,500	16,050
Rock sole	BSAI	200,000	198,000	55,000	46,750	4,125	271,000	268,000	75,000	63,750	8,025
Greenland turbot	BSAI	15,600	2,440	2,440	2,074	n/a	16,000	2,490	2,490	2,117	n/a
	BS	n/a	1,680	1,680	1,428	126	n/a	1,720	1,720	1,462	184
	AI	n/a	760	760	646	0	n/a	770	770	655	0
Arrowtooth flounder	BSAI	193,000	158,000	20,000	17,000	1,500	208,000	171,000	30,000	25,500	3,210
Flathead sole	BSAI	95,300	79,200	30,000	25,500	2,250	92,800	77,200	45,000	38,250	4,815
Other flatfish [7]	BSAI	28,500	21,400	10,000	8,500	0	28,500	21,400	21,400	18,190	0
Alaska plaice	BSAI	241,000	190,000	25,000	21,250	0	252,000	199,000	60,000	51,000	0
Pacific ocean perch	BSAI	26,100	21,900	19,900	16,915	n/a	25,600	21,600	21,600	18,360	n/a
	BS	n/a	4,160	2,160	1,836	0	n/a	4,080	4,080	3,468	0
	EAI	n/a	4,970	4,970	4,225	373	n/a	4,900	4,900	4,165	524
	CAI	n/a	5,050	5,050	4,293	379	n/a	5,000	5,000	4,250	535
	WAI	n/a	7,720	7,720	6,562	579	n/a	7,620	7,620	6,477	815
Northern rockfish	BSAI	9,750	8,190	8,190	6,962	0	9,700	8,150	8,150	6,928	0
Shortraker rockfish	BSAI	564	424	424	360	0	564	424	424	360	0
Rougheye rockfish	BSAI	269	202	202	172	0	269	202	202	172	0
Other rockfish [8]	BSAI	1,330	999	999	849	0	1,330	999	999	849	0
	BS	n/a	414	414	352	0	n/a	414	414	352	0
	AI	n/a	585	585	497	0	n/a	585	585	497	0
Squid	BSAI	2,620	1,970	1,970	1,675	0	2,620	1,970	1,970	1,675	0
Other species [9]	BSAI	91,700	68,800	37,355	31,752	0	91,700	68,800	58,015	49,313	0
Total		3,188,973	2,676,035	2,000,000	1,770,474	179,245	3,014,973	2,642,125	2,000,000	1,763,808	187,491

[1] These amounts apply to the entire BSAI management area unless otherwise specified. With the exception of pollock, and for the purpose of these harvest specifications, the Bering Sea (BS) subarea includes the Bogoslof District.

[2] Except for pollock and the portion of the sablefish TAC allocated to hook-and-line and pot gear, 15 percent of each TAC is put into a reserve. The ITAC for each species is the remainder of the TAC after the subtraction of these reserves.

[3] Except for Aleutian Islands Greenland turbot, "other flatfish," Alaska plaice, Bering Sea Pacific ocean perch, northern rockfish, shortraker rockfish, rougheye rockfish, "other rockfish," squid, and "other species," 7.5 percent in 2007 and 10.7 percent in 2008 of the TAC is designated as a CDQ reserve for use by CDQ participants (see §§ 679.20(b)(1)(iii), 679.31, and section 305(i)(1)(B)(i) and (ii) of the MSA).

[4] Under § 679.20(a)(5)(i)(A)(*1*), the annual Bering Sea subarea pollock TAC after subtraction for the CDQ directed fishing allowance (10 percent) and the incidental catch allowance (2.8 percent), is further allocated by sector for a directed pollock fishery as follows: inshore—50 percent; catcher/processor—40 percent; and motherships—10 percent. Under § 679.20(a)(5)(iii)(B)(*2*)(*i*) and (*ii*), the annual Aleutian Islands subarea pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second for the incidental catch allowance (1,600 mt), is allocated to the Aleut Corporation for a directed pollock fishery.

[5] The Pacific cod TAC is reduced by 3 percent from the ABC to account for the State of Alaska's (State) guideline harvest level in State waters of the Aleutian Islands subarea.

[6] Twenty percent of the sablefish TAC allocated to hook-and-line gear or pot gear is reserved for use by CDQ participants (see § 679.20(b)(1)(iii)(B)).

[7] "Other flatfish" includes all flatfish species, except for halibut (a prohibited species), flathead sole, Greenland turbot, rock sole, yellowfin sole, arrowtooth flounder and Alaska plaice.

[8] "Other rockfish" includes all *Sebastes* and *Sebastolobus* species except for Pacific ocean perch, northern, shortraker, and rougheye rockfish.

[9] "Other species" includes sculpins, sharks, skates and octopus. Forage fish, as defined at § 679.2, are not included in the "other species" category.

Reserves and the Incidental Catch Allowance (ICA) for Pollock

Section 679.20(b)(1)(i) of the CFR requires the placement of 15 percent of the TAC for each target species or species group, except for pollock and the hook-and-line and pot gear allocation of sablefish, in a non-specified reserve. Section 679.20(b)(1)(iii)(A) of the CFR and section 305(i)(1)(B)(i) and (ii) of the MSA further require the allocation of one-half of each TAC amount that is placed in the non-specified reserve (7.5 percent of the TAC) in 2007 and 10.7 percent in 2008 be allocated to the groundfish CDQ reserve with the exception of Bogoslof pollock, Aleutian Islands Greenland turbot, ''other flatfish,'' Alaska plaice, Bering Sea Pacific ocean perch, northern rockfish, shortraker rockfish, rougheye rockfish, ''other rockfish,'' squid, and ''other species,'' as explained above. Section 679.20(b)(1)(iii)(B) requires 20 percent of the hook-and-line and pot gear allocation of sablefish be allocated to the fixed gear sablefish CDQ reserve. Sections 679.20(a)(5)(i)(A), 679.20(a)(5)(iii)(B)(*2*)(*i*), and 679.31(a) also require the allocation of 10 percent of the BSAI pollock TACs to the pollock CDQ directed fishing allowance (DFA). The entire Bogoslof District pollock TAC is allocated as an ICA (see § 679.20(a)(5)(ii)). With the exception of the hook-and-line and pot gear sablefish CDQ reserve, the regulations do not further apportion the CDQ reserves by gear. Section 679.21(e)(1)(i) requires withholding of 7.5 percent of each PSC limit, with the exception of herring, as a PSQ reserve for the CDQ fisheries. Sections 679.30 and 679.31 set forth regulations governing the management of the CDQ and PSQ reserves.

Pursuant to § 679.20(a)(5)(i)(A)(*1*), NMFS allocates a pollock ICA of 2.8 percent of the Bering Sea subarea pollock TAC after subtraction of the 10 percent CDQ reserve. This allowance is based on NMFS' examination of the pollock incidental catch, including the incidental catch by CDQ vessels, in target fisheries other than pollock from 1999 through 2006. During this 8-year period, the pollock incidental catch ranged from a low of 2.4 percent in 2006, to a high of 5 percent in 1999, with a 7-year average of 3.5 percent. Pursuant to § 679.20(a)(5)(iii)(B)(2)(*i*) and (*ii*), NMFS recommends pollock ICA of 1,600 mt for AI subarea pollock after subtraction of the 10 percent CDQ DFA. This allowance is based on NMFS' examination of the pollock incidental catch, including the incidental catch by CDQ vessels, in target fisheries other than pollock from 2003 through 2006. During this 4-year period, the incidental catch of pollock ranged from a low of 5 percent in 2006 to a high of 10 percent in 2003, with a 4-year average of 7 percent.

The regulations do not designate the remainder of the non-specified reserve by species or species group. Any amount of the reserve may be apportioned to a target species or to the ''other species'' category during the year, providing that such apportionments do not result in overfishing (see § 679.20(b)(1)(ii)). The Regional Administrator has determined that the ITACs specified for the species listed in Table 2 need to be supplemented from the non-specified reserve because U.S. fishing vessels have demonstrated the capacity to catch the full TAC allocations. Therefore, in accordance with § 679.20(b)(3), NMFS is apportioning the amounts shown in Table 2 from the non-specified reserve to increase the ITAC by 7.5 percent of the TAC in 2007. In 2008, northern rockfish, shortraker rockfish, rougheye rockfish, and Bering Sea ''other rockfish'' are increased by 7.5 percent of TAC and Atka mackerel, Pacific ocean perch, and Pacific cod by 4.3 percent of the TAC.

TABLE 2.—2007 AND 2008 APPORTIONMENT OF RESERVES TO ITAC CATEGORIES

[Amounts are in metric tons]

Species—area or subarea	2007 Reserve amount	2007 Final ITAC	2008 Reserve amount	2008 Final ITAC
Atka mackerel—Eastern Aleutian District and Bering Sea subarea	1,785	22,015	757	15,717
Atka mackerel—Central Aleutian District	2,220	27,380	946	19,646
Atka mackerel—Western Aleutian District	720	8,880	658	13,663
Pacific ocean perch—Eastern Aleutian District	373	4,598	211	4,376
Pacific ocean perch—Central Aleutian District	379	4,672	215	4,465
Pacific ocean perch—Western Aleutian District	579	7,141	328	6,805
Pacific cod—BSAI	12,804	157,916	5,464	113,474
Shortraker rockfish—BSAI	32	392	32	392
Rougheye rockfish—BSAI	15	187	15	187
Northern rockfish—BSAI	614	7,576	611	7,539
Other rockfish—Bering Sea subarea	31	383	31	383
Total	19,552	241,140	9,268	186,647

Allocation of Pollock TAC Under the American Fisheries Act (AFA)

Section 679.20(a)(5)(i)(A) requires that the pollock TAC apportioned to the Bering Sea subarea, after subtraction of the 10 percent for the CDQ program and the 2.8 percent for the ICA, be allocated as a DFA as follows: 50 percent to the inshore sector, 40 percent to the catcher/processor sector, and 10 percent to the mothership sector. In the Bering Sea subarea, 40 percent of the DFA is allocated to the A season (January 20–June 10) and 60 percent of the DFA is allocated to the B season (June 10–November 1). In October 2006, the State's Board of Fisheries adopted a proposal for a 3,000 mt pollock fishery in State waters of the AI subarea. However, this action by the State does not require a downward adjustment of the Federal AI subarea pollock TAC because the combined TAC and GHL (22,000 mt) are less than the proposed ABC of 44,500 mt. The AI directed pollock fishery allocation to the Aleut Corporation is the amount of pollock remaining in the AI subarea after subtracting 1,900 mt for the CDQ DFA (10 percent) and 1,600 mt for the ICA. In the AI subarea, 40 percent of the ABC is allocated to the A season and the remainder of the directed pollock fishery is allocated to the B season. Table 3 lists these 2007 and 2008 amounts.

Section 679.20(a)(5)(i)(A)(*4*) also includes several specific requirements

regarding pollock allocations. First, 8.5 percent of the pollock allocated to the catcher/processor sector will be available for harvest by AFA catcher vessels with catcher/processor sector endorsements, unless the Regional Administrator receives a cooperative contract that provides for the distribution of harvest among AFA catcher/processors and AFA catcher vessels in a manner agreed to by all members. Second, AFA catcher/processors not listed in the AFA are limited to harvesting not more than 0.5 percent of the pollock allocated to the catcher/processor sector. Table 3 lists the 2007 and 2008 allocations of pollock TAC. Tables 10 through 15 list the AFA catcher/processor and catcher vessel harvesting sideboard limits. The tables for the pollock allocations to the Bering Sea subarea inshore pollock cooperatives and open access sector will be posted on the Alaska Region Web site at *http://www.fakr.noaa.gov.*

Table 3 also lists seasonal apportionments of pollock and harvest limits within the Steller Sea Lion Conservation Area (SCA). The harvest within the SCA, as defined at § 679.22(a)(7)(vii), is limited to 28 percent of the annual DFA until April 1. The remaining 12 percent of the 40 percent of the annual DFA allocated to the A season may be taken outside the SCA before April 1 or inside the SCA after April 1. If less than 28 percent of the annual DFA is taken inside the SCA before April 1, the remainder will be available to be taken inside the SCA after April 1. The A season pollock SCA harvest limit will be apportioned to each sector in proportion to each sector's allocated percentage of the DFA. Table 3 lists by sector these 2007 and 2008 amounts.

TABLE 3.—2007 AND 2008 ALLOCATIONS OF POLLOCK TACS TO THE DIRECTED POLLOCK FISHERIES AND TO THE CDQ DIRECTED FISHING ALLOWANCES (DFA) [1]

[Amounts are in metric tons]

Area and sector	2007 Allocations	2007 A season [1]		2007 B season [1]	2008 Allocations	2008 A season [1]		2008 B season [1]
		A season DFA	SCA harvest limit [2]	B season DFA		A season DFA	SCA harvest limit [2]	B season DFA
Bering Sea subarea	1,394,000	n/a	n/a	n/a	1,318,000	n/a	n/a	n/a
CDQ DFA	139,400	55,760	39,032	83,640	131,800	52,720	36,904	79,080
ICA [1]	35,129	n/a	n/a	n/a	33,214	n/a	n/a	n/a
AFA Inshore	609,736	243,894	170,726	365,841	576,493	230,597	161,418	345,896
AFA Catcher/Processors [3]	487,788	195,115	136,581	292,673	461,195	184,478	129,134	276,717
Catch by C/Ps	446,326	178,531	n/a	267,796	421,993	168,797	n/a	253,196
Catch by CVs [3]	41,462	16,585	n/a	24,877	39,202	15,681	n/a	23,521
Unlisted C/P Limit [4]	2,439	976	n/a	1,463	2,306	922	n/a	1,384
AFA Motherships	121,947	48,779	34,145	73,168	115,299	46,119	32,284	69,179
Excessive Harvesting Limit [5]	213,407	n/a	n/a	n/a	201,773	n/a	n/a	n/a
Excessive Processing Limit [6]	365,841	n/a	n/a	n/a	345,896	n/a	n/a	n/a
Total Bering Sea DFA	1,358,871	543,548	380,484	815,322	1,284,787	513,914	359,740	770,872
Aleutian Islands subarea [1]	19,000	n/a	n/a	n/a	19,000	n/a	n/a	n/a
CDQ DFA	1,900	760	n/a	1,140	1,900	760	n/a	1,140
ICA	1,600	800	n/a	800	1,600	800	n/a	800
Aleut Corporation	15,500	15,500	n/a	0	15,500	15,500	n/a	0
Bogoslof District ICA [7]	10	n/a	n/a	n/a	10	n/a	n/a	n/a

[1] Pursuant to § 679.20(a)(5)(i)(A), the Bering Sea subarea pollock, after subtraction for the CDQ DFA (10 percent) and the ICA (2.8 percent), is allocated as a DFA as follows: inshore sector—50 percent, catcher/processor sector—40 percent, and mothership sector—10 percent. In the Bering Sea subarea, 40 percent of the DFA is allocated to the A season (January 20–June 10) and 60 percent of the DFA is allocated to the B season (June 10–November 1). Pursuant to § 679.20(a)(5)(iii)(B)(*2*)(*i*) and (*ii*), the annual AI pollock TAC, after subtracting first for the CDQ directed fishing allowance (10 percent) and second the ICA (1,600 mt), is allocated to the Aleut Corporation for a directed pollock fishery. In the AI subarea, the A season is allocated 40 percent of the ABC and the B season is allocated the remainder of the directed pollock fishery.

[2] In the Bering Sea subarea, no more than 28 percent of each sector's annual DFA may be taken from the SCA before April 1. The remaining 12 percent of the annual DFA allocated to the A season may be taken outside of SCA before April 1 or inside the SCA after April 1. If less than 28 percent of the annual DFA is taken inside the SCA before April 1, the remainder will be available to be taken inside the SCA after April 1.

[3] Pursuant to § 679.20(a)(5)(i)(A)(*4*), not less than 8.5 percent of the DFA allocated to listed catcher/processors shall be available for harvest only by eligible catcher vessels delivering to listed catcher/processors.

[4] Pursuant to § 679.20(a)(5)(i)(A)(*4*)(*iii*), the AFA unlisted catcher/processors are limited to harvesting not more than 0.5 percent of the catcher/processors sector's allocation of pollock.

[5] Pursuant to § 679.20(a)(5)(i)(A)(*6*), NMFS establishes an excessive harvesting share limit equal to 17.5 percent of the sum of the pollock DFAs.

[6] Pursuant to § 679.20(a)(5)(i)(A)(*7*), NMFS establishes an excessive processing share limit equal to 30.0 percent of the sum of the pollock DFAs.

[7] The Bogoslof District is closed by the final harvest specifications to directed fishing for pollock. The amounts specified are for ICA only, and are not apportioned by season or sector.

Allocation of the Atka Mackerel ITAC

Pursuant to § 679.20(a)(8)(i), up to 2 percent of the Eastern Aleutian District and the Bering Sea subarea Atka mackerel ITAC may be allocated to jig gear. The amount of this allocation is determined annually by the Council based on several criteria, including the anticipated harvest capacity of the jig gear fleet. The Council recommended, and NMFS approved, a 1 percent allocation of the Atka mackerel ITAC in the Eastern Aleutian District and the Bering Sea subarea to the jig gear in 2007 and 2008. Based on the 2007 ITAC of 22,015 mt, the jig gear allocation would be 220 mt for 2007. Based on the 2008 ITAC of 15,717 mt, the jig gear allocation would be 157 mt for 2008.

Section § 679.20(a)(8)(ii)(A) apportions the Atka mackerel ITAC into two equal seasonal allowances. After subtraction of the jig gear allocation, the first seasonal allowance is made available for directed fishing from January 1 (January 20 for trawl gear) to

April 15 (A season), and the second seasonal allowance is made available from September 1 to November 1 (B season; Table 4).

Pursuant to § 679.20(a)(8)(ii)(C)(*1*), the Regional Administrator will establish a harvest limit area (HLA) limit of no more than 60 percent of the seasonal TAC for the Western and Central Aleutian Districts. A lottery system is used for the HLA Atka mackerel directed fisheries to reduce the amount of daily catch in the HLA by about half and to disperse the fishery over two districts (see § 679.20(a)(8)(iii)).

TABLE 4.—2007 AND 2008 SEASONAL AND SPATIAL ALLOWANCES, GEAR SHARES, AND CDQ RESERVE OF THE BSAI ATKA MACKEREL TAC[1]

[Amounts are in metric tons]

Subarea and component	2007 TAC	2007 CDQ reserve[2]	2007 CDQ reserve HLA limit[5]	2007 ITAC	2007 Seasonal allowances[3]			
					A season[4]		B season[4]	
					Total	HLA limit[5]	Total	HLA limit[5]
Western AI District	9,600	720	432	8,880	4,440	2,664	4,440	2,664
Central AI District	29,600	2,220	1,332	27,380	13,690	8,214	13,690	8,214
EAI/BS subarea[6]	23,800	1,785	n/a	22,015	n/a	n/a	n/a	n/a
Jig (1%)[7]	n/a	n/a	n/a	220	n/a	n/a	n/a	n/a
Other gear (99%)	n/a	n/a	n/a	21,795	10,897	n/a	10,897	n/a
Total	63,000	n/a	n/a	n/a	29,027	n/a	29,027	n/a

Subarea and component	2008 TAC	2008 CDQ reserve[2]	2008 CDQ reserve HLA limit[5]	2008 ITAC	2008 Seasonal allowances[3]			
					A season[4]		B season[4]	
					Total	HLA limit[5]	Total	HLA limit[5]
Western AI District	15,300	1,637	982	13,663	6,831	4,099	6,831	4,099
Central AI District	22,000	2,354	1,412	19,646	9,823	5,894	9,823	5,894
EAI/BS subarea[6]	17,600	1,883	n/a	15,717	n/a	n/a	n/a	n/a
Jig (1%)[7]	n/a	n/a	n/a	157	n/a	n/a	n/a	n/a
Other gear (99%)	n/a	n/a	n/a	15,560	7,780	n/a	7,780	n/a
Total	54,900	n/a	n/a	n/a	24,434	n/a	24,434	n/a

[1] Regulations at §§ 679.20(a)(8)(ii) and 679.22(a) establish temporal and spatial limitations for the Atka mackerel fishery.
[2] The CDQ reserve is 7.5 percent in 2007 and 10.7 percent in 2008 of the TAC for use by CDQ participants (see §§ 679.20(b)(1)(iii), 679.31, and section 305(i)(1)(B)(i) and (ii) of the MSA).
[3] The seasonal allowances of Atka mackerel are 50 percent in the A season and 50 percent in the B season.
[4] The A season is January 1 (January 20 for trawl gear) to April 15 and the B season is September 1 to November 1.
[5] Harvest Limit Area (HLA) limit refers to the amount of each seasonal allowance that is available for fishing inside the HLA (see § 679.2). In 2007 and 2008, 60 percent of each seasonal allowance is available for fishing inside the HLA in the Western and Central Aleutian Districts.
[6] Eastern Aleutian District and the Bering Sea subarea.
[7] Regulations at § 679.20 (a)(8)(i) require that up to 2 percent of the Eastern Aleutian District and the Bering Sea subarea ITAC be allocated to jig gear. The amount of this allocation is 1 percent. The jig gear allocation is not apportioned by season.

Allocation of the Pacific cod ITAC

Pursuant to § 679.20(a)(7)(i)(A), 2 percent of the Pacific cod ITAC is allocated to vessels using jig gear, 51 percent to vessels using hook-and-line or pot gear, and 47 percent to vessels using trawl gear. Section 679.20(a)(7)(i)(B) further allocates the portion of the Pacific cod ITAC allocated to trawl gear as 50 percent to catcher vessels and 50 percent to catcher/processors. Section 679.20(a)(7)(i)(C)(*1*) sets aside a portion of the Pacific cod ITAC allocated to hook-and-line or pot gear as an ICA of Pacific cod in directed fisheries for groundfish using these gear types. The Regional Administrator specifies an ICA of 500 mt for 2007 and 2008 based on anticipated incidental catch in these fisheries. The remainder of Pacific cod ITAC is further allocated to vessels using hook-and-line or pot gear as the following DFAs: 80 percent to hook-and-line catcher/processors, 0.3 percent to hook-and-line catcher vessels, 3.3 percent to pot catcher/processors, 15 percent to pot catcher vessels, and 1.4 percent to catcher vessels under 60 ft (18.3 m) length overall (LOA) using hook-and-line or pot gear.

Due to concerns about the potential impact of the Pacific cod fishery on Steller sea lions and their critical habitat, the Pacific cod ITAC is apportioned into seasonal allowances to disperse the Pacific cod fisheries over the fishing year (see §§ 679.20(a)(7)(iii)(A) and 679.23(e)(5)). For pot and most hook-and-line gear, the first seasonal allowance of 60 percent of the ITAC is made available for directed fishing from January 1 to June 10, and the second seasonal allowance of 40 percent of the ITAC is made available from June 10 (September 1 for pot gear) to December 31. No seasonal harvest constraints are imposed for the Pacific cod fishery by catcher vessels less than 60 ft (18.3 m) LOA using hook-and-line or pot gear. For trawl gear, the first season is January 20 to April 1 and is allocated 60 percent of the ITAC. The second season, April 1 to June 10, and the third season, June 10 to November 1, are each allocated 20 percent of the ITAC. The trawl catcher vessel allocation is further allocated as 70 percent in the first season, 10 percent in the second season and 20 percent in the third season. The trawl catcher/processor allocation is allocated 50 percent in the first season, 30 percent in

the second season, and 20 percent in the third season. For jig gear, the first season and third seasons are each allocated 40 percent of the ITAC and the second season is allocated 20 percent of the ITAC. Table 5 lists the 2007 and 2008 allocations and seasonal apportionments of the Pacific cod ITAC. In accordance with § 679.20(a)(7)(ii)(D) and (a)(7)(iii)(B), any unused portion of a seasonal Pacific cod allowance will become available at the beginning of the next seasonal allowance.

TABLE 5.—2007 AND 2008 GEAR SHARES AND SEASONAL ALLOWANCES OF THE BSAI PACIFIC COD ITAC

[Amounts are in metric tons]

Gear sector	Percent	2007 share of gear sector total	2007 subtotal percentages for gear sectors	2007 share of gear sector total	2007 seasonal apportionment [1]		2008 share of gear sector total	2008 subtotal percentages for gear sectors	2008 share of gear sector total	2008 seasonal apportionment [1]	
					Date	Amount				Date	Amount
Total hook-and-line/pot gear.	51	80,537	n/a	n/a	n/a	n/a	57,872	n/a	n/a	n/a	n/a
Hook-and-line/pot ICA.	n/a	n/a	n/a	500	n/a	n/a	n/a	n/a	500	n/a	n/a
Hook-and-line/pot sub-total.	n/a	80,037	n/a	n/a	n/a	n/a	57,372	n/a	n/a	n/a	n/a
Hook-and-line C/P	n/a	n/a	80	64,030	Jan 1–Jun 10	38,419	n/a	80	45,897	Jan 1–Jun 10	27,538
					Jun 10–Dec 31	25,611				Jun 10–Dec 31	18,359
Hook-and-line CV	n/a	n/a	0.3	240	Jan 1–Jun 10	144	n/a	0.3	172	Jan 1–Jun 10	103
					Jun 10–Dec 31	96				Jun 10–Dec 31	69
Pot C/P	n/a	n/a	3.3	2,641	Jan 1–Jun 10	1,586	n/a	3.3	1,893	Jan 1–Jun 10	1,136
					Sept 1–Dec 31	1,055				Sept 1–Dec 31	757
Pot CV	n/a	n/a	15	12,006	Jan 1–Jun 10	7,203	n/a	15	8,606	Jan 1–Jun 10	5,163
					Sept 1–Dec 31	4,803				Sept 1–Dec 31	3,443
CV < 60 ft LOA using Hook-and-line or Pot gear.	n/a	n/a	1.4	1,121	n/a	n/a	n/a	1.4	803	n/a	n/a
Total Trawl Gear	47	74,221	n/a	n/a	n/a	n/a	53,333	n/a	n/a	n/a	n/a
Trawl CV			50	37,110	Jan 20–Apr 1	25,977		50	26,666	Jan 20–Apr 1	18,666
				n/a	Apr 1–Jun 10	3,711			n/a	Apr 1–Jun 10	2,667
				n/a	Jun 10–Nov 1	7,422			n/a	Jun 10–Nov 1	5,333
Trawl CP			50	37,110	Jan 20–Apr 1	18,555		50	26,666	Jan 20–Apr 1	13,333
				n/a	Apr 1–Jun 10	11,133			n/a	Apr 1–Jun 10	8,000
				n/a	Jun 10–Nov 1	7,422			n/a	Jun 10–Nov 1	5,333
Jig	2	3,158	n/a	n/a	Jan 1–Apr 30	1,263	2,269	n/a	n/a	Jan 1–Apr 30	908
			n/a	n/a	Apr 30–Aug 31	632		n/a	n/a	Apr 30–Aug 31	453
			n/a	n/a	Aug 31–Dec 31	1,263		n/a	n/a	Aug 31–Dec 31	908
Total	100	157,916	n/a	n/a	n/a	n/a	113,474	n/a	n/a	n/a	n/a

[1] For most non-trawl gear the first season is allocated 60 percent of the ITAC and the second season is allocated 40 percent of the ITAC. For jig gear, the first season and third seasons are each allocated 40 percent of the ITAC and the second season is allocated 20 percent of the ITAC. No seasonal harvest constraints are imposed for the Pacific cod fishery by catcher vessels less than 60 ft (18.3 m) LOA using hook-and-line or pot gear. For trawl gear, the first season is allocated 60 percent of the ITAC and the second and third seasons are each allocated 20 percent of the ITAC. The trawl catcher vessels' allocation is further allocated as 70 percent in the first season, 10 percent in the second season and 20 percent in the third season. The trawl catcher/processors' allocation is allocated 50 percent in the first season, 30 percent in the second season and 20 percent in the third season. Any unused portion of a seasonal Pacific cod allowance will be reapportioned to the next seasonal allowance.

Sablefish Gear Allocation

Sections 679.20(a)(4)(iii) and (iv) require the allocation of sablefish TACs for the Bering Sea and AI subareas between trawl and hook-and-line or pot gear. Gear allocations of the TACs for the Bering Sea subarea are 50 percent for trawl gear and 50 percent for hook-and-line or pot gear and for the AI subarea are 25 percent for trawl gear and 75 percent for hook-and-line or pot gear. Section 679.20(b)(1)(iii)(B) requires apportionment of 20 percent of the hook-and-line and pot gear allocation of sablefish to the CDQ reserve. The Council recommended that only trawl sablefish TAC be established biennially. The harvest specifications for the hook-and-line gear and pot gear sablefish Individual Fishing Quota (IFQ) fisheries will be limited to the 2007 fishing year to ensure those fisheries are conducted concurrent with the halibut IFQ fishery. Concurrent sablefish and halibut IFQ fisheries would reduce the potential for discards of halibut and sablefish in those fisheries. The sablefish IFQ fisheries will remain closed at the beginning of each fishing year until the final specifications for the sablefish IFQ fisheries are in effect. Table 6 lists the 2007 and 2008 gear allocations of the sablefish TAC and CDQ reserve amounts.

TABLE 6.—2007 AND 2008 GEAR SHARES AND CDQ RESERVE OF BSAI SABLEFISH TACS

[Amounts are in metric tons]

Subarea and gear	Percent of TAC	2007 Share of TAC	2007 ITAC	2007 CDQ reserve	2008 Share of TAC	2008 ITAC	2008 CDQ reserve
Bering Sea:							
Trawl [1]	50	1,490	1,266	112	1,485	1,263	111
Hook-and-line/pot gear [2]	50	1,490	1,192	298	n/a	n/a	n/a
Total	100	2,980	2,458	410	1,485	1,263	111

TABLE 6.—2007 AND 2008 GEAR SHARES AND CDQ RESERVE OF BSAI SABLEFISH TACS—Continued

[Amounts are in metric tons]

Subarea and gear	Percent of TAC	2007 Share of TAC	2007 ITAC	2007 CDQ reserve	2008 Share of TAC	2008 ITAC	2008 CDQ reserve
Aleutian Islands:							
Trawl [1]	25	702	597	52	700	596	52
Hook-and-line/pot gear [2]	75	2,108	1,686	422	n/a	n/a	n/a
Total	100	2,810	2,283	474	2,800	596	52

[1] Except for the sablefish hook-and-line or pot gear allocation, 15 percent of TAC is apportioned to the reserve. The ITAC is the remainder of the TAC after the subtraction of these reserves.

[2] For the portion of the sablefish TAC allocated to vessels using hook-and-line or pot gear, 20 percent of the allocated TAC is reserved for use by CDQ participants. The Council recommended that specifications for the hook-and-line gear sablefish IFQ fisheries be limited to 1 year.

Allocation of PSC Limits for Halibut, Salmon, Crab, and Herring

Section 679.21(e) sets forth the BSAI PSC limits. Pursuant to § 679.21(e)(1)(v) and (e)(2)(i), the BSAI halibut mortality limits are 3,675 mt for trawl fisheries and 900 mt for the non-trawl fisheries. Section 679.21(e)(1)(i) allocates 7.5 percent of these halibut mortality limits as the PSQ reserve for use by the groundfish CDQ program. Section 679.21(e)(1)(vii) specifies 29,000 fish as the 2007 and 2008 Chinook salmon PSC limit for the Bering Sea subarea pollock fishery. Section 679.21(e)(1)(i) allocates 7.5 percent, or 2,175 Chinook salmon, as the PSQ reserve for the CDQ program and allocates the remaining 26,825 Chinook salmon to the non-CDQ fisheries. Section 679.21(e)(1)(ix) specifies 700 fish as the 2007 and 2008 Chinook salmon PSC limit for the AI subarea pollock fishery. Section 679.21(e)(1)(i) allocates 7.5 percent, or 53 Chinook salmon, as the AI subarea PSQ for the CDQ program and allocates the remaining 647 Chinook salmon to the non-CDQ fisheries. Section 679.21(e)(1)(viii) specifies 42,000 fish as the 2007 and 2008 non-Chinook salmon PSC limit. Section 679.21(e)(1)(i) allocates 7.5 percent, or 3,150 non-Chinook salmon, as the PSQ for the CDQ program and allocates the remaining 38,850 non-Chinook salmon to the non-CDQ fisheries.

PSC limits for crab and herring are specified annually based on abundance and spawning biomass. The red king crab mature female abundance is estimated from the 2006 survey data at 29.7 million red king crabs and the effective spawning biomass is estimated as 157 million pounds (71,215 mt). Based on the criteria set out at § 679.21(e)(1)(ii), the 2007 and 2008 PSC limit of red king crab in Zone 1 for trawl gear is 197,000 animals. This limit results from the mature female abundance being above 8.4 million king crab and the effective spawning biomass estimate being greater than 55 million pounds (24,948 mt).

Section 679.21(e)(3)(ii)(B) establishes criteria under which NMFS must specify an annual red king crab bycatch limit for the Red King Crab Savings Subarea (RKCSS). The regulations limit the RKCSS to up to 35 percent of the trawl bycatch allowance specified for the rock sole/flathead sole/''other flatfish'' fishery category based on the need to optimize the groundfish harvest relative to red king crab bycatch. The Council recommended, and NMFS approves, a red king crab bycatch limit equal to 35 percent of the trawl bycatch allowance specified for the rock sole/flathead sole/''other flatfish'' fishery category within the RKCSS.

Based on 2006 survey data, Tanner crab (Chionoecetes bairdi) abundance is estimated as 866 million animals. Given the criteria set out at § 679.21(e)(1)(iii), the 2007 and 2008 C. bairdi crab PSC limit for trawl gear is 980,000 animals in Zone 1 and 2,970,000 animals in Zone 2. These limits result from the C. bairdi crab abundance estimate of over 400 million animals.

Pursuant to § 679.21(e)(1)(iv), the PSC limit for snow crab (C. opilio) is based on total abundance as indicated by the NMFS annual bottom trawl survey. The C. opilio crab PSC limit is set at 0.1133 percent of the Bering Sea abundance index. Based on the 2006 survey estimate of 3.25 billion animals, the calculated limit is 4,350,000 animals.

Pursuant to § 679.21(e)(1)(i), 7.5 percent of each PSC limit specified for halibut and crab is allocated as a PSQ reserve for use by the groundfish CDQ program.

Pursuant to § 679.21(e)(1)(vi), the PSC limit of Pacific herring caught while conducting any trawl operation for BSAI groundfish is 1 percent of the annual eastern Bering Sea herring biomass. The best estimate of 2007 and 2008 herring biomass is 178,652 mt. This amount was derived using 2006 survey data and an age-structured biomass projection model developed by the Alaska Department of Fish and Game. Therefore, the herring PSC limit for 2007 and 2008 is 1,787 mt.

Section § 679.21(e)(3) requires the apportionment of each trawl PSC limit into PSC bycatch allowances for seven specified fishery categories. Section 679.21(e)(4)(ii) authorizes the apportionment of the non-trawl halibut PSC limit into PSC bycatch allowances among five fishery categories. Table 7 lists the fishery bycatch allowances for the trawl and non-trawl fisheries.

Section 679.21(e)(4)(ii) authorizes the exemption of specified non-trawl fisheries from the halibut PSC limit. As in past years, NMFS, after consultation with the Council, exempts pot gear, jig gear, and the sablefish IFQ hook-and-line gear fishery categories from halibut bycatch restrictions because (1) The pot gear fisheries have low halibut bycatch mortality, (2) halibut mortality for the jig gear fleet is assumed to be negligible, and (3) the sablefish and halibut IFQ fisheries have low halibut bycatch mortality because the IFQ program (subpart D of 50 CFR part 679) requires legal-sized halibut to be retained by vessels using hook-and-line gear if a halibut IFQ permit holder or a hired master is aboard and is holding unused halibut IFQ. In 2006, total groundfish catch for the pot gear fishery in the BSAI was approximately 19,721 mt, with an associated halibut bycatch mortality of about 5 mt. The 2006 jig gear fishery harvested about 84 mt of groundfish. Most vessels in the jig gear fleet are less than 60 ft (18.3 m) LOA and thus are exempt from observer coverage requirements. As a result, observer data are not available on halibut bycatch in the jig gear fishery. However, a negligible amount of halibut bycatch mortality is assumed because of the selective nature of jig gear and the low mortality rate of halibut caught with jig gear and released.

Section 679.21(e)(5) authorizes NMFS, after consultation with the Council, to establish seasonal apportionments of PSC amounts in order to maximize the ability of the fleet

to harvest the available groundfish TAC and to minimize bycatch. The factors to be considered are (1) Seasonal distribution of prohibited species, (2) seasonal distribution of target groundfish species, (3) PSC bycatch needs on a seasonal basis relevant to prohibited species biomass, (4) expected variations in bycatch rates throughout the year, (5) expected start of fishing effort, and (6) economic effects of seasonal PSC apportionments on industry sectors. The Council recommended and NMFS approves the seasonal PSC apportionments in Table 7 to maximize harvest among gear types, fisheries, and seasons while minimizing bycatch of PSC based on the above criteria.

TABLE 7.—2007 AND 2008 PROHIBITED SPECIES BYCATCH ALLOWANCES FOR THE BSAI TRAWL AND NON-TRAWL FISHERIES

Trawl Fisheries	Prohibited species and zone					
	Halibut mortality (mt) BSAI	Herring (mt) BSAI	Red King Crab (animals) Zone 1 [1]	*C. opilio* (animals) COBLZ [1]	*C. bairdi* (animals)	
					Zone 1 [1]	Zone 2 [1]
Yellowfin sole	936	153	33,843	3,098,288	340,844	1,788,459
January 20–April 1	312	n/a	n/a	n/a	n/a	n/a
April 1–May 21	195	n/a	n/a	n/a	n/a	n/a
May 21–July 1	49	n/a	n/a	n/a	n/a	n/a
July 1–December 31	380	n/a	n/a	n/a	n/a	n/a
Rock sole/other flat/flathead sole [2]	829	27	121,413	643,800	365,320	596,154
January 20–April 1	498	n/a	n/a	n/a	n/a	n/a
April 1–July 1	164	n/a	n/a	n/a	n/a	n/a
July 1–December 31	167	n/a	n/a	n/a	n/a	n/a
Turbot/arrowtooth/sablefish [3]	n/a	12	n/a	40,238	n/a	n/a
Rockfish	n/a	n/a	n/a	n/a	n/a	n/a
July 1–December 31	69	10	n/a	40,237	n/a	10,988
Pacific cod	1,334	27	26,563	120,712	183,112	324,176
Midwater trawl pollock	n/a	1,364	n/a	n/a	n/a	n/a
Pollock/Atka mackerel/other [4]	232	194	406	80,475	17,224	27,473
Red King Crab Savings Subarea [5]	n/a	n/a	n/a	n/a	n/a	n/a
(non-pelagic trawl)	n/a	n/a	42,495	n/a	n/a	n/a
Total trawl PSC	3,400	1,787	182,225	4,023,750	906,500	2,747,250
Non-trawl Fisheries						
Pacific cod—Total	775					
January 1–June 10	320					
June 10–August 15	0					
August 15–December 31	455					
Other non-trawl—Total	58					
May 1–December 31	58					
Groundfish pot and jig	exempt					
Sablefish hook-and-line	exempt					
Total non-trawl PSC	833					
PSQ reserve [6]	342	n/a	14,775	326,250	73,500	222,750
PSC grand total	4,575	1,787	197,000	4,350,000	980,000	2,970,000

[1] Refer to § 679.2 for definitions of areas.
[2] "Other flatfish" for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), Greenland turbot, rock sole, yellowfin sole and arrowtooth flounder.
[3] Greenland turbot, arrowtooth flounder, and sablefish fishery category.
[4] Pollock other than pelagic trawl pollock, Atka mackerel, and "other species" fishery category.
[5] In December 2006, the Council recommended that red king crab bycatch for trawl fisheries within the RKCSS be limited to 35 percent of the total allocation to the rock sole/flathead sole/"other flatfish" fishery category (see § 679.21(e)(3)(ii)(B)).
[6] With the exception of herring, 7.5 percent of each PSC limit is allocated to the CDQ program as PSQ reserve. The PSQ reserve is not allocated by fishery, gear or season.

Halibut Discard Mortality Rates

To monitor halibut bycatch mortality allowances and apportionments, the Regional Administrator uses observed halibut bycatch rates, discard mortality rates (DMR), and estimates of groundfish catch to project when a fishery's halibut bycatch mortality allowance or seasonal apportionment is reached. The DMRs are based on the best information available, including information contained in the annual SAFE report.

The Council recommended, and NMFS approves, the halibut DMRs developed and recommended by staff of the International Pacific Halibut Commission (IPHC) for the 2007 and 2008 BSAI groundfish fisheries. These DMRs will be used for monitoring the 2007 and 2008 halibut bycatch allowances (see Table 8). The IPHC developed these DMRs using the 10-year mean DMRs for the BSAI non-CDQ groundfish fisheries. The IPHC will analyze observer data annually and recommend changes to the DMR where a fishery DMR shows large variation from the mean. The IPHC has been

calculating the DMRs for the CDQ fisheries since 1998, and a 10-year mean is not yet available. Until 10 years of data from CDQ fishing has been collected, recommendations will be based on averaging all available data. The justification for the DMRs is discussed in Appendix A of the 2006 SAFE report dated November 2006 and is available from the Council (see **ADDRESSES**).

TABLE 8.—2007 AND 2008 ASSUMED PACIFIC HALIBUT DISCARD MORTALITY RATES FOR THE BSAI

Gear	Fishery	Halibut mortality (percent)
Hook-and-line	Greenland turbot	13
	Other species	11
	Pacific cod	11
	Rockfish	17
Trawl	Arrowtooth flounder	75
	Atka mackerel	76
	Flathead sole	70
	Greenland turbot	70
	Non-pelagic pollock	74
	Pelagic pollock	88
	Other flatfish	74
	Other species	70
	Pacific cod	70
	Rockfish	76
	Rock sole	80
	Sablefish	75
	Yellowfin sole	80
Pot	Other species	7
	Pacific cod	7
CDQ trawl	Atka mackerel	86
	Flathead sole	70
	Non-pelagic pollock	85
	Pelagic pollock	90
	Rockfish	76
	Yellowfin sole	86
CDQ hook-and-line	Greenland turbot	13
	Pacific cod	10
CDQ pot	Pacific cod	7
	Sablefish	34

Directed Fishing Closures

In accordance with § 679.20(d)(1)(i), the Regional Administrator may establish a DFA for a species or species group, if the Regional Administrator determines that any allocation or apportionment of a target species or ''other species'' category has been or will be reached. If the Regional Administrator establishes a DFA, and that allowance is or will be reached before the end of the fishing year, NMFS will prohibit directed fishing for that species or species group in the specified subarea or district (see § 697.20(d)(1)(iii)). Similarly, pursuant to § 679.21(e), if the Regional Administrator determines that a fishery category's bycatch allowance of halibut, red king crab, C. bairdi crab or C. opilio crab for a specified area has been reached, the Regional Administrator will prohibit directed fishing for each species in that category in the specified area.

The Regional Administrator has determined that the remaining allocation amounts in Table 9 will be necessary as incidental catch to support other anticipated groundfish fisheries for the 2007 and 2008 fishing years.

TABLE 9.—2007 AND 2008 DIRECTED FISHING CLOSURES [1]

[Amounts are in metric tons]

Area	Species	2007 Incidental catch allowance	2008 Incidental catch allowance
Bogoslof District	Pollock	10	10
Aleutian Islands subarea	ICA Pollock	1,600	1,600
	''Other rockfish''	497	497
Bering Sea subarea	Pacific ocean perch	1,836	3,468
	''Other rockfish''	383	383
	ICA Pollock	35,129	33,214
Bering Sea and Aleutian Islands	Northern rockfish	7,576	7,539
	Shortraker rockfish	392	392
	Rougheye rockfish	187	187
	''Other species''	31,752	49,313

[1] Maximum retainable amounts may be found in Table 11 to 50 CFR part 679.

Consequently, in accordance with § 679.20(d)(1)(i), the Regional Administrator establishes the DFA for the above species or species groups as zero. Therefore, in accordance with § 679.20(d)(1)(iii), NMFS is prohibiting directed fishing for these species in the specified areas effective at 1200 hrs, A.l.t., March 2, 2007, through 2400 hrs, A.l.t., December 31, 2008.

In addition, the BSAI Zone 1 annual red king crab allowance specified for the trawl rockfish fishery (see § 679.21(e)(3)(iv)(D)) is 0 mt and the BSAI first seasonal halibut bycatch allowance specified for the trawl rockfish fishery is 0 mt. Also, the BSAI annual halibut bycatch allowance specified for the trawl Greenland turbot/arrowtooth flounder/sablefish fishery categories is 0 mt (see § 679.21(e)(3)(iv)(C)). Therefore, in accordance with § 679.21(e)(7)(ii) and (v), NMFS is prohibiting directed fishing for rockfish by vessels using trawl gear in Zone 1 of the BSAI and directed fishing for Greenland turbot/arrowtooth flounder/sablefish by vessels using trawl gear in the BSAI effective at 1200 hrs, A.l.t., March 2, 2007, through 2400 hrs, A.l.t., December 31, 2008. NMFS also is prohibiting directed fishing for rockfish outside Zone 1 in the BSAI through 1200 hrs, A.l.t., July 1, 2007, for 2007 and July 1, 2008, for 2008.

Under authority of the 2006 and 2007 final harvest specifications (71 FR 10894, March 3, 2006), NMFS prohibited directed fishing for Atka mackerel in the Eastern Aleutian District and the Bering Sea subarea of the BSAI effective 1200 hrs, A.l.t., February 3, 2007, through 1200 hrs, A.l.t., September 1, 2007 (72 FR 5644, February 7, 2007). NMFS opened the first directed fisheries in the HLA in area 542 and area 543 effective 1200 hrs, A.l.t., February 5, 2007. The first HLA fishery in area 542 remained open through 1200 hrs, A.l.t., February 19, 2007. The first HLA fishery in area 543 remained open through 1200 hrs, A.l.t., February 6, 2007. The second directed fisheries in the HLA in area 542 and area 543 opened effective 1200 hrs, A.l.t., February 21, 2007. The second HLA fishery in area 542 remained open through 1200 hrs, A.l.t., March 7, 2007. The second HLA fishery in area 543 remained open through 1200 hrs, A.l.t., February 22, 2007. NMFS prohibited directed fishing for Pacific cod by catcher vessels 60 ft (18.3 m) LOA and longer using pot gear in the BSAI, effective 12 hrs, A.l.t., January 26, 2007 through 1200 hrs, A.l.t., September 1, 2007 (72 FR 4217, January 30, 2007). NMFS prohibited directed fishing for non-CDQ pollock with trawl gear in the Chinook Salmon Savings Areas of the BSAI, effective 12 noon, A.l.t., February 6, 2007, through 12 noon, A.l.t., April 15, 2007, and from 12 noon, A.l.t., September 1, 2007, through 12 midnight, A.l.t., December 31, 2007 (72 FR 6178, February 9, 2007). NMFS prohibited directed fishing for Pacific cod by catcher processor vessels using hook-and-line gear in the BSAI, effective 12 noon, A.l.t., February 12 2007, until 12 noon, A.l.t., August 15, 2007 (72 FR 7354, February 15, 2007). NMFS closed directed fishing for the rock sole, flathead sole, and ''other flatfish'' fishery category by vessels using trawl gear in the BSAI effective 12 noon, A.l.t., February 17, 2007 through 12 noon, A.l.t., April 1, 2007 (72 FR xxxx, February 22, 2007). NMFS prohibiting directed fishing for Pacific cod by catcher processor vessels using pot gear in the BSAI, effective 12 noon, A.l.t., February 20, 2007 through 1200 hrs, A.l.t., September 1, 2007 (72 FR xxxx, February 23, 2007). NMFS prohibited directed fishing for Pacific cod by catcher vessels 60 feet (18.3 meters (m)) LOA and longer using hook-and-line gear in the BSAI, effective 12 noon, A.l.t., February 21, 2007 (72 FR xxxx, February 26, 2007).

These closures remain effective under authority of these 2007 and 2008 final harvest specifications. These closures supersede the closures announced under authority of the 2006 and 2007 final harvest specifications (71 FR 10894, March 3, 2006). While these closures are in effect, the maximum retainable amounts at § 679.20(e) and (f) apply at any time during a fishing trip. These closures to directed fishing are in addition to closures and prohibitions found in regulations at 50 CFR part 679.

Amendment 68 Sideboards

Section 802 of the Consolidated Appropriations Act of 2004 (Public Law 108–199) grants NMFS specific statutory authority to manage the Central Gulf of Alaska rockfish fisheries. The Council adopted a Central Gulf of Alaska Rockfish Pilot Program (Rockfish Program) to meet the requirements of Section 802 on June 6, 2005. The Secretary approved Amendment 68 on August 11, 2006. The elements of the Rockfish Program are discussed in detail in the proposed and final rules for Amendment 68 to the FMP for Groundfish of the GOA (71 FR 33040, June 7, 2006 and 71 FR 67210, November 20, 2006, respectively). The final rule for Amendment 68 includes prohibitions on catcher vessels fishing specific groundfish fisheries in the BSAI and limitations on fishing Pacific cod in the BSAI during July. The basis for the fishing prohibitions and the BSAI catcher vessel Pacific cod sideboard limit is described in detail in the final rule for Amendment 68 (71 FR 67210, November 20, 2006). Section 679.82(d)(6)(i) establishes the BSAI catcher vessel Pacific cod sideboard limit as 0.0 mt. Therefore, in accordance with § 679.82(d)(7)(ii), NMFS is prohibiting directed fishing for BSAI Pacific cod in July for catcher vessels under the Rockfish Program sideboard limitations.

Listed AFA Catcher/Processor Sideboard Limits

According to § 679.64(a), the Regional Administrator will restrict the ability of listed AFA catcher/processors to engage in directed fishing for groundfish species other than pollock to protect participants in other groundfish fisheries from adverse effects resulting from the AFA and from fishery cooperatives in the directed pollock fishery. The basis for these sideboard limits is described in detail in the final rule implementing major provisions of the AFA (67 FR 79692, December 30, 2002). Table 10 lists the 2007 and 2008 catcher/processor sideboard limits.

All groundfish other than pollock that are harvested by listed AFA catcher/processors, whether as targeted catch or incidental catch, will be deducted from the sideboard limits in Table 10. However, groundfish other than pollock that are delivered to listed catcher/processors by catcher vessels will not be deducted from the 2007 and 2008 sideboard limits for the listed catcher/processors.

TABLE 10.—2007 AND 2008 LISTED BSAI AMERICAN FISHERIES ACT CATCHER/PROCESSOR GROUNDFISH SIDEBOARD LIMITS

[Amounts are in metric tons]

Target species	Area	1995–1997			2007 ITAC available to trawl C/Ps	2007 C/P sideboard limit	2008 ITAC available to trawl C/Ps	2008 C/P sideboard limit
		Retained catch	Total catch	Ratio of retained catch to total catch				
Pacific cod trawl	BSAI	12,424	48,177	0.258	37,110	9,574	26,666	6,880
Sablefish trawl	BS	8	497	0.016	1,266	20	1,263	20
	AI	0	145	0.000	597	0	596	0
Atka mackerel	Central AI	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	A season[1]	n/a	n/a	0.115	13,690	1,574	9,823	1,130
	HLA limit[2]	n/a	n/a	n/a	8,214	945	5,894	678
	B season[1]	n/a	n/a	0.115	13,690	1,574	9,823	1,130
	HLA limit[2]	n/a	n/a	n/a	8,214	945	5,894	678
	Western AI	n/a	n/a	n/a	n/a	n/a	n/a	n/a
	A season[1]	n/a	n/a	0.200	4,440	888	6,831	1,366
	HLA limit[2]	n/a	n/a	n/a	2,664	533	4,099	820
	B season[1]	n/a	n/a	0.200	4,440	888	6,831	1,366
	HLA limit[2]	n/a	n/a	n/a	2,664	533	4,099	820
Yellowfin sole	BSAI	100,192	435,788	0.230	115,600	26,588	127,500	29,325
Rock sole	BSAI	6,317	169,362	0.037	46,750	1,730	63,750	2,359
Greenland turbot	BS	121	17,305	0.007	1,428	10	1,462	10
	AI	23	4,987	0.005	646	3	655	3
Arrowtooth flounder	BSAI	76	33,987	0.002	17,000	34	25,500	51
Flathead sole	BSAI	1,925	52,755	0.036	25,500	918	38,250	1,377
Alaska plaice	BSAI	14	9,438	0.001	21,250	21	51,000	51
Other flatfish	BSAI	3,058	52,298	0.058	8,500	493	18,190	1,055
Pacific ocean perch	BS	12	4,879	0.002	1,836	4	3,468	7
	Eastern AI	125	6,179	0.020	4,598	92	4,376	88
	Central AI	3	5,698	0.001	4,672	5	4,465	4
	Western AI	54	13,598	0.004	7,141	29	6,805	27
Northern rockfish	BSAI	91	13,040	0.007	7,576	53	7,539	53
Shortraker rockfish	BSAI	50	2,811	0.018	392	7	392	7
Rougheye rockfish	BSAI	50	2,811	0.018	187	3	187	3
Other rockfish	BS	18	621	0.029	383	11	383	11
	AI	22	806	0.027	497	13	497	13
Squid	BSAI	73	3,328	0.022	1,675	37	1,675	37
Other species	BSAI	553	68,672	0.008	31,752	254	49,313	395

[1] The seasonal apportionment of Atka mackerel in the open access fishery is 50 percent in the A season and 50 percent in the B season. Listed AFA catcher/processors are limited to harvesting no more than zero in the Eastern Aleutian District and Bering Sea subarea, 20 percent of the annual ITAC specified for the Western Aleutian District, and 11.5 percent of the annual ITAC specified for the Central Aleutian District.

[2] Harvest Limit Area (HLA) limit refers to the amount of each seasonal allowance that is available for fishing inside the HLA (see § 679.2). In 2007 and 2008, 60 percent of each seasonal allowance is available for fishing inside the HLA in the Western and Central Aleutian Districts.

Section 679.64(a)(5) establishes a formula for PSC sideboard limits for listed AFA catcher/processors. The basis for these sideboard limits is described in detail in the final rule implementing major provisions of the AFA (67 FR 79692, December 30, 2002).

PSC species listed in Table 11 that are caught by listed AFA catcher/processors participating in any groundfish fishery other than pollock will accrue against the 2007 and 2008 PSC sideboard limits for the listed AFA catcher/processors. Section 679.21(e)(3)(v) authorizes NMFS to close directed fishing for groundfish other than pollock for listed AFA catcher/processors once a 2007 or 2008 PSC sideboard limit listed in Table 11 is reached.

Crab or halibut PSC caught by listed AFA catcher/processors while fishing for pollock will accrue against the bycatch allowances annually specified for either the midwater pollock or the pollock/Atka mackerel/''other species'' fishery categories under regulations at § 679.21(e)(3)(iv).

TABLE 11.—2007 AND 2008 BSAI AMERICAN FISHERIES ACT LISTED CATCHER/PROCESSOR PROHIBITED SPECIES SIDEBOARD LIMITS [1]

PSC species	1995–1997			2007 and 2008 PSC available to trawl vessels	2007 and 2008 C/P sideboard limit
	PSC catch	Total PSC	Ratio of PSC catch to total PSC		
Halibut mortality	955	11,325	0.084	3,400	286
Red king crab	3,098	473,750	0.007	182,225	1,276
C. opilio[2]	2,323,731	15,139,178	0.153	4,023,750	615,634
C. bairdi	n/a	n/a	n/a	n/a	n/a

TABLE 11.—2007 AND 2008 BSAI AMERICAN FISHERIES ACT LISTED CATCHER/PROCESSOR PROHIBITED SPECIES SIDEBOARD LIMITS [1]—Continued

PSC species	1995–1997			2007 and 2008 PSC available to trawl vessels	2007 and 2008 C/P sideboard limit
	PSC catch	Total PSC	Ratio of PSC catch to total PSC		
Zone 1 [2]	385,978	2,750,000	0.140	906,500	126,910
Zone 2 [2]	406,860	8,100,000	0.050	2,747,250	137,363

[1] Halibut amounts are in metric tons of halibut mortality. Crab amounts are in numbers of animals.
[2] Refer to § 679.2 for definitions of areas.

AFA Catcher Vessel Sideboard Limits

Pursuant to § 679.64(a), the Regional Administrator restricts the ability of AFA catcher vessels to engage in directed fishing for groundfish species other than pollock to protect participants in other groundfish fisheries from adverse effects resulting from the AFA and from fishery cooperatives in the directed pollock fishery. Section 679.64(b) establishes a formula for setting AFA catcher vessel groundfish and PSC sideboard limits for the BSAI. The basis for these sideboard limits is described in detail in the final rule implementing major provisions of the AFA (67 FR 79692, December 30, 2002). Tables 12 and 13 list the 2007 and 2008 AFA catcher vessel sideboard limits.

All harvests of groundfish sideboard species made by non-exempt AFA catcher vessels, whether as targeted catch or incidental catch, will be deducted from the sideboard limits listed in Table 12.

TABLE 12.—2007 AND 2008 BSAI AMERICAN FISHERIES ACT CATCHER VESSEL SIDEBOARD LIMITS

[Amounts are in metric tons]

Species	Fishery by area/season/processor/gear	Ratio of 1995–1997 AFA CV catch to 1995–1997 TAC	2007 initial TAC	2007 Catcher vessel sideboard limits	2008 initial TAC	2008 Catcher vessel sideboard limits
Pacific cod	BSAI	n/a	n/a	n/a	n/a	n/a
	Jig gear	0.0000	3,158	0	2,269	0
	Hook-and-line CV	n/a	n/a	n/a	n/a	n/a
	Jan 1–Jun 10	0.0006	144	0	103	0
	Jun 10–Dec 31	0.0006	96	0	69	0
	Pot gear CV	n/a	n/a	n/a	n/a	n/a
	Jan 1–Jun 10	0.0006	7,203	4	5,163	3
	Sept 1–Dec 31	0.0006	4,803	3	3,443	2
	CV < 60 feet LOA using hook-and-line or pot gear.	0.0006	1,121	1	803	0
	Trawl gear CV	n/a	n/a	n/a	n/a	n/a
	Jan 20–Apr 1	0.8609	25,977	22,364	18,666	16,070
	Apr 1–Jun 10	0.8609	3,711	3,195	2,667	2,296
	Jun 10–Nov 1	0.8609	7,422	6,390	5,333	4,591
Sablefish	BS trawl gear	0.0906	1,266	115	1,263	114
	AI trawl gear	0.0645	597	39	596	38
Atka mackerel	Eastern AI/BS	n/a	n/a	n/a	n/a	n/a
	Jig gear	0.0031	220	1	157	0
	Other gear	n/a	n/a	n/a	n/a	n/a
	Jan 1–Apr 15	0.0032	10,897	35	7,780	25
	Sept 1–Nov 1	0.0032	10,897	35	7,780	25
	Central AI	n/a	n/a	n/a	n/a	n/a
	Jan–Apr 15	0.0001	13,690	1	9,823	1
	HLA limit	0.0001	8,214	1	5,894	1
	Sept 1–Nov 1	0.0001	13,690	1	9,823	1
	HLA limit	0.0001	8,214	1	5,894	1
	Western AI	n/a	n/a	n/a	n/a	n/a
	Jan–Apr 15	0.0000	4,440	0	6,831	0
	HLA limit	n/a	2,664	0	4,099	0
	Sept 1–Nov 1	0.0000	4,440	0	6,831	0
	HLA limit	n/a	2,664	0	4,099	0
Yellowfin sole	BSAI	0.0647	115,600	7,479	127,500	8,249
Rock sole	BSAI	0.0341	46,750	1,594	63,750	2,174
Greenland Turbot	BS	0.0645	1,428	92	1,462	94
	AI	0.0205	646	13	655	13
Arrowtooth flounder	BSAI	0.0690	17,000	1,173	25,500	1,760
Alaska plaice	BSAI	0.0441	21,250	937	51,000	2,249
Other flatfish	BSAI	0.0441	8,500	375	18,190	802
Pacific ocean perch	BS	0.1000	1,836	184	3,468	347
	Eastern AI	0.0077	4,598	35	4,376	34

TABLE 12.—2007 AND 2008 BSAI AMERICAN FISHERIES ACT CATCHER VESSEL SIDEBOARD LIMITS—Continued

[Amounts are in metric tons]

Species	Fishery by area/season/processor/gear	Ratio of 1995–1997 AFA CV catch to 1995–1997 TAC	2007 initial TAC	2007 Catcher vessel sideboard limits	2008 initial TAC	2008 Catcher vessel sideboard limits
	Central AI	0.0025	4,672	12	4,465	11
	Western AI	0.0000	7,141	0	6,805	0
Northern rockfish	BSAI	0.0084	7,576	64	7,539	63
Shortraker rockfish	BSAI	0.0037	392	1	392	1
Rougheye rockfish	BSAI	0.0037	187	1	187	1
Other rockfish	BS	0.0048	383	2	383	2
	AI	0.0095	497	5	497	5
Squid	BSAI	0.3827	1,675	641	1,675	641
Other species	BSAI	0.0541	31,752	1,718	49,313	2,668
Flathead Sole	BS trawl gear	0.0505	25,500	1,288	38,250	1,932

Halibut and crab PSC listed in Table 13 that are caught by AFA catcher vessels participating in any groundfish fishery for groundfish other than pollock will accrue against the 2007 and 2008 PSC sideboard limits for the AFA catcher vessels. Sections 679.21(d)(8) and (e)(3)(v) provide authority to close directed fishing for groundfish other than pollock for AFA catcher vessels once a 2007 or 2008 PSC sideboard limit listed in Table 13 is reached. The PSC that is caught by AFA catcher vessels while fishing for pollock in the BSAI will accrue against the bycatch allowances annually specified for either the midwater pollock or the pollock/Atka mackerel/''other species'' fishery categories under regulations at § 679.21(e)(3)(iv).

TABLE 13.—2007 AND 2008 AMERICAN FISHERIES ACT CATCHER VESSEL PROHIBITED SPECIES CATCH SIDEBOARD LIMITS FOR THE BSAI [1]

[Amounts are in metric tons]

PSC species	Target fishery category [2]	Ratio of 1995–1997 AFA CV retained catch to total retained catch	2007 and 2008 PSC limit	2007 and 2008 AFA catcher vessel PSC sideboard limit
Halibut	Pacific cod trawl	0.6183	1,334	825
	Pacific cod hook-and-line or pot	0.0022	775	2
	Yellowfin sole	n/a	n/a	n/a
	January 20–April 1	0.1144	312	36
	April 1–May 21	0.1144	195	22
	May 21–July 1	0.1144	49	6
	July 1–December 31	0.1144	380	43
	Rock sole/flathead sole/other flatfish [5]	n/a	n/a	n/a
	January 20–April 1	0.2841	498	141
	April 1–July 1	0.2841	164	47
	July 1–December 31	0.2841	167	47
	Turbot/Arrowtooth/Sablefish	0.2327	0	0
	Rockfish (July 1–December 31)	0.0245	69	2
	Pollock/Atka mackerel/other species	0.0227	232	5
Red King Crab Zone 1 [3 4]	Pacific cod	0.6183	26,563	16,424
	Yellowfin sole	0.1144	33,843	3,872
	Rock sole/flathead sole/other flatfish [5]	0.2841	121,413	34,493
	Pollock/Atka mackerel/other species	0.0227	406	9
C. opilio COBLZ [3]	Pacific cod	0.6183	120,712	74,636
	Yellowfin sole	0.1144	3,098,288	354,444
	Rock sole/flathead sole/other flatfish [5]	0.2841	643,800	182,904
	Pollock/Atka mackerel/other species	0.0227	120,712	2,740
	Rockfish	0.0245	40,237	986
	Turbot/Arrowtooth/Sablefish	0.2327	40,238	9,363
C. bairdi Zone 1 [3]	Pacific cod	0.6183	183,112	113,218
	Yellowfin sole	0.1144	340,844	38,993
	Rock sole/flathead sole/other flatfish [5]	0.2841	365,320	103,787
	Pollock/Atka mackerel/other species	0.0227	17,224	391
C. bairdi Zone 2 [3]	Pacific cod	0.6183	324,176	200,438
	Yellowfin sole	0.1144	1,788,459	204,600
	Rock sole/flathead sole/other flatfish [5]	0.2841	596,154	169,367
	Pollock/Atka mackerel/other species	0.0227	27,473	624

TABLE 13.—2007 AND 2008 AMERICAN FISHERIES ACT CATCHER VESSEL PROHIBITED SPECIES CATCH SIDEBOARD LIMITS FOR THE BSAI [1]—Continued

[Amounts are in metric tons]

PSC species	Target fishery category [2]	Ratio of 1995–1997 AFA CV retained catch to total retained catch	2007 and 2008 PSC limit	2007 and 2008 AFA catcher vessel PSC sideboard limit
	Rockfish	0.0245	10,988	269

[1] Halibut amounts are in metric tons of halibut mortality. Crab amounts are in numbers of animals.
[2] Target fishery categories are defined in regulation at § 679.21(e)(3)(iv).
[3] Refer to § 679.2 for definitions of areas.
[4] In December 2006, the Council recommended that red king crab bycatch for trawl fisheries within the RKCSS be limited to 35 percent of the total allocation to the rock sole/flathead sole/''other flatfish'' fishery category (see § 679.21(e)(3)(ii)(B)).
[5] ''Other flatfish'' for PSC monitoring includes all flatfish species, except for halibut (a prohibited species), Greenland turbot, rock sole, yellowfin sole, arrowtooth flounder.

Sideboard Directed Fishing Closures

AFA Catcher/Processor and Catcher Vessel Sideboard Closures

The Regional Administrator has determined that many of the AFA catcher/processor and catcher vessel sideboard limits listed in Tables 14 and 15 are necessary as incidental catch to support other anticipated groundfish fisheries for the 2007 fishing year. In accordance with § 679.20(d)(1)(iv), the Regional Administrator establishes the sideboard limits listed in Tables 14 and 15 as DFAs. The Regional Administrator finds that many of these DFAs will be reached before the end of the year. Therefore, in accordance with § 679.20(d)(1)(iii), NMFS is prohibiting directed fishing by listed AFA catcher/processors for the species in the specified areas set out in Table 14 and directed fishing by non-exempt AFA catcher vessels for the species in the specified areas set out in Table 15.

TABLE 14.—2007 AND 2008 AMERICAN FISHERIES ACT LISTED CATCHER/PROCESSOR SIDEBOARD DIRECTED FISHING CLOSURES [1]

[Amounts are in metric tons]

Species	Area	Gear types	2007 Sideboard limit	2008 Sideboard limit
Sablefish trawl	BS	Trawl	20	20
	AI	Trawl	0	0
Rock sole	BSAI	all	1,730	2,359
Greenland turbot	BS	all	10	10
	AI	all	3	3
Arrowtooth flounder	BSAI	all	34	51
Pacific ocean perch	BS	all	4	7
	Eastern AI	all	92	88
	Central AI	all	5	4
	Western AI	all	29	27
Northern rockfish	BSAI	all	53	53
Shortraker rockfish	BSAI	all	7	7
Rougheye rockfish	BSAI	all	3	3
Other rockfish	BS	all	11	11
	AI	all	13	13
Squid	BSAI	all	37	37
''Other species''	BSAI	all	254	395

[1] Maximum retainable amounts may be found in Table 11 to 50 CFR part 679.

TABLE 15.—2007 AND 2008 AMERICAN FISHERIES ACT CATCHER VESSEL SIDEBOARD DIRECTED FISHING CLOSURES [1]

[Amounts are in metric tons]

Species	Area	Gear types	2007 Sideboard limit	2008 Sideboard limit
Pacific cod	BSAI	hook-and-line	0	0
	BSAI	pot	8	5
	BSAI	jig	0	0
Sablefish	BS	trawl	115	114
	AI	trawl	39	38
Atka mackerel	Eastern AI/BS	jig	1	0
	Eastern AI/BS	other	70	50
	Central AI	all	2	2
	Western AI	all	0	0

TABLE 15.—2007 AND 2008 AMERICAN FISHERIES ACT CATCHER VESSEL SIDEBOARD DIRECTED FISHING CLOSURES [1]—Continued

[Amounts are in metric tons]

Species	Area	Gear types	2007 Sideboard limit	2008 Sideboard limit
Greenland turbot	BS	all	92	94
	AI	all	13	13
Arrowtooth flounder	BSAI	all	1,173	1,760
Pacific ocean perch	BS	all	184	347
	Eastern AI	all	35	34
	Central AI	all	12	11
	Western AI	all	0	0
Northern rockfish	BSAI	all	64	63
Shortraker rockfish	BSAI	all	1	1
Rougheye rockfish	BSAI	all	1	1
Other rockfish	BS	all	2	2
	AI	all	5	5
Squid	BSAI	all	641	641
''Other species''	BSAI	all	1,718	2,668

[1] Maximum retainable amounts may be found in Table 11 to 50 CFR part 679.

Response to Comments

NMFS received 4 letters of comment (19 comments) in response to proposed the 2007 and 2008 harvest specifications. These comments are summarized and responded to below.

Comment 1: All quotas should be cut in half this year and cut by 10 percent each year thereafter until we stop starving the marine life that depends on eating this fish too.

Response: The decisions on the amount of harvest are based on the best available science and socioeconomic considerations. NMFS finds that the ABCs and TACs are consistent with the biological condition of the groundfish stocks as described in the 2006 SAFE report and approved by the Council.

Comment 2: The Council, SSC and Advisory Panel recommended that the Alaska Fisheries Science Center convene a Pacific cod model workshop to consider recommendations from an industry sponsored review for changes to the stock assessment model. We are advised that preparations are underway for such a workshop to be held during the second quarter of 2007. We appreciate this effort and look forward to the results and to the next TAC-setting process.

Response: NMFS supports an Alaska Fisheries Science Center workshop in 2007 to evaluate the Pacific cod model.

Comment 3: NMFS should define ''directed fishery'' for purposes of CDQ allocations as the target species list in the Council's December 2005 final action on management of CDQ reserves.

Response: This comment was submitted by the Western Alaska Community Development Association, which is the CDQ Program administrative panel (''CDQ Panel'') created under the MSA. The CDQ Panel proposed an alternative interpretation of the term ''directed fishery'' in section 305(i)(1) of the MSA. The interpretation of this term determines which species or species groups are allocated to the CDQ Program in the annual harvest specifications.

As described in the 2007 and 2008 proposed harvest specifications for the BSAI, section 305(i)(1) of the MSA was amended on July 11, 2006, by the Coast Guard and Maritime Transportation Act of 2006. Section 305(i)(1)(B)(i) of the MSA now requires that ''the annual percentage of the total allowable catch, guideline harvest level, or other annual catch limit allocated to the program in each directed fishery of the Bering Sea and Aleutian Islands shall be the percentage approved by the Secretary, or established by Federal law, as of March 1, 2006, for the program.''

Prior to this amendment, the MSA stated that ''a percentage of the total allowable catch of any Bering Sea fishery is allocated to the program.'' Since 1998, NMFS has allocated to the CDQ Program a percentage of each groundfish TAC category, except squid.

Section 305(i)(1) was amended again on January 12, 2007, by the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2006 (Public Law 109–479). This legislation amended section 305(i)(1)(B)(ii)(I) of the MSA. This section now requires that ''the allocation under the program for each directed fishery of the Bering Sea and Aleutian Islands (other than a fishery for halibut, sablefish, pollock, and crab) shall be a total allocation (directed and nontarget combined) of 10.7 percent effective January 1, 2008.''

As a result of these two MSA amendments, allocations of groundfish species or species groups to the CDQ Program in 2007 will be made under section 305(i)(1)(B)(i). Starting on January 1, 2008, allocations of groundfish other than pollock or sablefish will be made under section 305(i)(1)(B)(ii)(I). Allocations of pollock and sablefish in 2008 and thereafter will continue to be made under section 305(i)(1)(B)(i).

The MSA requires allocation to the CDQ Program of a percentage of ''each directed fishery of the Bering Sea and Aleutian Islands.'' However, Congress did not define the term ''directed fishery'' in section 305(i)(1) or in other provisions of the MSA. NMFS proposed that the term be interpreted to mean each species or species group with a TAC that was open for directed fishing in the BSAI in 2006. While this interpretation initially appeared consistent with the language of section 305(i)(1), it did not take into consideration whether the species or species group open for directed fishing was economically valuable or whether participants in the BSAI groundfish fishery actually conducted directed fishing for the species or species group during the open period.

The CDQ Panel submitted a comment to NMFS that disagreed with this interpretation and requested that NMFS define ''directed fishery'' as the list of target species the Council identified for the CDQ Program in December 2005. The CDQ Panel suggested that the term ''directed fishery'' means the same thing as a target fishery and referenced the analysis NMFS prepared for the Council's 2005 action as support for this recommendation. In that analysis,

NMFS wrote that target species are those species of economic importance that are caught as the primary focus of a directed fishery.

After consideration of the CDQ Panel's comments, and upon re-examination of NMFS's proposed interpretation, the statutory language, and the legislative history, NMFS has determined that the term ''directed fishery'' for purposes of section 305(i)(1) of the MSA means a fishery for which sufficient quota exists to open a directed fishery for that species or species group, and the species or species group is economically valuable enough for vessel operators to conduct directed fishing for that species or species group. NMFS determined that this interpretation of the term ''directed fishery'' for purposes of section 305(i)(1) is a more reasonable interpretation because it is more consistent with Congressional intent.

Legislative history for section 305(i)(1)(B)(i) indicates that Congress did not intend ''directed fishery'' to include minor species that are not economically valuable or to include species or species groups that lack sufficient quota to open them to directed fishing. NMFS notes that because the definition of ''directed fishery'' is based on legislative history for section 305(i)(1), the definition is only applicable for purposes of section 305(i)(1). While NMFS does not find adequate support for the definition of ''directed fishery'' proposed by the CDQ Panel, as explained in greater detail below, the application of NMFS's revised definition of ''directed fishery'' results in the allocation of the same species and species groups as was recommended by the CDQ Panel with only one exception for Bogoslof pollock.

Under NMFS's definition of ''directed fishery,'' most of the species and species groups NMFS proposed to allocate to the CDQ Program in 2007 and 2008 will remain the same. NMFS proposed that Bering Sea pollock, AI pollock, Pacific cod, sablefish from the fixed gear allocation, Atka mackerel, yellowfin sole, rock sole, Bering Sea Greenland turbot, arrowtooth flounder, flathead sole, and AI Pacific ocean perch be allocated to the CDQ Program in 2007 and 2008 and has determined that these species continue to meet the definition of ''directed fishery'' for purposes of section 305(i)(1) of the MSA because sufficient quota exists to open a directed fishery for these species and the species are economically valuable. The CDQ groups reported directed fisheries for all of these species in 2006. The Council and the CDQ Panel also recommended that these species be allocated to the CDQ Program.

Additionally, most of the species and species groups NMFS proposed not to allocate to the CDQ Program in 2007 and 2008 will remain the same. NMFS proposed that Bering Sea Pacific ocean perch, northern rockfish, shortraker rockfish, rougheye rockfish, ''other rockfish,'' squid, and ''other species'' not be allocated to the CDQ Program in 2007 and 2008 and has determined that these species and species groups still do not meet the definition of ''directed fishery'' for purposes of section 305(i)(1). Sufficient quota does not exist to open directed fisheries for any of these species or species groups, except squid. Although sufficient quota exists to open squid to directed fishing, it is not economically valuable enough for the CDQ groups to target. The CDQ groups did not report directed fishing for squid in 2006, although they could have done so. The Council and the CDQ Panel also recommended that these species and species groups not be allocated to the CDQ Program.

Under NMFS's proposed definition of ''directed fishery,'' AI Greenland turbot, ''other flatfish,'' and Alaska plaice would have been allocated to the CDQ Program in 2007 and 2008 because directed fishing was open for these species in the BSAI in 2006. However, AI Greenland turbot, ''other flatfish,'' and Alaska plaice are not directed fisheries of the BSAI for purposes of section 305(i)(1) of the MSA under the revised definition of ''directed fishery.'' Although sufficient quota exists to open these quota categories to directed fishing, these species are not economically valuable enough for the CDQ groups to target them. The CDQ groups could have conducted directed fisheries for all of these species in 2006, but they did not report doing so. It is reasonable to assume that the CDQ groups did not conduct directed fisheries for these species because they are not economically valuable enough to justify doing so. Therefore, these species do not meet the second part of the definition of ''directed fishery'' for purposes of section 305(i)(1) and are not allocated to the CDQ Program for 2007 and 2008. Both the Council and the CDQ Panel recommended that these species and species groups not be allocated to the CDQ Program. If, at some point in the future, these species become economically valuable and sufficient quota exists to support directed fisheries, these species would be allocated to the CDQ Program.

Under NMFS's proposed definition of ''directed fishery,'' allocations of Bogoslof pollock and the trawl allocations of sablefish in the Bering Sea subarea and the AI subarea would not have been made to the CDQ Program in 2007 and 2008 because directed fishing was not allowed for these quota categories in 2006. Both the Council and the CDQ Panel recommended that these species be allocated to the CDQ Program.

Section 679.20(a)(5)(ii) allows the allocation of a portion of the Bogoslof pollock TAC to the CDQ Program if directed fishing for pollock is allowed by regulation in this district. However, directed fishing for pollock currently is not allowed in the Bogoslof District. The pollock TAC is set at a low level and all of it is allocated as an ICA for both the CDQ and non-CDQ sectors. NMFS has determined that Bogoslof pollock does not meet the first part of the definition of a ''directed fishery'' for purposes of section 305(i)(1) of the MSA because insufficient TAC exists to support a directed fishery. Therefore, NMFS will not allocate Bogoslof pollock to the CDQ Program for 2007 and 2008. In the future, if sufficient TAC exists to allow directed fishing for pollock in the Bogoslof District, current regulations would provide for a DFA of 10 percent of this TAC to the CDQ Program.

The sablefish TACs in the Bering Sea subarea and the AI subarea are first allocated between hook-and-line or pot gear (fixed gear) and trawl gear. After those gear allocations are made, 20 percent of the fixed gear allocation and 7.5 percent of the trawl allocation is allocated to the CDQ Program as two separate sablefish CDQ reserves in each subarea. Under current regulations, only catch of sablefish with fixed gear may accrue against the fixed gear sablefish CDQ reserve. However, any gear type may be used to harvest sablefish that accrues against the sablefish CDQ reserve that originated from the trawl allocation of sablefish. In addition, although directed fishing for sablefish using trawl gear is prohibited for the non-CDQ sectors, this prohibition was not applied to the CDQ fisheries. Instead, the CDQ groups are prohibited from exceeding either of their sablefish allocations and they must decide how to allocate sablefish among gear types and directed fisheries to stay within their allocations. The indirect result of these allocations is that NMFS has allowed directed fishing for sablefish on the sablefish CDQ reserve that originates from the trawl allocation of sablefish. Therefore, NMFS has determined that both trawl allocations of sablefish to the CDQ Program meet the definition of a ''directed fishery'' for purposes of section 305(i)(1) of the MSA. Sufficient quota exists to allow directed fishing for sablefish and sablefish is an economically valuable species that for

which directed fisheries are conducted in both the CDQ and non-CDQ sectors. Based on this finding, NMFS will continue to allocate 7.5 percent of the trawl allocation of sablefish to the CDQ Program.

Comment 4: The proposed harvest specifications and accompanying Alaska Groundfish Harvest Specifications Environmental Impact Statement (EIS) do not represent a substantial implementation of the Alaska Groundfish Fisheries Final Programmatic Supplemental Environmental Impact Statement (PSEIS) policy statement, but rather a transparent attempt to indemnify the agency against the inadequacies of the status quo harvest strategy. The proposed harvest specifications lack the perspective of the ecosystem-based policy framework outlined in the PSEIS because there are no explicit procedures in the TAC-setting process to address the impacts of single-species fishing strategies on dependent and related species and their habitats in an ecosystem context. Therefore, the policy framework outlined in the PSEIS has not been implemented in the regulations governing the operation of the groundfish fisheries. Under the proposed harvest specifications, ecosystem concerns would remain at best ancillary to the process of allocating fish and maximizing short-term economic benefits.

Response: The preferred harvest strategy alternative described in the EIS is derived from the policy adopted as the preferred alternative in the PSEIS (see **ADDRESSES**) and is one of the actions necessary to implement that policy statement. Ecosystem concerns are integral to the EIS analysis. The purpose of the EIS is to describe the potential environmental impacts of the alternative harvest strategies, including an analysis of the potential impacts of these alternatives on ecosystem components and the ecosystem as a whole.

In addition to the EIS analysis, all available scientific information on the ecosystem is analyzed and presented to decision-makers and the public on an annual basis during the harvest specifications process. The annual SAFE reports, which provide the scientific information to support the harvest specifications for each species, include ecosystem considerations sections that describe the role of each target species in the ecosystem. The SAFE report also contains a separate ''Ecosystems Considerations'' chapter.

Groundfish fisheries management, including the harvest specification process, takes account of ecosystem requirements related to predation, competition, and habitat to provide protection for ecosystem components. Under the harvest strategy, the determination of annual harvest specifications incorporates ecosystem considerations, in the face of uncertainty in the quantitative links between species. The most significant ecosystem considerations are (1) The upper end of the OY range in the BSAI, which imposes a constraint on total biomass removal, and (2) OFLs that prevent overfishing of each stock. A species' OFL is a harvest limit rather than a target and ABCs are set below OFLs. The tier system sets maximum ABCs and managers can set actual ABCs lower for ecosystem considerations. TACs never exceed ABCs and are frequently set at lower levels. TACs can also be adjusted downward for ecosystem considerations. Additionally, managers have established harvest control rules for pollock, Pacific cod, and Atka mackerel that prohibit directed fishing at low biomass levels, to account for Steller sea lion prey needs. TACs and actual catches are often lower than ABCs to protect other species, especially halibut, that may be taken as bycatch. Managers frequently restrict directed fishing for many species before TACs are reached to comply with PSC limits. Inseason management closes directed fisheries when TACs are reached, and restricts fishing in other fisheries taking the species as bycatch when OFLs are approached.

As noted below in the response to Comment 5, the groundfish management framework includes many measures, in addition to the harvest strategy, to mitigate the ecosystem impacts of the groundfish fisheries.

Comment 5: Existing management measures may be construed as consistent with an ecosystem-based approach, but they do not address major ecosystem impacts of the fisheries as promulgated in the annual catch specifications.

Response: Existing management measures address major ecosystem impacts of the fisheries, and the Council and NMFS are engaged in an ongoing effort to improve the ways this is done.

The existing regulatory framework imposes many constraints on fishing activity, including time, area, and gear restrictions, in order to mitigate or control ecosystem impacts created by fishing activity. Regulations impose maximum retainable amounts on the volume of bycatch a vessel may deliver or have onboard. Prohibited species catch (PSC) regulations impose limits on harvests of crab, salmon, herring, and halibut, and restrict fishing activity once those limits are reached. Important restrictions have been imposed on key fisheries to limit competition for Steller sea lion prey and to protect Steller sea lion critical habitat. The Pribilof Islands Habitat Conservation Area protects ecosystem components in the vicinity of those islands. The Council and NMFS have adopted numerous measures to limit bycatch and control the discards of low value fish by-products. Seabirds attracted to longlines are protected by mandatory gear requirements, such as streamers, meant to reduce incidental takes. Essential fish habitat (EFH) and Habitat Areas of Particular Concern (HAPC) in the AI subarea are protected by an extensive system of closed areas (see response to Comment 15).

NMFS and the Council are continuing to develop ecosystem management measures for the groundfish fisheries. The Council has created a committee to inform them of ecosystem developments and to assist in formulating positions with respect to ecosystem-based management. The Council has initiated work on a fisheries ecosystem plan for the AI subarea. The Council and the State have created a staff-level interagency AI Ecosystem Team to support this effort. It has taken the lead in the establishment of the interagency Alaska Marine Ecosystem Forum to improve inter-agency coordination and communication on marine ecosystem issues. The SSC has begun to hold annual ecosystem scientific meetings at the February Council meetings. In addition to exploring how to develop ecosystem management efforts, the Council and NMFS continue to take account of ecosystem impacts of fishing activity as available information allows. For example, the Council has initiated an analysis of potential Bering Sea subarea habitat conservation measures, an analysis to address the potential impacts of shifts in fishing activity to the north including into the Beaufort Sea, and is currently consulting under the Endangered Species Act (ESA) for Steller sea lions, sperm and humpback whales. Ecosystem protection is supported by an extensive research program by the Alaska Fisheries Science Center (AFSC) into ecosystem components and integrated ecosystem functioning. Exempted fishing permits (EFPs) are issued to investigate new management approaches for the control of salmon bycatch in the BSAI, and research into salmon and halibut excluder devices.

Additionally, the EIS considers other actions taken to manage the fisheries, including reasonable future fisheries management actions, as these are

relevant to the environmental consequences of the harvest strategy alternatives. The Council and NMFS have processes consistent with National Environmental Policy Act (NEPA) to evaluate each action to regulate other aspects of the fisheries. The overall fishery management policy within which the harvest strategies fall has been evaluated in the PSEIS. Moreover, NMFS and the Council evaluated each management measure at the time it was adopted in the relevant NEPA document. Considering different management measures in separate actions allows for more careful analysis of alternatives and the implications of each, and is often less confusing to the public. The Council and NMFS are actively evaluating a wide range of new management measures through these processes and will continue to do so.

Comment 6: Levels of exploitation on single stocks are set with no explicit consideration of the impacts of dependent, competing species in the food web or other impacts on associated species that flow from the exploitation of a relative few commercially desirable species. The single species F_{40}% policy ignores effects on the ecosystem and simply assumes that individual target species can be fished to the maximum sustainable yield (MSY) without significant consequences to other species in the food web.

Response: The harvest strategy incorporates a key principle of ecosystem-based fisheries management by preserving individual stocks and preventing overfishing of those stocks. This is important for protecting ecosystem components that depend on these individual stocks. The effects of the groundfish fisheries and fishing rates are analyzed in the EIS and the annual SAFE reports.

The tier system in the FMP and the harvest specifications process lead to TACs associated with fishing rates that are less than F_{MSY}. F_{OFL} is never greater than F_{MSY}, or an appropriate F_{MSY} proxy. Average multi-year fishery harvest rates fall below F_{MSY} because the tier system treats F_{OFL} as a limit rather than a target. The fishing rates associated with maximum permissible ABC, actual ABC, and the TAC, all fall below the F_{OFL}, providing a margin between the actual F and the F_{MSY}. Moreover, as discussed in response to Comment 5, other management measures often constrain actual catches and fishing rates below the TACs or the fishing rates associated with the TACs.

With current levels of information, we cannot precisely specify the margin or threshold between $_{FOFL}$ and actual harvest rate that provides the appropriate level of protection for various ecosystem properties. The AFSC continues to develop and improve scientific information in the Ecosystems Considerations section of the SAFE report. New information added in 2006 included the relationship with Bering Sea subarea pelagic forage species, the relationship between predation/production and fishing/production, a metric proposed to evaluate the management implications of potential exploitation of forage species, and a metric proposed to evaluate the ''footprint'' of individual fisheries.

The AFSC also continues to develop and improve several multispecies and ecosystem models to predict the possible effects of fishing and/or climate on ecosystem processes. Ecosystem modeling is extremely complex, and the incorporation of ecosystem considerations into the harvest specifications process is an evolving process. The AFSC is advancing this process through the development of multispecies fish stock assessment models that include predation, ecosystem mass-balance and simulation models, and single-species stock assessment models that include predation. The AFSC briefed the Groundfish Plan Teams on the results of these analyses to help them in their deliberations in the harvest specifications process.

Comment 7: Selective removals of species and large differences in catch rates for managed stocks may be responsible for significant and lasting changes in the structure of groundfish assemblages and food webs in the North Pacific, as seen in other ecosystems. Selective extraction of a relatively few high-value species may provide a competitive opportunity for ''under-utilized'' species such as arrowtooth flounder, which appear to have increased dramatically since the 1970s. NMFS consistently attributes regional stock declines and broader system changes to the weather (''regime shifts''), a transparent stratagem that serves to justify the status quo and absolve the agency of responsibility for fishery-related systemic changes.

Response: NMFS analyzes and considers the interactions among fish species in its evaluations of the impacts of groundfish fishing. The nature of competitive interactions among species is an area of ongoing research by the AFSC. These issues are discussed in the ecosystem sections of individual species SAFE reports and by the Plan Teams as they formulate their ABC recommendations.

Species interactions are complex and imperfectly understood in the North Pacific. The AFSC is collaborating to develop a detailed, age-structured, multispecies statistical model to study this complex interaction of pollock and arrowtooth flounder. This ''cultivation/depensation'' model is expected to be completed in the near future. In December 2006, the BSAI Groundfish Plan Team leader briefed the Council and its SSC and AP on the complex interactions between pollock and arrowtooth flounder and on the potential application of this model whereby a species such as pollock ''cultivates'' its young by preying on species that would eat its young.

Regime shifts remain an important consideration. Regime shifts are well documented; these changes in climate are believed to have affected relative abundance of species in the past, and are expected to do so in the future.

Comment 8: NMFS fails to analyze the cumulative and synergistic effects of selective exploitation, benthic habitat modification, and serial depletion of targeted stocks in the North Pacific. The ''Ecosystem Considerations'' chapter in the annual SAFE reports does not consider the effects of large-scale fisheries off Alaska on long-term restructuring of food web dynamics and on composition of species assemblages. An evaluation of this phenomenon, and consideration of alternatives to address it, is also missing from the EIS and the harvest specification process. Additionally, the proposed harvest specifications do not mitigate the effects of selective exploitation and disproportionate exploitation rates.

Response: NMFS takes a conservative approach to management in response to uncertainties. Conservative elements in the harvest strategies and groundfish fisheries management are listed in the responses to Comments 4, 5, 15, and 16. The EIS analyzed alternative harvest strategies that met the scope of this action, as determined by the statement of purpose and need.

The EIS analyzes the effects of the alternative harvest strategies on target stocks and habitat in a comprehensive way that looks at both the individual species impacts and the overall ecosystem function impacts. NMFS agrees that uncertainty exists in assessing the ecosystem effects of alternative harvest strategies. One of the functions of an EIS is to identify these uncertainties. The EIS and the Ecosystem Considerations chapter of the SAFE reports examine trends in the trophic level of catch and species diversity. As noted in the response to Comment 10, competitive interactions between fisheries are an active area of AFSC research, and are discussed, as

appropriate, in the ecosystem discussions in the species-specific sections of the SAFE reports.

Comment 9: Neither the EIS nor its alternatives address the issues of setting exploitation levels on single stocks with no explicit consideration of the impacts of dependent, competing species in the food web or other impacts on associated species that flow from the exploitation of a relative few commercially desirable species.

Response: The EIS directly examines the impacts of the alternative harvest strategies on non-target species, including food web interactions. The EIS examines the impacts of groundfish fishing on forage fish availability in Chapter 6, and the trophic level of catches in Chapter 11. The EIS includes detailed analyses of the impacts on prey and habitat for key species and species groupings of marine mammals and seabirds in Chapters 8 and 9.

Comment 10: The uncertainties of ecosystem mechanics underscore the need for a much more precautionary approach to fisheries management in the context of food web and habitat conservation, and illustrate why the agency's determinations of non-significance for fishery impacts on prey availability and spatial/temporal concentration of fisheries are arbitrary and capricious. NMFS cannot demonstrate that the current and proposed levels of fishing permitted in protected species' habitats are ''safe'' or ''insignificant.'' Rather, NMFS assumes that the impact is insignificant in the absence of conclusive evidence to the contrary. The burden of proof is on the environment to show harm. This is opposite of precautionary and the opposite of an ecosystem-based approach.

Response: NMFS did not make a determination of non-significance in the EIS. The EIS fully discloses known impacts, areas of uncertainty, and presents the information in comparative form to aid in decision-making. NMFS agrees that uncertainty exists in assessing the ecosystem effects of alternative harvest strategies. Identifying these uncertainties is one of the functions of an EIS. The EIS identifies potential adverse impacts of the alternatives on the ecosystem and the uncertainty of those impacts. NMFS is actively taking steps to reduce uncertainty and better understand the environment through ongoing scientific research. Many elements built into the harvest specifications process, and into the groundfish fisheries management regime, described in the responses to Comments 4, 5, 15, and 16, contribute to conservative management.

Comment 11: Major habitat impacts of fishing on the EFH of FMP-managed species and foraging habitats of ESA and Marine Mammal Protection Act (MMPA)-protected species are not addressed in the EIS or mitigated in the proposed harvest specifications.

Response: NMFS has examined in the EIS the impacts of fishing on EFH of FMP-managed species, and on the foraging habitats of ESA- and MMPA-protected species. Chapter 8 examines the impacts of alternative groundfish harvest strategies on ESA- and MMPA-listed marine mammals. Chapter 9 provides a similar examination for ESA-listed seabirds. Chapter 10 examines the impacts of the harvest strategies on EFH and incorporates by reference the analysis in the Essential Fish Habitat Environmental Impact Statement (EFH EIS, see **ADDRESSES**) that examines the impact of fishing on benthic habitat.

Habitat impacts of fishing on the EFH of FMP-managed species and foraging habitats of ESA- and MMPA-protected species are mitigated by the extensive habitat protection measures enacted in the BSAI. These are described in the response to Comment 15.

Comment 12: The EIS fails to evaluate the impacts of pelagic trawl gear on habitat and the impact of the spatial concentration of pollock and Pacific cod catches on stock size, in a meaningful fashion, and fails to consider an alternative to address these impacts. There is little scientific evidence that fishing on spawning stocks of Alaskan groundfish has had adverse impacts on recruitment success. The status quo practice of targeting groundfish on spawning grounds, when the fish are most vulnerable to fishing gear, is a habitat impact of particular significance that must be addressed. The dismal abundance trends of several regional pollock stocks and large uncertainties in stock structure among many groundfish populations cry out for explicit protection of spawning grounds.

Response: The impacts of pelagic trawling on habitat are evaluated in the EFH EIS. Chapter 10 of the EIS provides an EFH Assessment that incorporates by reference the EFH EIS analysis of the impacts of the groundfish fisheries on EFH. Fisheries management measures, other than harvest strategies, are outside the scope of the action analyzed in the EIS. Pollock and Pacific cod catches are apportioned seasonally under existing measures adopted to protect Steller sea lions. Further seasonal apportionments of catch would require regulatory changes that were outside the scope of this action, as defined by the purpose and need.

Comment 13: The MSA's EFH provisions should require the adoption of marine reserves to protect vulnerable reproductive habitats that are targeted by the fisheries.

Response: This is not a comment on the content of the groundfish harvest specifications or on the accompanying EIS, and deals with issues that are beyond the scope of both.

Comment 14: The proposed harvest specifications and accompanying EIS fail to address major groundfish fishery impacts on king crab EFH in the most heavily trawled area of the Bering Sea, the Unimak-Port Moller area.

Response: These impacts were fully analyzed in the EFH EIS. The analysis in the EFH EIS has been incorporated into the EIS by reference to eliminate repetitive discussion in Chapter 10.

Comment 15: NMFS' assertions that the status quo EFH measures provide adequate protection or that the spatial/temporal concentration of the fisheries has insignificant impacts on EFH are not supported by evidence. The EIS fails to evaluate this information and consider alternatives that would address these impacts on fish habitat, and the proposed harvest specifications provide no adequate mitigation measures to address these impacts. NMFS cannot demonstrate that the current and proposed levels of fishing permitted in managed species' habitats are insignificant or compliant with the spirit and letter of the MSA's EFH provisions. Rather, NMFS assumes that the impact is insignificant in the absence of conclusive evidence to the contrary. The burden of proof is on the environment and the managed species to show harm. This is opposite of a precautionary approach to EFH conservation.

Response: In this EIS NMFS fully discloses known impacts, identifies uncertainties, and presents information in comparative form to aid in decision-making. Detailed information of the effects of fishing on EFH contained in the 2005 EFH EIS was incorporated by reference in this EIS. As discussed in Chapter 2 of the EIS, fisheries management measures, other than harvest strategies, are outside the scope of this action, as defined by the statement of purpose and need.

The discussion of habitat impacts in the EIS incorporated by reference the science and analysis in the EFH EIS. The analyses in Section 4.3 and Appendix B of the EFH EIS indicated that groundfish fishing has long-term effects on benthic habitat features off Alaska and acknowledged that considerable scientific uncertainty remains regarding the consequences of

such habitat changes for the sustained productivity of managed species. Nevertheless, the EFH EIS concluded that the effects on EFH are minimal because the analysis found no indication that continued fishing activities at the current rate and intensity would alter the capacity of EFH to support healthy populations of managed species over the long term. Therefore, the EFH EIS determined that new protection measures for the fisheries to reduce the adverse effects on EFH were not required. Nevertheless, the Council recommended a suite of new conservative measures to reduce potential adverse effects to EFH and HAPCs from fishing activities. These actions continue the Council's policy of implementing conservative conservation measures for the Alaska fisheries, as described in the management policies and objectives added to the groundfish FMPs from the PSEIS policy statement. NMFS implemented the Council's recommendations in 2006 (71 FR 36694; June 28, 2006).

The Council and NMFS have taken a conservative approach to habitat protection by enacting substantial restrictions on fishing that minimize potential adverse effects on EFH. In the Bering Sea subarea, bottom trawl closures encompass about 30,000 square nautical miles to reduce bycatch and protect seafloor habitats. Measures to protect Steller sea lions have fully or partially closed about 58,000 square nautical miles to fishing in the AI subarea and GOA. More recently, the Council and NMFS adopted a suite of new measures to reduce the effects of fishing on EFH in the AI subarea and GOA, protecting nearly 300,000 square nautical miles of habitat. The largest of these areas, the Aleutian Islands Habitat Conservation Area, prohibits bottom trawling over 279,000 square nautical miles to protect corals and other sensitive habitat features. The Bowers Ridge Habitat Conservation Zone north of Adak is closed to all mobile bottom-contact gear. The Aleutian Islands Coral Habitat Protection Areas are closed to all bottom-contact fishing gear and anchoring, protecting six especially sensitive ''coral gardens.'' The Council is presently undertaking an analysis of additional habitat conservation measures for the Bering Sea subarea, which considers both area closures and gear restrictions to further limit the potential adverse effects of fishing on EFH.

The Council and NMFS have taken many other measures to protect habitat. These include the trawl standards for pelagic trawl gear in the BSAI to reduce bottom contact, and a wide range of protection measures, including the nearshore Bristol Bay trawl closure area, the Red King crab savings area, the Statistical area 516 seasonal closure, and the Pribilof Islands Habitat Conservation area. These actions reflect a conservative management strategy.

Comment 16: The lack of spatial-temporal management of groundfish stocks has potentially profound adverse consequences for ESA-listed Steller sea lions and MMPA-listed northern fur seals. The apportionment of ABCs according to broad management subareas does not address the impacts of fishing at local scales relevant to foraging sea lions, fur seals, and other species. NMFS fails to address localized effects adequately in any alternative considered in the EIS or the proposed harvest specifications. NMFS cannot demonstrate that the current and proposed levels of fishing permitted in protected marine mammal species' habitats are insignificant. Existing uncertainties underscore the need for a highly precautionary approach to habitat conservation, and illustrate why the agency's claims that spatial/temporal concentration of the fisheries under the status quo have insignificant impacts on marine mammal foraging habitats and prey are not supported by evidence. As in other instances, the burden of proof is on the environment to show harm. This is opposite of a precautionary approach.

Response: NMFS did not make a determinations of non-significance in the EIS. The EIS fully discloses known impacts, areas of uncertainty, and presents the information in comparative form to aid in decision-making. The EIS describes localized impacts of fishing activity on marine mammals. Chapter 8 in the EIS evaluates the impacts of this action on marine mammals, with particular attention to impacts on Steller sea lions and northern fur seals. The chapter describes what is known about the spatial and temporal overlap between groundfish fishing activity and marine mammal foraging habitat. The EIS summarizes the available information on the impacts of fishing activity on marine mammals and their habitat. While information on the spatial and temporal impact of groundfish fishing on other species is relatively limited, the EIS provides a review of the information available and indicates where information is lacking.

Endangered Steller sea lions have been protected by a suite of measures. Groundfish fisheries conducted in accordance with the Steller sea lion protection measures adopted in 2002 have been determined not to jeopardize Steller sea lions or adversely modify their critical habitat. The protection measures involve seasonal apportionments of annual TACs, limits on the proportion of catch within habitat important for Steller sea lion foraging, limits on fishing activity within areas adjacent to haulouts and rookeries, and closure of directed fishing when biomass falls to low levels. The protection measures and the conclusions of no jeopardy or adverse modification of habitat were arrived at after careful evaluation in 2001. Since that time, NMFS has continued to investigate the determinants of Steller sea lion declines. These measures are currently being reevaluated in a new biological opinion and revised recovery plan.

Comment 17: The proposed harvest specifications and the accompanying EIS fail in substantive ways to comply with the intent of the MSA, NEPA, the ESA, and the MMPA.

Response: Prior to approval, the Secretary ensures that this action and all actions it takes are in compliance with the MSA, NEPA, the ESA, and the MMPA.

Comment 18: Given the current uncertainties and lack of scientific information, it is essential to adopt a highly precautionary approach to exploitation of these ecosystems, in order to avoid the wholesale system reorganization and impoverishment that has been linked to fishing in other marine ecosystems.

Response: The Council recommended and NMFS approves the use of a cautionary approach.

Comment 19: There is no ''balance'' between the interests of fisheries and other public interests in the North Pacific region: the scales are tilted entirely to the advantage of the industrial fisheries whose interests are placed above all other public interests. The tradeoffs between often contrary FMP objectives are made by a decision-making body that is not representative of the broader public interest and that is biased heavily in favor of commercial utilization of the public resource for its own benefit. This state of affairs cries out for basic reforms of the kind outlined by the Pew Oceans Commission (2003) and the U.S. Oceans Policy Commission (2004) so that other public interests and societal goals are fairly represented, in order to achieve a real ''balance between competing uses'' of the ocean commons.

Response: This is not a comment on the content of the groundfish harvest specifications or on the accompanying EIS, and deals with issues that are beyond the scope of both.

Small Entity Compliance Guide

The following information is a plain language guide to assist small entities in complying with this final rule as required by the Small Business Regulatory Enforcement Fairness Act of 1996. This final rule's primary management measures are to announce 2007 and 2008 final harvest specifications and prohibited species bycatch allowances for the groundfish fishery of the BSAI. This action is necessary to establish harvest limits and associated management measures for groundfish during the 2007 and 2008 fishing years and to accomplish the goals and objectives of the FMP. This action affects all fishermen who participate in the BSAI fishery. The specific amounts of OFL, ABC, TAC, and PSC amounts are provided in tabular form to assist the reader. NMFS will announce closures of directed fishing in the **Federal Register** and in information bulletins released by the Alaska Region. Affected fishermen should keep themselves informed of such closures.

Classification

NMFS determined that the FMP is necessary for the conservation and management of the BSAI groundfish fishery and that it is consistent with the Magnuson-Stevens Fishery Conservation and Management Act and other applicable laws.

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

NMFS prepared a Draft EIS for this action and made it available to the public for comment (71 FR 53093, September 8, 2006). NMFS prepared the Final EIS and made it available to the public on January 12, 2007 (72 FR 1512). On February 13, 2007, NMFS issued the Record of Decision (ROD) for the Final EIS. Copies of the Final EIS and ROD for this action are available from NMFS (see **ADDRESSES**).

A Final Regulatory Flexibility Analysis (FRFA) was prepared to evaluate the impacts on small entities of alternative harvest strategies for the groundfish fisheries in the Exclusive Economic Zone (EEZ) off of Alaska on small entities. This FRFA meets the statutory requirements of the Regulatory Flexibility Act (RFA) of 1980, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996 (5 U.S.C. 601–612). A summary of the FRFA follows.

The action under consideration is adoption of a harvest strategy to govern the harvest of groundfish in the BSAI. The preferred alternative is the status quo harvest strategy in which TACs fall within the range of ABCs recommended through the Council's harvest specification process and TACs recommended by the Council. This action is taken in accordance with the FMP and adopted by the Council pursuant to the MSA.

The proposed harvest specifications were published in the **Federal Register** on December 15, 2006 (71 FR 75460). An Initial Regulatory Flexibility Analysis (IRFA) was prepared for the proposed harvest specifications and was described in the classification section of that preamble. Copies of the IRFA prepared for this action are available from NMFS, Alaska Region (see **ADDRESSES**). The public comment period ended on January 16, 2007. No comments were received regarding the economic impacts of this action.

The need for and objectives of this rule are described in the preamble and not repeated here.

Significant issues raised by public comment are addressed in the preamble and not repeated here.

The directly regulated small entities include approximately 747 small catcher vessels, less than 17 small catcher-processors, and six Community Development Quota (CDQ) Groups. The entities directly regulated by this action are those that harvest groundfish in the EEZ of the BSAI, and in parallel fisheries within State of Alaska waters. These include entities operating catcher vessels and catcher-processor vessels within the action area, and entities receiving direct allocations of groundfish. Catcher vessels and catcher processors were considered to be small entities if they had annual gross receipts, from all of their economic activities, and including the revenue of their affiliated operations, less than or equal to $4 million per year. Data from 2005 was used because it was the most recent available. CDQ groups receive direct allocations of groundfish, and these were considered to be small entities because they are non-profit entities. The Aleut Corporation is not a small entity because it is a holding company which does not meet the SBA $6 million threshold for holding companies (13 CFR 121.201).

Estimates of first wholesale gross revenues for the BSAI non-CDQ and CDQ sectors were used as indices of the potential impacts of the alternative harvest strategies on small entities. Revenues were projected to decline from 2006 levels in 2007 and 2008 under the preferred alternative due to declines in ABCs for key species.

The preferred alternative (Alternative 2) was compared to four other alternatives. These included Alternative 1, which would set TACs so as to generate fishing rates equal to the maximum permissible ABC (if the full TAC were harvested), unless the sum of TACs would exceed the regional OY, in which case harvests would be limited to the OY. Alternative 3 would set TACs to produce fishing rates equal to the most recent five year average of fishing rates. Alternative 4 would set TACs to equal the lower bound of the regional OY range. Alternative 5 would set TACs equal to zero.

Alternatives 3, 4, and 5 produced smaller first wholesale revenues for each of the three groupings, than Alternative 2. Thus, Alternatives 3, 4 and 5 had greater adverse impacts on small entities. Alternative 1 sets the TACs equal to the maximum permissible ABC unless the sum of these TACs exceed the OY. In 2007 and 2008 the sum of the maximum permissible ABCs exceeded the OY. Therefore, the TACs under Alternative 1 were set equal to the OY. Also, Alternative 2 TACs are constrained by the ABCs the Plan Team and SSC recommend to the Council on the basis of a full consideration of biological issues. These ABCs are often less than Alternative 1 maximum permissible ABCs. Therefore higher TACs under Alternative 1 may not be consistent with prudent biological management of the resource. For these reasons, Alternative 2 is the preferred alternative. in the BSAI (for both non-CDQ and CDQ groups). For these reasons, Alternative 2 is the preferred alternative.

This action does not modify any recordkeeping or reporting requirements.

Under 5 U.S.C. 553(d)(3), an agency can waive the 30 day delay in effectiveness of a rule for good cause. These final harvest specifications were developed as quickly as possible, Plan Team review in November 2006, Council consideration and recommendations in December 2006, and NOAA Fisheries review and development in January–February 2007. For all fisheries not currently closed because the TACs established under the 2006 and 2007 final harvest specifications (71 FR 10894, March 3, 2006) were reached, the likely possibility exists for their closures prior to the expiration of a 30-day delayed effectiveness period because their TACs could be reached. Certain fisheries, such as those for pollock, Pacific cod, and Atka mackerel are intensive fast-paced fisheries. Other fisheries, such as those for flatfish, rockfish and ''other species,'' are critical as directed fisheries and as incidental catch in other

fisheries. U.S. fishing vessels have demonstrated the capacity to catch the TAC allocations in all these fisheries. Any delay in allocating the final TAC in these fisheries would cause disruption to the industry and potential economic harm through unnecessary discards. Determining which fisheries may close is impossible because these fisheries are affected by several factors that cannot be predicted in advance, including fishing effort, weather, movement of fishery stocks, and market price. Furthermore, the closure of one fishery has a cascading effect on other fisheries by freeing-up fishing vessels, allowing them to move from closed fisheries to open ones, increasing the fishing capacity in those open fisheries and causing them to close at an accelerated pace.

If the final harvest specifications are not effective by March 10, 2007, which is the start of the Pacific halibut season as specified by the IPHC, the hook-and-line sablefish fishery will not begin concurrently with the Pacific halibut season. This would cause sablefish that is caught with Pacific halibut to be needlessly discarded, as both hook-and-line sablefish and Pacific halibut are managed under the same IFQ program. Immediate effectiveness of the 2007 and 2008 final harvest specifications will allow the sablefish fishery to begin concurrently with the Pacific halibut season. Also, the immediate effectiveness of this action is required to provide consistent management and conservation of fishery resources based on the best available scientific information, and to give the fishing industry the earliest possible opportunity to plan its fishing operations. Therefore NMFS finds good cause to waive the 30 day delay in effectiveness under 5 U.S.C. 553(d)(3).

Furthermore, the 2007 and 2008 final harvest specifications implement the groundfish sideboards and sideboard closures that restrict the owners of vessels with a history of participation in the Rockfish Program from using the increased flexibility provided by the Rockfish Program to expand their level of participation the catcher vessel Pacific cod fishery in BSAI groundfish fisheries. Until the 2007 and 2008 final harvest specifications are effective no sideboard restrictions or closures apply to these vessels. Accordingly, NMFS finds that there is good cause to waive the 30 day delayed effectiveness period under 5 U.S.C. 553(d)(3).

Authority: 16 U.S.C. 773 *et seq.*; 1540(f); 1801 *et seq.*;1851 note; and 3631 *et seq.*

Dated: February 22, 2007.

Samuel D. Rauch III,

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

[FR Doc. E7–3692 Filed 3–1–07; 8:45 am]

BILLING CODE 3510–22–P

Proposed Rules

Federal Register
Vol. 72, No. 41
Friday, March 2, 2007

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–2007–27358; Directorate Identifier 2006–NM–270–AD]

RIN 2120–AA64

Airworthiness Directives; Aerospatiale Model ATR42 and ATR72 Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: We propose to adopt a new airworthiness directive (AD) for the products listed above. This proposed AD results from mandatory continuing airworthiness information (MCAI) issued by an aviation authority of another country to identify and correct an unsafe condition on an aviation product. The MCAI describes the unsafe condition as electrical arcing due to chafing between a bonding cable and electrical wires in the 120 VU (volt unit) electrical harness, causing the loss of some instruments and loss of one hydraulic circuit pressure (i.e., loss of pressure of one hydraulic circuit). The proposed AD would require actions that are intended to address the unsafe condition described in the MCAI.

DATES: We must receive comments on this proposed AD by April 2, 2007.

ADDRESSES: You may send comments by any of the following methods:

- *DOT Docket Web Site:* Go to *http://dms.dot.gov* and follow the instructions for sending your comments electronically.
- *Fax:* (202) 493–2251.
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 400 Seventh Street, SW., Nassif Building, Room PL–401, Washington, DC 20590–0001.
- *Hand Delivery:* Room PL–401 on the plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.

Examining the AD Docket

You may examine the AD docket on the Internet at *http://dms.dot.gov;* or in person at the Docket Management Facility between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The AD docket contains this proposed AD, the regulatory evaluation, any comments received, and other information. The street address for the Docket Office (telephone (800) 647–5227) is in the **ADDRESSES** section. Comments will be available in the AD docket shortly after receipt.

FOR FURTHER INFORMATION CONTACT: Tom Rodriguez, Aerospace Engineer, International Branch, ANM–116, FAA, Transport Airplane Directorate, 1601 Lind Avenue, SW., Renton, Washington 98057–3356; telephone (425) 227–1137; fax (425) 227–1149.

SUPPLEMENTARY INFORMATION:

Streamlined Issuance of AD

The FAA is implementing a new process for streamlining the issuance of ADs related to MCAI. This streamlined process will allow us to adopt MCAI safety requirements in a more efficient manner and will reduce safety risks to the public. This process continues to follow all FAA AD issuance processes to meet legal, economic, Administrative Procedure Act, and **Federal Register** requirements. We also continue to meet our technical decision-making responsibilities to identify and correct unsafe conditions on U.S.-certificated products.

This proposed AD references the MCAI and related service information that we considered in forming the engineering basis to correct the unsafe condition. The proposed AD contains text copied from the MCAI and for this reason might not follow our plain language principles.

Comments Invited

We invite you to send any written relevant data, views, or arguments about this proposed AD. Send your comments to an address listed under the **ADDRESSES** section. Include ''Docket No. FAA–2007–27358; Directorate Identifier 2006–NM–270–AD'' at the beginning of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of this proposed AD. We will consider all comments received by the closing date and may amend this proposed AD because 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 we receive about this proposed AD.

Discussion

The European Aviation Safety Agency (EASA), which is the Technical Agent for the Member States of the European Community, has issued EASA Airworthiness Directive 2006–0283, dated September 14, 2006 (referred to after this as ''the MCAI''), to correct an unsafe condition for the specified products. The MCAI states that recently an ATR 42 suffered electrical arcing, causing the loss of some instruments and loss of one hydraulic circuit pressure (i.e., loss of pressure of one hydraulic circuit) due to chafing between a bonding cable and electrical wires in the 120 VU (volt unit) electrical harness. The investigations showed that:

- A tubular support had been deformed and therefore impaired the spacing among electrical harness, supports, and cables;
- Harness was not correctly attached;
- The size of the harness was increased by addition of cables (for Service Bulletins (SB) or customer modifications embodiments);
- The bonding cable was not correctly installed.

The EASA Airworthiness Directive mandates an inspection of the ATR 42 and ATR 72 fleet for correct installation of the bonding cable and restoring correct installation of the bonding cable if necessary. You may obtain further information by examining the MCAI in the AD docket.

Relevant Service Information

Avions de Transport Regional has issued Service Bulletins ATR42–92–0012 and ATR72–92–1013, both dated July 4, 2006. The actions described in this service information are intended to correct the unsafe condition identified in the MCAI.

FAA's Determination and Requirements of This Proposed AD

This product has been approved by the aviation authority of another country, and is approved for operation in the United States. Pursuant to our bilateral agreement with the State of Design Authority, they have notified us of the unsafe condition described in the MCAI and service information referenced above. We are proposing this AD because we evaluated all information provided by the State of Design Authority and determined the unsafe condition exists and is likely to exist or develop on other products of the same type design.

Differences Between This AD and the MCAI or Service Information

We have reviewed the MCAI and related service information and, in general, agree with their substance. But we might have found it necessary to use different words from those in the MCAI to ensure the AD is clear for U.S. operators and is enforceable. In making these changes, we do not intend to differ substantively from the information provided in the MCAI and related service information.

We might also have proposed different actions in this AD from those in the MCAI in order to follow FAA policies. Any such differences are described in a separate paragraph of the proposed AD. These requirements, if ultimately adopted, will take precedence over the actions copied from the MCAI.

Costs of Compliance

Based on the service information, we estimate that this proposed AD would affect about 53 products of U.S. registry. We also estimate that it would take about 1 work hour per product to comply with this proposed AD. The average labor rate is $80 per work-hour. Based on these figures, we estimate the cost of the proposed inspection on U.S. operators to be $4,240, or $80 per product.

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 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 this 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. 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 proposed AD and placed it in the AD docket.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

Accordingly, under the authority delegated to me by the Administrator, the FAA 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 adding the following new AD:

Aerospatiale: Docket No. FAA–2007–27358; Directorate Identifier 2006–NM–270–AD.

Comments Due Date

(a) We must receive comments by April 2, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to Model ATR42–200, –300, –320, and –500 airplanes; all serial numbers up to manufacturer serial number (MSN) 643 inclusive; and Model ATR72–101, –102, –201, –202, –211, –212, and –212A airplanes, all serial numbers up to MSN 728 inclusive, except MSN 723 and 725; certificated in any category.

Reason

(d) The mandatory continuing airworthiness information (MCAI) states that recently an ATR 42 suffered electrical arcing, causing the loss of some instruments and loss of one hydraulic circuit pressure (i.e., loss of pressure of one hydraulic circuit) due to chafing between a bonding cable and electrical wires in the 120 VU (volt unit) electrical harness. The investigation showed that a tubular support had been deformed and therefore impaired the spacing among electrical harness, supports, and cables; the harness was not correctly attached; the size of the harness was increased by addition of cables (for Service Bulletins (SB) or customer modifications embodiments); and the bonding cable was not correctly installed. The MCAI mandates an inspection of the ATR 42 and ATR 72 fleet for correct installation of the bonding cable and restoring correct installation of the bonding cable if necessary.

Actions and Compliance

(e) Unless already done, do the following actions. Within 3 months after the effective date of this AD: Inspect the harness installation in the 120 VU electrical harness and, as applicable, restore correct installation of the bonding cable, in accordance with the instructions given by Avions de Transport Regional ATR42–92–0012 (for Model ATR42 airplanes) and ATR72–92–1013 (for Model ATR72 airplanes), both dated July 4, 2006; as applicable.

FAA AD Differences

Note: This AD differs from the MCAI and/or service information as follows: No differences.

Other FAA AD Provisions

(f) The following provisions also apply to this AD:

(1) Alternative Methods of Compliance (AMOCs): The Manager, International Branch, ANM–116, Transport Airplane Directorate, FAA, ATTN: Tom Rodriguez, Aerospace Engineer, 1601 Lind Avenue, SW., Renton, Washington 98057–3356, has the authority to approve AMOCs for this AD, if requested using the procedures found in 14 CFR 39.19. 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.

(2) Airworthy Product: For any requirement in this AD to obtain corrective actions from a manufacturer or other source, use these actions if they are FAA-approved. Corrective actions are considered FAA-approved if they are approved by the State of Design Authority (or their delegated agent). You are required to assure the product is airworthy before it is returned to service.

(3) Reporting Requirements: For any reporting requirement in this AD, under the

provisions of the Paperwork Reduction Act, the Office of Management and Budget (OMB) has approved the information collection requirements and has assigned OMB Control Number 2120–0056.

Related Information

(g) Refer to MCAI EASA Airworthiness Directive 2006–0283, dated September 14, 2006; and Avions de Transport Regional Service Bulletins ATR42–92–0012 and ATR72–92–1013, both dated July 4, 2006, for related information.

Issued in Renton, Washington, on February 21, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–3657 Filed 3–1–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 100

[CGD05–07–013]

RIN 1625–AA08

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

AGENCY: Coast Guard, DHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Coast Guard proposes to temporarily change the regulations for the ''Virginia State Hydroplane Championship'' hydroplane races held annually on the waters of the Western Branch of the Elizabeth River at Portsmouth, Virginia. This action is necessary because the event will be held on April 21 and 22, 2007, instead of on April 27 and 28, 2007 as established by permanent regulation. This proposed rule is intended to restrict vessel traffic in portions of the Elizabeth River and is necessary to provide for the safety of life on navigable waters during the event.

DATES: Comments and related material must reach the Coast Guard on or before March 19, 2007.

ADDRESSES: You may mail comments and related material to Commander (dpi), Fifth Coast Guard District, 431 Crawford Street, Portsmouth, Virginia 23704–5004, hand-deliver them to Room 415 at the same address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays, or fax them to (757) 398–6203. The Inspections and Investigation Branch, Fifth Coast Guard District, maintains the public docket for this rulemaking. Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, will become part of this docket and will be available for inspection or copying at the above address between 9 a.m. and 2 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Dennis M. Sens, Project Manager, Inspections and Investigations Branch, at (757) 398–6204.

SUPPLEMENTARY INFORMATION:

Request for Comments

We encourage you to participate in this rulemaking by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this rulemaking (CGD05–07–013), indicate the specific section of this document to which each comment applies, and give the reason for each comment. Please submit all comments and related material in an unbound format, no larger than 8½ by 11 inches, suitable for copying. If you would like to know they reached us, please enclose a stamped, self-addressed postcard or envelope. We will consider all comments and material received during the comment period. We may change this proposed rule in view of them.

Public Meeting

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

Background and Purpose

On April 21 and 22, 2007, Virginia Boat Racing Association will sponsor the ''Virginia State Hydroplane Championship'' hydroplane races on the waters of the Western Branch of the Elizabeth River at Portsmouth, Virginia. The event will consist of approximately 75 hydroplane powerboats conducting high-speed competitive races on the Western Branch of the Elizabeth River in the vicinity of Portsmouth City Park, Portsmouth, Virginia. A fleet of spectator vessels is expected to gather near the event site to view the competition. The regulation at 33 CFR 100.525 is effective annually for this marine event. Paragraph (c) of Section 100.525 establishes the enforcement date for the hydroplane races. This regulation proposes to temporarily change the regulation so that the event may be held on April 21 and 22, 2007 instead of the fourth Friday and following Saturday in April. The Virginia Boat Racing Association who is the sponsor for this event still intends to hold this event annually, however, this year they have requested a change in the date of the event for 2007. The change was requested to accommodate participation by all hydroplane participants. To provide for the safety of participants, spectators, support and transiting vessels, the Coast Guard proposes to temporarily restrict vessel traffic in the event area during the hydroplane races.

Discussion of Proposed Rule

The Coast Guard proposes to temporarily suspend the regulations at 33 CFR 100.525 by temporarily revising the date of enforcement in paragraph (c) to reflect the event will be conducted in 2007 on the third Saturday and Sunday in April, April 21 and 22, 2007. This proposed change is needed to accommodate the sponsors hydroplane race schedule relative to the rotation of weekend dates in the annual calendar. The special local regulations will be enforced from 8 a.m. to 6 p.m. on April 21 and 22, 2007, and will restrict navigation in the regulated area during the hydroplane races. Except for persons or vessels authorized by the Coast Guard Patrol Commander, no person or vessel may enter or remain in the regulated area during the effective period. The regulated area is needed to control vessel traffic during the event to enhance the safety of participants and transiting vessels.

In addition to notice in the **Federal Register**, the maritime community will be provided extensive advance notification via the Local Notice to Mariners, and marine information broadcasts so mariners can adjust their plans accordingly.

Regulatory Evaluation

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

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

date on which the existing regulation would be in effect and would not impose any new restrictions on vessel traffic.

Small Entities

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

The Coast Guard certifies under 5 U.S.C. 605(b) that this proposed rule would not have a significant economic impact on a substantial number of small entities. This proposed rule would effect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in a portion of the Western Branch of the Elizabeth River during the event.

This proposed rule would not have a significant economic impact on a substantial number of small entities for the following reasons. This proposed rule would merely change the date on which the existing regulations would be enforced in the regulated area and would not impose any new restrictions on vessel traffic.

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

Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), we want to assist small entities in understanding this proposed rule so that they can better evaluate its effects on them and participate in the rulemaking. If the rule would affect your small business, organization, or governmental jurisdiction and you have questions concerning its provisions or options for compliance, please contact the address listed under **ADDRESSES**. The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

Collection of Information

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

Federalism

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

Unfunded Mandates Reform Act

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

Taking of Private Property

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

Civil Justice Reform

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

Protection of Children

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

Indian Tribal Governments

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

Energy Effects

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

Technical Standards

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

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

Environment

We have analyzed this proposed rule under Commandant Instruction M16475.lD and Department of Homeland Security Management Directive 5100.1, which guides the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA)(42 U.S.C. 4321–4370f), and have concluded that there are no factors in this case that would limit the use of a categorical exclusion under section 2.B.2 of the Instruction. Therefore, this rule is categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction, from further environmental documentation. Special local regulations issued in conjunction with a regatta or marine event permit are specifically excluded from further

analysis and documentation under that section.

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

List of Subjects in 33 CFR Part 100

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

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

PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS

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

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

2. In § 100.525, from 8 a.m. to 6 p.m. on April 21 and 22, 2007, temporarily suspend paragraph (c).

3. In § 100.525, from 8 a.m. to 6 p.m. on April 21 and 22, 2007, temporarily add a new paragraph (d) to read as follows:

§ 100.525 Western Branch, Elizabeth River, Portsmouth, Virginia.

* * * * *

(d) *Enforcement period.* This section will be enforced from 8 a.m. to 6 p.m. on April 21 and 22, 2007. A notice of enforcement of this section will be disseminated through the Fifth Coast Guard District Local Notice to Mariners announcing the specific event date and times. Notice will also be made via marine Safety Radio Broadcast on VHF–FM marine band radio channel 22 (157.1 MHz).

Dated: February 15, 2007.

Larry L. Hereth,

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

[FR Doc. E7–3638 Filed 3–1–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

42 CFR Parts 405, 424, and 498

[CMS–6003–P2]

RIN 0938–AI49

Medicare Program; Appeals of CMS or Contractor Determinations When a Provider or Supplier Fails To Meet the Requirements for Medicare Billing Privileges

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

ACTION: Proposed rule.

SUMMARY: This proposed rule would establish an appeals process for providers and suppliers whose applications for enrollment or renewal of enrollment were denied. It would also grant providers and suppliers the right to a hearing by an Administrative Law Judge (ALJ) within the Department of Health and Human Services after an adverse decision at the reconsideration level when a provider or supplier's Medicare enrollment application is denied to those situations in which the provider or supplier's Medicare billing privileges are revoked. In addition, this proposed rule would grant providers and suppliers the right to Departmental Appeals Board review of an adverse ALJ decision.

It would also establish timeframes for deciding enrollment appeals by an ALJ or the DAB. This proposed rule would also establish the use of electronic funds transfer (EFT) be used for all Federal payments to providers and suppliers.

Finally, this proposed rule would implement section 936(b)(1) of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA), which specifies the timeframes in which contractors must process all provider and supplier enrollment actions (initial enrollments, change of information actions, revalidations, etc.).

DATES: To be assured consideration, comments must be received at one of the addresses provided below, no later than 5 p.m. on May 1, 2007.

ADDRESSES: In commenting, please refer to file code CMS–6003-P2. 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–6003–P2, P.O. Box 8017, Baltimore, MD 21244–1850.

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–6003–P2, 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.

Submission of comments on paperwork requirements. You may submit comments on this document's paperwork requirements by mailing your comments to the addresses provided at the end of the ''Collection of Information Requirements'' section in this document.

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

FOR FURTHER INFORMATION CONTACT: August Nemec, (410) 786–0612.

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–6003–P2.

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 also 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

A Medicare beneficiary may obtain covered Medicare items or services from any person, or institution that is enrolled in the Medicare program and is qualified to furnish those services. Various provisions of the statute and regulations establish conditions of participation or standards that a healthcare provider or supplier must meet in order to receive Medicare payment. These standards differ depending on the type of provider or supplier involved and whether the services are furnished under Parts A, B, or C of the Medicare statute. There are also differences in qualifications between providers and suppliers of services, and differences among the various types of suppliers, in how they are enrolled in the Medicare program. For some classifications of providers and suppliers, an on-site survey is required. For other individuals or entities, a determination can be made based largely on the information provided by the applicant.

The Medicare regulations in part 498 provide appeal rights for providers and suppliers that have been found to not meet certain conditions of participation or established standards. For the purposes of part 498, these suppliers include independent laboratories; suppliers of portable x-ray services; rural health clinics; federally qualified health centers; ambulatory surgical centers; end-stage renal disease treatment facilities; and chiropractors and physical therapists in private practice. For the purposes of Part 498, the term ''provider'' refers to a hospital, critical access hospital, skilled nursing facility, comprehensive outpatient rehabilitation facility (CORF), home health agency or hospice, that has in effect an agreement to participate in Medicare; or a clinic, rehabilitation agency, or pubic health agency that has in effect a similar agreement but only to furnish outpatient physical therapy or speech pathology services; or community mental health center that has in effect a similar agreement but only to furnish partial hospitalization services.

In addition, our regulations at § 405.874 provide an appeals process for suppliers of Durable Medical Equipment, Prosthetics and Orthotics and Supplies (DMEPOS) that wish to contest a denial of an application for a billing number or the revocation of an existing billing number. The § 405.874 appeals process affords DMEPOS suppliers the right to a carrier hearing before a carrier official who was not involved in the original determination, and the right to seek a review before a CMS official designated by the CMS Administrator.

In December 1998, we issued CMS Ruling 98–1, regarding the appeals process Medicare carriers must provide to physicians, nonphysician practitioners, and to certain entities that receive reassigned benefits from physicians and nonphysician practitioners. CMS Rulings are decisions of the Administrator that serve as precedent final opinions and orders and statements of policy and interpretation. They provide clarification and interpretation of complex or ambiguous provisions of statute or regulations relating to Medicare, Medicaid, Utilization and Quality Control Peer Review, private health insurance, and related matters. CMS Rulings are binding on all our components, Medicare contractors, the Provider Reimbursement Review Board, the Medicare Geographic Classification Review Board, and ALJs who hear Medicare appeals. These Rulings promote consistency in interpretation of policy and adjudication of disputes. This proposed rule is different from the clarification of appeals procedures found in CMS Ruling 98–1, because it adds provisions in order to comply with the MMA. Whereas the ruling followed the procedures in § 405.874, this proposed rule would grant suppliers the right, after denial or revocation of a supplier's Medicare billing privileges, to a hearing by an ALJ after an adverse decision at the reconsideration level as well as judicial review.

II. Provisions of the Proposed Rule Published on October 25, 1999

In the October 25, 1999 **Federal Register** (64 FR 57431), we published a proposed rule that set forth proposed revisions to § 405.874 (Appeals of carrier decisions that supplier standards are not met) to extend appeal rights to all suppliers whose enrollment applications for Medicare billing privileges are revoked, except for those suppliers covered under the appeals provisions of part 498. The proposed rule stated that these administrative appeal rights would apply to suppliers of durable medical equipment, prosthetics, orthotics, and supplies; ambulance service providers; independent diagnostic testing facilities; physicians; and other suppliers such as physician assistants. We also proposed revisions to the existing procedures in § 405.874.

Since section 902 of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (MMA) prohibits the Secretary from finalizing a proposed rule that was published more than 3 years earlier except under exceptional circumstances, we are not seeking comment on our earlier proposed rule. In addition, we have revised the October 25, 1999 proposed rule in order to comply with section 936 of the MMA. However, we are including a summary discussion of the significant provisions stated in the October 25, 1999 proposed rule in order to provide historical background regarding the development of this proposed rule. The following is a summary of the procedural changes found in the October 25, 1999 proposed rule.

In our October 1999 proposed rule we proposed to:

- Set forth the procedures to be followed by carriers concerning notifying a supplier of the denial of an enrollment application for supplier billing privileges.
- Clarify that a revocation of a supplier billing number that is based on a Federal exclusion or debarment is effective with the effective date of the exclusion or debarment, regardless of the date of the notice from the carrier that the billing number is revoked.
- Change the language in current § 405.874(c) that requires a carrier

hearing officer to schedule a hearing to be held within 1 week.

• Clarify that we would not pay for services furnished by suppliers during a period in which the supplier's billing privileges have been denied or revoked.

• Clarify that the supplier must be in compliance with all requirements in order to have its billing number reinstated, and that we must be satisfied that the supplier is in compliance and will remain in compliance.

• Permit the carrier, carrier hearing officer, or CMS (then HCFA) official to reopen and revise its initial determination

• Restrict DMEPOS suppliers from billing for services prior to the date that their billing number was issued.

• Describe the procedure for submitting claims after a reversal of a supplier enrollment application denial or billing number revocation, or after a billing number reinstatement.

III. Analysis of and Responses to Public Comments Received From the Proposed Rule Published on October 25, 1999

The following is a summary of our comments and responses to the October 25, 1999 proposed rule. Notwithstanding the presentation of these comments and responses, we are only soliciting comments on this proposed rule.

Comment: One commenter suggested that we simplify the enrollment application (Form CMS 855) instead of removing the requirement that a carrier must accept or reject an entity's enrollment application for a billing number or request additional information within 15 days of the receipt of the enrollment application.

Response: Since the publication of our October 25, 1999 proposed rule we have published several notices requesting public comment on the enrollment applications in the **Federal Register** including one on February 2, 2001, (66 FR 8807). The final approval notice was granted on September 25, 2001. Most recently, we sought public comments on our revised provider enrollment application on July 8, 2005. In the April 25, 2003 **Federal Register** (68 FR 22064), we published a proposed rule concerning our provider enrollment procedures entitled ''Requirements for Establishing and Maintaining Medicare Billing Privileges,'' that includes proposed revisions to the CMS 855 enrollment applications. In addition, to be consistent with the nomenclature in this proposed rule and existing manual instructions, we are changing the term ''disallowance'' to the term ''denial'' throughout this proposed rule.

Comment: Two commenters suggested that carriers be given a timeframe for processing these applications, such as 30 or 45 days. Many commenters recommended that we maintain and enforce a time limit for the carrier to process enrollment applications and expressed concern about delays in billing or the inability to bill for Medicare items and services.

Response We do maintain and enforce provider enrollment processing standards for carriers. Currently, the time limit for the carrier to process an initial determination, can be found in Program Integrity Manual, Chapter 10-Healthcare Provider/Supplier Enrollment. Carriers are evaluated against this standard in the Contractor Performance Evaluation process.

In addition, section 936(a) of the MMA adds a new section 1866(j)(1)(B) to the Act, requiring the Secretary to ''* * * establish by regulation procedures under which there are deadlines for actions on applications for enrollment (and, if applicable, renewal of enrollment). The Secretary shall monitor the performance of Medicare Administrative Contractors in meeting the deadlines * * *'' In this proposed rule, we would establish deadlines for processing all provider and supplier enrollment actions as discussed in greater detail in section IV. of the preamble of this proposed rule.

Comment: Several commenters suggested that we should provide temporary provider numbers during the enrollment process to permit suppliers to submit claims for their provision of items and services prior to receiving a permanent supplier billing number.

Response: Since the publication of the October 25, 1999 proposed rule, we published the Requirements for Providers and Suppliers to Establish and Maintain Medicare enrollment final rule(71 FR 20754), where we required that providers and suppliers obtain billing numbers before enrolling in the Medicare program. The purpose of the enrollment process is to ensure that we enroll qualified, eligible individuals and entities as providers and suppliers of Medicare services. Allowing providers and suppliers to submit claims prior to enrollment in the Medicare program would undermine this process.

Comment: Two commenters suggested that a supplier should not have to prove compliance with all enrollment qualifications because this allows the carrier to raise new objections without warning and shifts the burden of proof to the supplier.

Response: Since the publication of the October 25, 1999 proposed rule, we published the Requirements for Providers and Suppliers to Establish and Maintain Medicare enrollment final rule (April 21, 2006, 71 FR 20754). In this final rule, we require providers and supplier to meet and maintain all Federal and State requirements to be issued and retain Medicare billing privileges. When suppliers enroll in the Medicare program, they are required to sign a certification statement that they are in compliance with all Medicare enrollment requirements. This appeals proposed rule would not alter the burden of proof already placed on the supplier in the initial application process.

Comment: Two commenters suggested that we should propose a separate enrollment process for those suppliers whose enrollment applications have been denied, who have lost their appeal, and who decide to submit a new enrollment application to the carrier.

Response: We maintain that if a supplier's enrollment application has been denied and the denial was upheld by the appeals process, then that supplier would still be eligible to reapply for a Medicare supplier number. If the supplier still wanted to enroll, we assume that the supplier would correct the reasons for the denial. The supplier would be required to submit the enrollment application as an initial enrollment. Therefore, a separate enrollment process for applicants who were denied enrollment would not be practical.

Comment: A commenter stated that we had established the effective date for purposed for billing Medicare for DMEPOS services in a change of ownership (CHOW) situation to be ''the date of the actual change in ownership, rather than the date of assignment of the National Supplier Clearinghouse.''

Response: We agree with the commenter. This is the current policy as long as at the time of the CHOW, all CMS Medicare DMEPOS supplier standards specified in § 424.57 are met.

Comment: Three commenters stated that physicians should not be characterized as suppliers.

Response: For purposes of Medicare terminology, it has been a longstanding practice for physicians to be considered as suppliers. Our regulations at § 400.202 define a supplier as a physician or other practitioner, or an entity other than a provider that furnishes health care services under Medicare. In addition, section 901(b) of the MMA amended section 1861 of the Act by adding paragraph (d), which defines a supplier to include a physician. Therefore, we are retaining the current definition for the purpose of this proposed rule.

Comment: A commenter stated that it is unclear whether this regulation applies to physicians.

Response: This proposed rule would apply to physicians, as physicians are considered suppliers in accordance with the definitions specified in § 400.202.

Comment: One commenter stated that this regulation should have been incorporated into a rule that established requirements for obtaining and maintaining Medicare billing privileges.

Response: As stated previously, we finalized CMS–6002-F, Requirements for Provider and Suppliers to Establish and Maintain Medicare Enrollment, on April 21, 2006 (71 FR 20754). Accordingly, we are not able to adopt this suggestion.

Comment: A commenter suggested that we add an exception to this rule for time periods during which a supplier is unaware of the debarment or exclusion of another entity with which it is doing business.

Response: While we understand this comment, we believe that information on excluded or debarred entities is readily available to the public. For example, the Office of Inspector General's (OIG's) Web site pages which include the following:

• OIG's ''List of Excluded Individuals and Entities.'' This list is commonly referred to as the ''OIG Sanction List'' for those parties excluded by the OIG from participation in the Medicare, Medicaid, and all Federal health care programs (as defined in section 1128B(f) of the Act);

• ''List of Parties Excluded from Federal Procurement and Non-procurement Programs,'' known as the ''GSA Debarment List'', for those parties debarred, suspended or otherwise excluded by other Federal agencies from participation in Federal procurement and nonprocurement programs and activities.

The aforementioned lists are in accordance with the Federal Acquisition and Streamlining Act of 1994, and with the HHS Common Rule at 45 CFR part 76. The Web site for the OIG exclusion list can be found at *http://www.oig.hhs.gov* and the Web site for the debarment list can be found at *http://www.epls.arnet.gov.*

Comment: Two commenters suggested that we should more clearly distinguish between those suppliers whose initial enrollment applications had been denied and those whose enrollment had been revoked.

Response: With the publication of Requirements for Provider and Suppliers to Establish and Maintain Medicare Enrollment final rule (April 21, 2006, 71 FR 20754), we believe we have clarified the differences between a denial of billing privileges and revocation of billing privileges. In addition, we believe that only one appeals process is necessary to resolve adverse administrative enrollment decisions.

Comment: One commenter stated that the appeal rights of a supplier that has been excluded by the OIG are more expansive than the appeal rights contained in this regulation for a supplier whose billing number has been revoked, since an excluded supplier may request an Administrative Law Judge (''ALJ'') hearing.

Response: This proposed rule reflects the requirements of section 936(a) of the MMA to grant the right to an ALJ hearing, judicial review, and DAB review to a revoked supplier. Therefore, an excluded supplier would no longer have more expansive appeal rights.

Comment: Several commenters noted that § 405.874(a) should clearly state that the carrier should fully inform the supplier in detail as to why it has denied the supplier's enrollment application or revoked the supplier's enrollment.

Response: We agree with the commenters. In this proposed rule, we are proposing in § 405.874(a) and (b) that the carrier provide the reason why a supplier's enrollment application was denied or why its billing number was revoked.

Comment: Several commenters were opposed to reducing the timeframe to file an appeal of a denial of an enrollment application or the revocation of a Medicare billing number from 90 to 60 days.

Response: We are proposing to follow the longstanding processes of part 498, which allow 60 days for filing an appeal.

Comment: A few commenters contended that we should accept a postmark as the reliable date to determine when suppliers have learned of a carrier decision to deny an application or revoke Medicare billing privileges.

Response: We agree with the commenters. We believe that § 498.22(b)(3), § 498.22(d), and § 498.40 clearly address when we must accept a postmark as the reliable date to determine when suppliers have learned of a carrier decision to deny an application or revoke Medicare billing privileges.

Comment: One commenter stated that it is confusing to base the revocation of a billing number on the effective date of the Federal action (exclusion or debarment), regardless of the date of notice from the carrier.

Response: The OIG sends an exclusion notice to the supplier and the carrier at the same time explaining that the supplier is being excluded from Medicare, Medicaid, and other Federal health care programs. The effective date of the exclusion is 20 days after the date the notice is sent to the supplier and the carrier (see § 1001.2002(b)). The carrier does not establish the date for the exclusion nor can the carrier alter the effective date of OIG exclusion.

Comment: One commenter stated that the carrier should not have the discretion to implement a carrier hearing officer's decision to deny or revoke a supplier billing number pending a possible appeal. This commenter suggested that carriers be required to decide within 15 days whether to appeal a hearing officer's reversal decision, and if the carrier chooses not to appeal, then it must immediately implement the decision.

Response: In accordance with section 936(1)(b)(1) of the MMA, we propose to follow the process of part 498. These procedures have specific timeframes.

Comment: Several commenters stated that an ALJ, rather than a CMS official, should conduct the appeal that follows the carrier hearing.

Response: Section 936(l)(b)(1) of the MMA provides for an ALJ hearing. Therefore, we are proposing to modify our regulations to address this concern.

Comment: One commenter stated that when a revocation of a supplier billing number is reversed upon appeal, the supplier billing number should be reinstated to the date upon which the revocation became effective.

Response: We agree. In this proposed rule, we would revise § 405.874(d), to provide that in the case of a reversal of a revocation on appeal, a supplier billing number is reinstated back to the date that the revocation became effective.

Comment: One commenter suggested that we should establish clear guidelines as to when and why a carrier or a carrier hearing officer can reopen an existing decision or determination, and another commenter suggested that reopening of decisions should be limited to situations where good cause has been established and new and material evidence has been uncovered.

Response: While we considered establishing a reopening process, we believe that the appeals process that would be established in this proposed rule affords providers and suppliers with sufficient protections. We would appreciate receiving additional public comments regarding the benefits associated with expanding on the

reopening process established in § 498.30.

Comment: One commenter stated that the provisions relating to the rejection of claims fails to distinguish between suppliers whose billing numbers have been revoked and those whose enrollment applications are pending. The commenter also was concerned that payments will be rejected only when a supplier's enrollment has been revoked because a carrier's rejection of claims affords no appeal rights.

Response: It is true that the provision that claims be rejected does not in fact, distinguish between those suppliers whose billing numbers are revoked and those whose enrollment applications are pending. Claims are rejected when the supplier does not have valid billing privileges at the time that claims were submitted. When a supplier's application is approved and it is assigned a billing number, these claims may be resubmitted and paid retroactively, except for DMEPOS suppliers, who do not have retroactive billing privileges. In addition, we maintain that claims are rejected for those suppliers whose billing privileges are revoked so the contractor does not have to hold the claims in its system indefinitely.

Comment: Two commenters stated that we should ensure that all decisions are reached and implemented prior to the claims expiration date, or the agency should allow exceptions in circumstances when the timeframe to pay allowable claims has expired.

Response: The timely filing requirements for claims submission, as specified in § 424.44, are not affected by an enrollment application pending processing or by the appeal of the Agency's enrollment decision. As specified in § 405.874(i), if a supplier is successful in overturning its denial or revocation, it has up to 1 year after the reversal decision to file any claims for items furnished during the overturned period.

IV. Provisions of This Proposed Rule

After consideration of the comments reviewed, analysis of specific issues, and the provisions of section 936(l)(b)(1) of the MMA we are modifying the October 25, 1999 proposed rule by making clarifying and editorial changes, and revising the sections affected by 936(l)(b)(1) of the MMA.

With the implementation of the National Provider Identifier (NPI) (which is a standard unique identifier for health care providers) scheduled for May 23, 2007, we believe that it is appropriate to propose use of the term ''Medicare billing privileges'' in lieu of the term ''Medicare billing number.'' (See the January 23, 2004 final rule (69 FR 3469) for more detailed information regarding the NPI.) After implementation of the NPI, providers or suppliers will have to obtain an NPI before initiating enrollment in the Medicare program. Medicare will use the NPI as the billing number. However, providers and suppliers must still enroll with a fee-for-service contractor in order to bill the Medicare program. Thus, the fee-for-service contractor will convey billing privileges.

We propose to maintain § 405.874, which specifies provisions that would apply to certain suppliers as defined in § 405.802.

In § 405.802, we propose to define prospective supplier and suppliers by specifying the provisions of § 405.874 that would apply. These suppliers include an independent laboratory; supplier of durable medical equipment, prosthetics, orthotics, or supplies (DMEPOS); ambulance service provider; independent diagnostic testing facility; physician, other practitioner such as physician assistant; physical therapist in independent practice; clinical laboratories; supplier of portable x-ray services; rural health clinic (RHC); Federally qualified health center (FQHC); ambulatory surgical center (ASC); an entity approved by CMS to furnish outpatient diabetes self-management training, or end-stage renal disease (ESRD) treatment facility that is approved by CMS as meeting the conditions for coverage of its services, and prospective supplier means any of the listed entities that seek to be approved for coverage of its services under Medicare.

In new § 405.874(a), Denial of a supplier enrollment application, we propose that if a carrier denies a supplier's enrollment application, the carrier must notify the supplier by certified mail. The notice must include the following: (1) The reason for denial in sufficient detail to allow the supplier to understand the nature of its deficiencies; (2) the right to appeal in accordance with part 498; and (3) the address to which the written appeal must be mailed.

We propose these changes to comply with section 936(a)(2) of the MMA. Part 498 of these regulations includes the right of a supplier to a reconsideration of a determination that it does not qualify for Medicare billing privileges. This reconsideration would be performed by a carrier hearing officer not involved in the original determination. Part 498 also grants suppliers the right to a hearing by an ALJ, DAB review and judicial review. These various levels of appeal would also apply to revocations of Medicare billing privileges.

In proposed § 405.874(b)(1), Notice of revocation, we would clarify that if a carrier revokes a supplier's Medicare billing privileges that the carrier must notify the supplier by certified mail and that the notice must include—(1) the reason for the revocation in sufficient detail for the supplier to understand the nature of its deficiencies; (2) the right to appeal in accordance with part 498 of this chapter; (3) the address to which the written appeal must be mailed.

In proposed § 405.874(b)(2), Revocation of a supplier's billing privileges, we would separate the procedures in existing § 405.874(a) and § 405.874(b) because we believe the language in the October 29, 1999 proposed rule was not sufficiently clear. In proposed § 405.874(b)(2), we clarify that a revocation of a supplier's billing privileges that is based on a Federal exclusion or debarment is effective with the effective date of the exclusion or debarment, regardless of the date of the notice from the carrier that the billing number is revoked. Moreover, if CMS, or one of its designated contractors revokes Medicare billing privileges, we would not revoke an individual or organization's NPI.

In proposed § 405.874(b)(3), Payment, we would revise this section to clarify that suppliers are not paid for items or services furnished during a period in which a supplier does not have billing privileges or its billing privileges have been revoked. Concerning DMEPOS suppliers, section 1834(j)(1) of the Act states that, with the exception of medical equipment and supplies furnished incident to a physician's service, no payment may be made by Medicare for items and supplies unless the supplier has active Medicare billing privileges. We further propose that claims submitted to carriers for items or services furnished during a period of supplier ineligibility are to be rejected by the carrier, not denied.

In § 405.874(c)(1) Appeal rights, we propose that a supplier's appeal rights would follow the processes detailed in part 498.

We are proposing to revise § 405.874(d), Impact of reversal of carrier determination on claims processing, to reflect that claims for services furnished to Medicare beneficiaries during a period in which the supplier's billing privileges were not effective are rejected and not denied. If a provider or supplier is determined not to have qualified for billing privileges in one period but qualified in another, contractors process claims for services

furnished to beneficiaries during the period for which the provider or supplier was Medicare-qualified. Subpart C of this part sets forth the requirements for recovery of overpayments. The appeals process for denied claims should not apply if a provider or supplier does not have billing privileges.

In § 405.874(d)(3), we propose that if a revocation of a provider's or supplier's billing privileges are reversed upon appeal, the provider's or supplier's billing privileges are reinstated back to the date that the revocation became effective.

Section 405.874(d)(4) would specify that if a denial of a provider's or supplier's billing privileges is reversed upon appeal, then the appeal decision establishes the date that the provider's or supplier's billing privileges will become effective.

We propose revising § 405.874(e), Reinstatement of provider's or supplier's billing privileges following corrective action, to state that if a provider or supplier completes a corrective action plan and provides sufficient evidence to the carrier that it has complied fully with the Medicare requirements, the carrier may reinstate the supplier's billing privileges. The carrier may pay for services furnished on or after the effective date of the reinstatement. The effective date of the reinstatement will be based on the date the provider or supplier is in full compliance with all Medicare requirements. However, a carrier's refusal to reinstate billing privileges based on the submission of a corrective action plan is not an initial determination and may not be appealed. We believe that allowing suppliers to appeal an adverse corrective action plan would establish two separate appeal processes and result in an administratively inefficient appeals process. Any supplier seeking to appeal a carrier's determination to deny or revoked billing privileges must submit an appeal within the timely filing period established for reconsideration, regardless of the submission of a corrective action plan.

In § 405.874(f) we propose to revise the effective date for DMEPOS supplier's billing privileges. If a carrier, carrier hearing officer, or ALJ determines that a DMEPOS supplier's denied enrollment application meets the standards in § 424.57 of this chapter and any other requirements that may apply (for example, reinstatement after an OIG exclusion), the determination establishes the effective date of the billing number as not earlier than the date the carrier made the determination to deny the supplier's enrollment application. Claims are rejected for services furnished before that effective date.

In § 405.874(g), Submission of claims, we propose that a provider or supplier succeeding in having its enrollment application denial or billing number revocation reversed, or in having its billing number reinstated, may submit claims to the carrier for services furnished during periods of Medicare qualification, subject to the limitations in § 424.44 of this chapter, regarding the timely filing of claims. If the claims previously were filed timely but were rejected, they would be considered filed timely upon resubmission. Previously denied claims for items or services rendered during a period of denial or revocation may be resubmitted to CMS within 1 year after the date of reinstatement or reversal.

In § 424.510(d)(2)(iv) Submittal of electronic funds transfer (EFT) authorization form, we propose that at the time of enrollment, an enrollment change request or revalidation, providers and suppliers shall submit the CMS–588 form to receive payments via electronic funds transfer.

Consistent with the authority found at 31 U.S.C. 3332(f)(1), all Federal payments, including Medicare payments to providers and suppliers, shall be made by electronic funds transfer (EFT). Further, under 31 U.S.C. 3332(g), each recipient of Federal payments required to be made by electronic funds transfer shall designate 1 or more financial institutions or other authorized agents to which the payments shall be made and provide the information to CMS. While the statutory provisions at 31 CFR part 208 govern the Department of Treasury, they apply to all Federal government agencies.

Consequently, we want to clarify that the EFT requirement applies to providers and suppliers enrolling in the Medicare program or making changes to enrollment. We are proposing to require the EFT payments for—(1) providers and suppliers initially enrolling in the Medicare program; and (2) providers and suppliers submitting a CMS–855 change request who are not currently receiving payments via EFT. Note if a provider or supplier is not enrolled in the Medicare program or is not submitting a change in their enrollment information, no action is necessary. We will continue to encourage all providers and suppliers to switch to EFT payments voluntarily.

We believe that this change will reduce the paperwork burden for the public and reduce our administrative costs. Moreover, we believe that the transition to EFT will help ensure that payments are made to the provider or supplier of services. Finally, in the event of a national disaster, such as Hurricane Katrina, providers and suppliers utilizing EFT would be ensured a continuity of payment. We are proposing to revise § 424.545(a), provider and supplier appeal rights, which was part of the April 21, 2006 final rule (71 FR 20754), regarding the Requirements for Providers and Suppliers To Establish and Maintain Medicare Enrollment. The existing provision states that a revocation of billing privileges also results in the termination of a corresponding provider agreement. Therefore, we are proposing to revise § 424.545(a) by—

- Redesignating the first sentence of current paragraph(a) as the introductory text and revising that text to remove the reference to part 405 subpart H.
- Redesignating the second sentence of current paragraph (a) as paragraph (a)(1)(i).
- Adding paragraph (a)(1)(ii) to clarify that if a provider appeals both of these sanctions, then both matters will be resolved using a single appeals process.
- Redesignating the last sentence of current paragraph (a) as paragraph (a)(2).

We believe that our proposal (the addition of paragraph (a)(1)(ii) is not a change from the current regulatory provision. In fact, the current provision in § 424.545(a) provides that a final decision would apply both to the revocation and the termination. However, this proposal is an effort to clarify that a provider will be able to appeal both sanctions using one appeals process. We also are proposing that this process would follow the appeals procedures established for revocations. We believe that a single appeals process would result in less administrative burden for both the agency and any affected provider.

We are proposing to add § 405.874(h) to establish deadlines for the adjudication of provider enrollment actions. We are proposing that contractors adjudicate initial determinations and revalidations within 180 days of receipt and that carriers adjudicate change-of-information and reassignment of payment request within 90 days of receipt.

To assist the reader in understanding the provider enrollment appeals process discussed in this proposed rule, the chart below provides first the established timeframes in which a provider or supplier must file an appeal to an adverse determination (that is, denial of billing privileges or revocation

of billing privileges), and second our proposed adjudication timeframes. Additional information regarding the appeals process is described in the following preamble.

Medicare provider enrollment determination	Timeframe to file an appeal (days)	Proposed maximum adjudication timeframe (days)
Initial	60	180
Reconsideration	60	60
Administrative Law Judge Review	60	180
Departmental Appeals Board Review	60	180
Federal District Court	N/A	N/A

We are proposing to update § 424.525(a)(1) and § 424.525(a)(2) for reasons for rejecting enrollment applications by reducing the amount of time that a provider or supplier must furnish complete information requested by a contractor from 60 to 30 days. Additionally, we are proposing a reduction from 60 to 30 days for the period allowed to furnish all supporting documentation for submitting their enrollment application.

We are proposing to reject an application that is submitted by a provider or supplier if it is incomplete or if it fails to include all required supporting documentation on the enrollment application within 30 days of receipt. We are proposing this change because approximately 70 percent of the submitted applications are incomplete or lack the supporting documents for enrollment. This change will help facilitate the enrollment process and reduce the administrative burden associated with processing these applications.

We are also proposing to expand revocations by the addition of a revocation for the abuse of billing privileges to § 424.535. In the new § 424.535(a)(8) we are proposing to allow Medicare fee-for-service (FFS) contractors to revoke Medicare billing privileges when a provider or supplier submits a claim or claims for services that could not have been furnished to a beneficiary. Specifically, we believe that it is both appropriate and necessary that CMS' FFS contractors be given the ability to revoke billing privileges when services could not have been furnished by a provider or supplier. We have found numerous examples of situations where a physician or other practitioner has billed for services furnished to beneficiaries that are undeliverable, including but not limited to situations where the beneficiary was deceased, the directing physician or beneficiary was not in the State or country when services were furnished, or when the beneficiary was in another setting where these services could not be administered, or the equipment necessary for testing was not present where the testing is said to have occurred.

We do not believe the determination made by the CMS FFS contractors constitutes a determination of fraud. In addition we believe that this new revocation authority is in line with other revocations already used by CMS and its FFS contractors. Further, providers and suppliers may appeal a contractor revocation using the process outlined in part 498.

We believe that this type of provision is essential to the efficient operation of the Medicare program because it would enable us to take an important step in protecting the expenditure of public monies with respect to service providers whose motives and billing practices are questionable, at best, and, at worst, of a sort that might prompt an aggressive response from the law enforcement community. The Medicare program ought not be forced to rely solely on its authority to deny claims on a piecemeal basis while having to devote extensive resources to maintaining the kind of close scrutiny of each of these providers and suppliers that would be required to minimize the program's exposure to the payment of claims that, by anyone's definition, ought not be tolerated. For this reason, we are proposing this provision in accordance with our broad rulemaking authorities in sections 1871 and 1102 of the Act.

We should note that providers or suppliers that expressly flag claims that they believe might be perceived by us as being in this category would not face prosecution under the False Claims Act.

In the new § 424.535(c), we are proposing a timeframe to wait for reapplication to the Medicare program when a provider or supplier is revoked. We are proposing that when a provider or supplier, including all authorized officials, delegating officials and practitioners, is revoked for any of the reasons listed at § 424.535 that the provider, supplier, delegated official or authorizing official be prohibited from enrolling for 3 years. We believe that revocations are serious matters and must be treated as such to maintain the integrity of the program. We invite public comment on whether we should consider different (that is, shorter or longer) timeframes for prohibiting a provider or supplier from re-enrolling in the Medicare program after a revocation has been issued.

Under the Medicare regulations, we know from experience that it is often the case that providers, and particularly some suppliers, simply react to a termination from the program by turning around and immediately seeking reentry into the program, oftentimes in another location or with a different name. Such practices make a sham of the enforcement process leaving us with the obligation to constantly monitor suspect providers and suppliers, forcing the agency to stand by while the same offenders engage in the same noncompliant billing practices that led to their expulsion in the first place. We do not believe it is consistent with our mandate to administer an efficient program or to protect the expenditure of public monies by being compelled to take such a passive approach to what are clearly substandard practices. By having a regulatory provision that would keep such entities out of the program for 3 years, we believe we would be establishing a credible deterrent to these substandard billing practices where providers and suppliers would know that there are real consequences to their actions. The Medicare program ought not have to choose to do business with all entities simply because they express their willingness to accept Federal payment for services that they have demonstrated are too often suspicious or so poorly presented that they cause the program to devote too many resources to determine their accuracy.

We are proposing to revise in § 498.1(g) in accordance with section

936(a)(2) of the MMA to provide an ALJ hearing, and judicial review for any provider or supplier whose application for enrollment or reenrollment in Medicare has been denied.

In § 498.2, we are proposing to revise the definition of a ''supplier'' to—(1) include a supplier of durable medical equipment, prosthetics, orthotics, or supplies (DMEPOS); ambulance service provider; independent diagnostic testing facility; physician; and other practitioner such as physician assistant; and (2) remove the reference to ''prospective supplier.'' In § 498.2, we are also proposing to add a separate definition of ''prospective supplier.'' We are removing the definition of the ''Office of Hearings and Appeals (OHA)'' because the function of this office has been moved from the Social Security Administration to the Department of Health and Human Services. We are also proposing to revise the definition of ''affected party'' to specify that it includes CMS or a CMS contractor.

We are proposing to revise § 498.5 by adding a new paragraph (l) to clarify the administrative process that a prospective provider, existing provider, prospective supplier or existing supplier dissatisfied with an initial determination or revised initial determination related to the denial or revocation of Medicare billing privileges would use.

We are proposing to revise § 498.5(f)(2) to be consistent with the change in § 498.1(g). This would implement the mandate of section 936(a)(2) of the MMA regarding judicial review. We are proposing these standards because the FFS contractors need sufficient time to adjudicate the facts and make a reasoned decision. Moreover, while we are establishing an outside limit for processing these applications, the vast majority of these decisions are made within 120 days. We are requesting comment on this existing standard.

We are proposing to revise § 498.22(a) to add that we have delegated authority to our contractors to reconsider an initial determination. We are also proposing to revise § 498.22(b)(1) to state that a reconsideration request is to be filed with CMS or with the State survey agency, or, in the case of prospective suppliers, the entity specified in the notice of initial determination. We are proposing to revise § 498.44 to remove the term Associate Commissioner for Hearings and Appeals, and we are replacing it with the Secretary, because this function is no longer under the Social Security Administration; it is now under the Department of Health and Human Services.

With the proposed revision to § 405.874(c)(2), we want to clarify that a provider or supplier is required to prove that it is in compliance with all Medicare requirements for billing privileges, and that the Medicare FFS contractor incorrectly denied or revoked the supplier's billing number. Accordingly, we believe that the burden of proof is on the provider or supplier to show that it met all requirements upon application, or at the time of revocation. In § 498.56, we are proposing to add a new paragraph (e) that specifies the ''good cause'' exception to the admission of new evidence at the ALJ and DAB appeal levels.

Accordingly, we propose to revise § 498.56 and § 498.86 to prohibit providers and suppliers from submitting new provider enrollment issues or evidence at the ALJ and DAB levels of review. We believe that the efficiency and accuracy of the appeals process is enhanced when the provider or supplier submits all necessary documentation with their appeal request to prove that they are in compliance with all Medicare requirements for enrollment. If supporting evidence is not submitted with the request for a reconsideration, the contractor will contact the supplier to try to obtain the missing evidence. The contractor must make a decision based on the information in the case file.

The contractor may accept any additional documentation, even if it is not specified in the appeal notice. If the provider/supplier fails to submit evidence before the reviewing official issues its decision, the provider/supplier would be precluded from introducing the evidence at higher levels of the appeals process. It is presumed that the Medicare FFS contractor made a reasonable determination in its denial or revocation of a supplier's billing privileges based on information it had at the time of the decision. The provider/supplier would be required to furnish the evidence that clearly shows the determination was in error at the time it was made.

We are proposing to revise § 498.78(a) to delete the provision that an affected party concur in writing or on the record with a CMS or Office of Inspector General (OIG) request for remand. We believe that the appeals process can be enhanced by allowing an ALJ to remand a provider enrollment case to the Medicare FFS contractor when CMS requests a remand. Further, we believe that a remand request could result in either a favorable decision to the appellant or an administrative record that is complete.

In § 498.79, we are proposing that when a request for an ALJ hearing is filed after CMS or a FFS contractor has denied an enrollment application, that an ALJ must issue a decision, dismissal order or remand to CMS, as appropriate, no later than 180 days after the initial request for a hearing.

Finally, in § 498.88(g), we are proposing that when a request for a Board review is filed after an ALJ has issued a decision or dismissal order, that the Board must issue a decision, dismissal order or remand to the ALJ, as appropriate, no later than 180 days after the appeal was received by the Board.

V. Collection of Information Requirements

Under the Paperwork Reduction Act of 1995 (PRA), agencies are required to provide a 60-day notice in the **Federal Register** and solicit public comment before a collection of information requirement is submitted to the Office of Management and Budget (OMB) for review and approval. In order to fairly evaluate whether an information collection should be approved by OMB, section 3506(c)(2)(A) of the PRA requires that we solicit comments on the following issues:

- Whether the information collection is necessary and useful to carry out the proper functions of the agency;
- The accuracy of the agency's estimate of the information collection burden;
- The quality, utility, and clarity of the information to be collected; and
- Recommendations to minimize the information collection burden on the affected public, including automated collection techniques. However, we believe the information collection activities referenced in § 405.874 are exempt under the terms of the PRA for the following reasons:
- As defined in 5 CFR 1320.4(a)(2), information collections conducted or sponsored during the conduct of criminal or civil action, or during the conduct of an administrative action, investigation, or audit involving an agency against specific individuals or entities are exempt from the PRA.
- As described in 5 CFR 1320.3(h)(9), facts or opinions obtained or solicited through nonstandardized follow-up questions designed to clarify responses to approved collections, are exempt from the PRA; and
- Nonstandardized information collections directed to less than 10 persons do not constitute information collections as outlined in 5 CFR 1320.3(c).

We believe that the collection requirements are part of the administrative process, and collected in a nonstandardized manner. Since each case will be different, based on the reasons for denial or revocation, and evidence presented, they fall under these exceptions.

If you comment on any of these information collection and recordkeeping requirements, please mail copies directly to the following:

Centers for Medicare and Medicaid Services, Office of Strategic Operations and Regulatory Affairs, Regulations Development Group, *Attn.:* William Parham, CMS–6003–P2, Room C4–26–05, 7500 Security Boulevard, Baltimore, MD 21244–1850; and Office of Information and Regulatory Affairs, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503. *Attn.:* Carolyn Lovett, CMS Desk Officer, CMS–6003–P2, *carolyn_lovett@omb.eop.gov*. Fax (202) 395–6974.

VI. 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.

VII. Regulatory Impact Statement

We have examined the impact of this rule 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 rule does not reach the economic threshold and thus is not considered a major rule.

The RFA requires agencies to analyze options for regulatory relief for small businesses. For purposes of the RFA, small entities include small businesses, nonprofit organizations, and government agencies. Most hospitals and most other providers and suppliers are small entities, either by nonprofit status or by having revenues of $6 to $29 million in any one 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.

We maintain that this proposed rule would not have an adverse impact on small entities; in fact, it would afford small suppliers a measure of protection against adverse actions by us, and extend protection to a larger group of suppliers beyond the DMEPOS suppliers currently covered under § 405.874. Because this proposed rule would merely clarify, expand, and update our current policy and administrative appeal rights, we anticipate slight, if any, economic impact on small entities.

According to data submitted to us by carriers in calendar year 2003, approximately 166,500 enrollment applications were submitted to the Medicare carriers by suppliers seeking to receive billing privileges. We believe that a vast majority of these applicants were small businesses. Of those applications, approximately 2,000 were denied, and approximately 200 applicants requested a reconsideration. Because we have already granted appeal rights to the affected suppliers via instructions to carriers, we estimate that this regulation would have minimal impact on carrier workloads.

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 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, and we determined, that this proposed rule will not have a significant impact on the operations of a substantial number of small rural hospitals. There is no negative impact on the program or on small businesses.

Section 202 of the Unfunded Mandates Reform Act of 1995 also requires that agencies assess anticipated costs and benefits before issuing any rule that may result in expenditure in any 1 year by State, local, or tribal governments, in the aggregate, or by the private sector, of $120 million. This rule does not mandate expenditures by either the governments mentioned or the private sector, therefore no analysis is required.

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.

Lists 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 424

Emergency medical services, Health facilities, Health professions, Medicare, Reporting and recordkeeping requirements.

42 CFR Part 498

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

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

PART 405—FEDERAL HEALTH INSURANCE FOR THE AGED AND DISABLED

1. The authority citation for Part 405, subpart H, continues to read as follows:

Authority: Secs. 1102, 1842(b)(3)(C), 1869(b), and 1871 of the Social Security Act (42 U.S.C. 1302, 1395u(b)(3)(C), 1395ff(b) and 1395hh).

Subpart H—Appeals Under the Medicare Part B Program

2. Section 405.802 is revised by adding the definitions of ''prospective supplier'' and ''supplier'' in alphabetical order to read as follows:

§ 405.802 Definitions.

* * * * *

Prospective supplier means any of the listed entities specified in the definition of supplier that seeks to be approved for coverage of its services under Medicare.

* * * * *

Supplier means an independent laboratory; supplier of durable medical equipment, prosthetics, orthotics, or supplies (DMEPOS); ambulance service provider; independent diagnostic testing facility; physician or other practitioner such as physician assistant; physical therapist in independent practice; clinical laboratories; supplier of portable X-ray services; rural health clinic (RHC); Federally qualified health center (FQHC); ambulatory surgical center (ASC); an entity approved by CMS to furnish outpatient diabetes self-management training; or end-stage renal disease (ESRD) treatment facility that is approved by CMS as meeting the conditions for coverage of its services.

* * * * *

3. Section 405.874 is revised to read as follows:

§ 405.874 Appeals of carrier determinations that a supplier fails to meet the requirements for Medicare billing privileges.

(a) *Denial of a supplier enrollment application.* If a carrier denies a supplier's enrollment application, the carrier must notify the supplier by certified mail. The notice must include the following:

(1) The reason for the denial in sufficient detail to allow the supplier to understand the nature of its deficiencies.

(2) The right to appeal in accordance with part 498 of this chapter.

(3) The address to which the written appeal must be mailed.

(b) *Revocation of Medicare billing privileges.* (1) *Notice of revocation.* If a carrier revokes a supplier's Medicare billing privileges, the carrier must notify the supplier by certified mail. The notice must include the following:

(i) The reason for the revocation in sufficient detail for the supplier to understand the nature of its deficiencies.

(ii) The right to appeal in accordance with part 498 of this chapter.

(iii) The address to which the written appeal must be mailed.

(2) *Revocation of a supplier's billing privileges.* The revocation of a supplier's billing privileges is effective 15 days after the carrier mails the notice of its determination to the supplier. A revocation based on a Federal exclusion or debarment is effective with the date of the exclusion or debarment.

(3) *Payment.* (i) Medicare does not pay for any items or services furnished by a supplier during a period in which a supplier does not have billing privileges or its billing privileges are revoked.

(ii) Carriers do not pay for services furnished by the supplier beginning with the effective date of a revocation.

(iii) Medicare does not pay for items and supplies unless the supplier has a valid, active Medicare billing number.

(iv) Claims for items or services furnished to Medicare beneficiaries after the effective date of the revocation are rejected. Rejections of claims because a supplier does not have a valid billing number may not be appealed by the supplier. Claims submitted to carriers for items or services furnished during a period of supplier ineligibility are rejected by the carrier, and not denied by the carrier.

(c) *Appeal rights.* (1) A provider or supplier may appeal the initial determination to deny a provider or supplier's enrollment application, or if applicable, to revoke a current billing number by following the procedures specified in part 498 of this chapter.

(2) The reconsideration of a determination to deny or revoke a provider or supplier's Medicare billing privileges may be handled by a carrier hearing officer not involved in the initial determination.

(3) Providers and suppliers have the opportunity to submit evidence related to the enrollment action. Providers and suppliers must, at the time of their request, submit all evidence that they want to be considered.

(4) If supporting evidence is not submitted with the appeal request, the contractor contacts the provider or supplier to try to obtain the evidence.

(5) If the provider or supplier fails to submit this evidence before the contractor issues its decision, the provider or supplier is precluded from introducing new evidence at higher levels of the appeals process.

(d) *Impact of reversal of carrier determination on claims processing.*

(1) Claims for services furnished to Medicare beneficiaries during a period in which the supplier billing privileges was not effective are rejected.

(2) If a supplier is determined not to have qualified for a billing privileges in one period but qualified in another, carriers process claims for services furnished to beneficiaries during the period for which the supplier was Medicare-qualified. Subpart C of this part sets forth the requirements for recovery of overpayments.

(3) If a revocation of a supplier's billing privilege is reversed upon appeal, the supplier's billing privileges are reinstated back to the date that the revocation became effective.

(4) If denial of a supplier's billing privileges is reversed upon appeal and becomes binding, then the appeal decision establishes the date that the supplier's billing privileges becomes effective.

(e) *Reinstatement of supplier billing privilege following corrective action.* If a supplier completes a corrective action and provides sufficient evidence to the carrier that it has complied fully with the Medicare requirements, the carrier may reinstate the supplier's billing privileges. The carrier may pay for services furnished on or after the effective date of the reinstatement. The effective date is based on the date the supplier is in compliance with all Medicare requirements. A carrier's refusal to reinstate a supplier's billing privileges based on a corrective action is not an initial determination under part 498 of this chapter.

(f) *Effective date for DMEPOS supplier's billing privileges.* If a carrier, carrier hearing officer, or ALJ determines that a DMEPOS supplier's denied enrollment application meets the standards in § 424.57 of this chapter and any other requirements that may apply, the determination establishes the effective date of the billing privileges as not earlier than the date the carrier made the determination to deny the DMEPOS supplier's enrollment application. Claims are rejected for services furnished before that effective date.

(g) *Submission of claims.* A supplier succeeding in having its enrollment application denial or billing privileges revocation reversed in a binding decision, or in having its billing privileges reinstated, may submit claims to the carrier for services furnished during periods of Medicare qualification, subject to the limitations in § 424.44 of this chapter, regarding the timely filing of claims. If the claims previously were filed timely but were rejected, they are considered filed timely upon resubmission. Previously denied claims for items or services rendered during a period of denial or revocation may be resubmitted to CMS within 1 year after the date of reinstatement or reversal.

(h) *Deadline for processing provider enrollment initial determinations.* Contractors approve or deny complete provider enrollment applications to approval or denial within the following timeframes:

(1) *Initial enrollments.* Contractors process new enrollment applications within 180 days of receipt.

(2) *Revalidation of existing enrollments.* Contractors process revalidations within 180 days of receipt.

(3) *Change-of-information and reassignment of payment request.* Contractors process change-of-information and reassignment of payment requests within 90 days of receipt.

PART 424—CONDITIONS FOR MEDICARE PAYMENT

4. The authority citation for part 424 continues to read as follows:

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

5. Section 424.510 is amended by adding a new paragraphs *(d)(2)(iv) and* (e) to read as follows:

§ 424.510 Requirements for enrolling in the Medicare program.

* * * * *

(d)

(2) * * *

(iv) The revisions read as follows:

At the time of enrollment, an enrollment change request or revalidation, providers and suppliers must agree to receive Medicare payments via EFT. In order to receive Medicare payments via EFT, providers and suppliers must submit the CMS–588 form.

* * * * *

(e) Providers and suppliers must—(1) Agree to receive Medicare payment via electronic funds transfer (EFT) at the time of enrollment, revalidation or submission of an enrollment change request; and

(2) Submit the CMS–588 form to receive Medicare payment via electronic funds transfer.

6. Section 424.525 is amended by—

A. Republishing paragraph (a) introductory text.

B. Revising paragraphs (a)(1) and (a)(2).

The revisions read as follows:

§ 424.525 Rejection of a provider or supplier's enrollment application for Medicare enrollment.

(a) *Reasons for rejection.* CMS may reject a provider or supplier's enrollment application for the following reasons:

(1) The provider or supplier fails to furnish complete information on the provider/supplier enrollment application within 30 calendar days from the date of the contractor request for the missing information.

(2) The provider or supplier fails to furnish all required supporting documentation within 30 calendar days of submitting the enrollment application.

* * * * *

7. Section 424.535 is amended by—

A. Adding a new paragraph (a)(8).

B. Redesignating paragraphs (c) through (f) as paragraphs (d) through (g).

C. Adding a new paragraph (c).

The addition and revision read as follows:

§ 424.535 Revocation of enrollment and billing privileges from the Medicare program.

* * * * *

(a) * * *.

(8) *Abuse of billing privileges.* The provider or supplier submits a claim or claims for services that could not have been furnished to a specific individual on the date of service. These instances include but are not limited to situations where the beneficiary is deceased, the directing physician or beneficiary is not in the State or country when services were furnished, or when the equipment necessary for testing is not present where the testing is said to have occurred.

* * * * *

(c) *Reapplying after revocation.* After a provider, supplier, delegated official or authorizing official has had their billing privileges revoked, they must wait 3 years from the date of revocation before they can reapply to participate in the Medicare program.

* * * * *

8. Section 424.545 is amended by revising paragraph (a) to read as follows:

§ 424.545 Provider and supplier appeal rights.

(a) *General.* A provider or supplier that is denied enrollment in the Medicare program, or whose Medicare enrollment has been revoked may appeal CMS' decision in accordance with part 498, subpart A of this chapter.

(1) *Appeals resulting in the termination of a provider agreement.* (i) When revocation of billing privileges also results in the termination of a corresponding provider agreement, the provider may appeal CMS' decision in accordance with part 498 of this chapter with the final decision of the appeal applying to both the billing privileges and the provider agreement.

(ii) When a provider appeals the revocation of billing privileges and the termination of its provider agreement, there will be one appeals process which will address both matters. The appeal procedures for revocation of Medicare billing privileges will apply.

(2) *Payment of unpaid claims.* Payment is not made during the appeals process. If the provider or supplier is successful in overturning a denial or revocation, unpaid claims for services furnished during the overturned period may be resubmitted.

* * * * *

PART 498—APPEALS PROCEDURES FOR DETERMINATIONS THAT AFFECT PARTICIPATION IN THE MEDICARE PROGRAM AND FOR DETERMINATIONS THAT AFFECT THE PARTICIPATION OF ICFs/MR AND CERTAIN NFs IN THE MEDICAID PROGRAM

9. The authority citation for part 498 continues to read as follows:

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

Subpart A—General Provisions

10. Section 498.1 is amended by revising paragraph (g) to read as follows:

§ 498.1 Statutory basis.

* * * * *

(g) Section 1866(j) of the Act provides for a hearing and judicial review for any provider or supplier whose application for enrollment or reenrollment in Medicare is denied or whose billing privileges are revoked.

* * * * *

11. Section 498.2 is amended by—

A. Revising the definition of ''affected party''.

B. Removing the definition of ''OHA''.

C. Adding in alphabetical order the definition of ''prospective supplier''.

D. Revising the definition of ''supplier''.

The addition and revisions read as follows:

§ 498.2 Definitions.

* * * * *

Affected party means a provider, prospective provider, supplier, prospective supplier, or practitioner that is affected by an initial determination or by any subsequent determination or decision issued under this part, and ''party'' means the affected party or CMS, as appropriate. For provider or supplier enrollment appeals, an affected party includes CMS or a CMS contractor.

* * * * *

Prospective supplier means any of the listed entities specified in the definition of supplier that seek to be approved for coverage of its services under Medicare.

* * * * *

Supplier means an independent laboratory; supplier of portable X-ray services, rural health clinic (RHC); Federally qualified health center

(FQHC); ambulatory surgical center (ASC); a supplier of durable medical equipment, prosthetics, orthotics, or supplies (DMEPOS); ambulance service provider; independent diagnostic testing facility; physician or other practitioner such as physician assistant, physical therapist in independent practice, clinical laboratories, an entity approved by CMS to furnish outpatient diabetes self-management training, or end-stage renal disease (ESRD) treatment facility that is approved by CMS as meeting the conditions for coverage of its services.

12. Section 498.5 is amended by—

A. Revising paragraph (f)(2).

B. Adding a new paragraph (l).

The revision and addition read as follows:

§ 498.5 Appeal rights.

* * * * *

(f) * * *

(2) A supplier or prospective supplier dissatisfied with an ALJ decision may request Board review, and has a right to seek judicial review of the Board's decision.

* * * * *

(l) *Appeal rights related to provider enrollment.*

(1) Any prospective provider, an existing provider, prospective supplier or existing supplier dissatisfied with an initial determination or revised initial determination related to the denial or revocation of Medicare billing privileges may request reconsideration in accordance with § 498.22(a).

(2) CMS, a CMS contractor, any prospective provider, an existing provider, prospective supplier or existing supplier dissatisfied with a reconsidered determination under paragraph (l)(1) of this section, or a revised reconsidered determination under § 498.30, is entitled to a hearing before an ALJ.

(3) CMS, a CMS contractor, any prospective provider, an existing provider, prospective supplier or existing supplier dissatisfied with a hearing decision may request Board review, and any prospective provider, an existing provider, prospective supplier, or existing supplier has a right to seek judicial review of the Board's decision.

Subpart B—Initial, Reconsidered, and Revised Determinations

13. Section 498.22 is amended by revising paragraphs (a) and (b)(1) to read as follows:

§ 498.22 Reconsideration.

(a) *Right to reconsideration.* CMS or one of its contractors reconsiders an initial determination that affects a prospective provider or supplier, or a hospital seeking to qualify to claim payment for all emergency hospital services furnished in a calendar year, if the affected party files a written request in accordance with paragraphs (b) and (c) of this section. For denial or revocation of enrollment, prospective providers and suppliers and providers and suppliers have a right to reconsideration.

(b) * * *

(1) With CMS or with the State survey agency, or in the case of prospective supplier the entity specified in the notice of initial determination;

* * * * *

Subpart D—Hearings

14. Section 498.40 is amended by revising paragraph (a)(1) to read as follows:

§ 498.40 Request for hearing.

(a) * * * (1) An affected party entitled to a hearing under § 498.5 may file a request for a hearing with the ALJ office identified in the determination letter.

* * * * *

15. Section 498.44 is revised to read as follows:

§ 498.44 Designation of hearing official.

(a) The Secretary or his or her delegate designates an ALJ or a member or members of the Board to conduct hearings.

(b) If appropriate, the Secretary or the delegate may designate another ALJ or another member or other members of the Board to conduct the hearing.

(c) As used in this part, ''ALJ'' includes any ALJ of the Department of Health and Human Services or members of the Board who are designated to conduct a hearing.

16. Section 498.56 is amended by—

A. Revising paragraph (a)(2).

B. Adding a new paragraph (e).

The revision and addition read as follows:

§ 498.56 Hearing on new issues.

* * * * *

(a) * * *

(2) Except for provider or supplier enrollment appeals which are addressed in § 498.56(e), the ALJ may consider new issues even if CMS or the OIG has not made initial or reconsidered determinations on them, and even if they arose after the request for hearing was filed or after the prehearing conference.

* * * * *

(e) *Provider and supplier enrollment appeals: Good cause requirement.* (1) *Examination of any new documentary evidence.* After a hearing is requested but before it is held, the ALJ will examine any new documentary evidence submitted to the ALJ by a provider or supplier to determine whether the provider or supplier has good cause for submitting the evidence for the first time at the ALJ level.

(2) *Determining if good cause exists.* An ALJ finds good cause, for example, when the new evidence is material to an issue addressed in the reconsideration and that issue was not identified as a material issue before the reconsideration.

(3) *If good cause does not exist.* If the ALJ determines that there was not good cause for submitting the evidence for the first time at the ALJ level, the ALJ must exclude the evidence from the proceeding and may not consider it in reaching a decision.

(4) *Notification to all parties.* As soon as possible, but no later than the start of the hearing, the ALJ must notify all parties of any evidence that is excluded from the hearing.

17. Section 498.78 is amended by revising paragraph (a) to read as follows:

§ 498.78 Remand by the Administrative Law Judge.

(a) If CMS requests remand, the ALJ may remand any case properly before him or her to CMS.

* * * * *

18. A new § 498.79 is added to subpart D to read as follows:

§ 498.79 Timeframes for deciding an enrollment appeal before an ALJ.

When a request for an ALJ hearing is filed after CMS or a FFS contractor has denied an enrollment application, the ALJ must issue a decision, dismissal order or remand to CMS, as appropriate, no later than the end of the 180-day period beginning from the date the appeal was filed with an ALJ.

Subpart E—Departmental Appeals Board Review

19. Section 498.86 is amended by revising paragraph (a) to read as follows:

§ 498.86 Evidence admissible on review.

(a) Except for provider or supplier enrollment appeals which are addressed in § 498.56(e), the Board may admit evidence into the record in addition to the evidence introduced at the ALJ hearing (or the documents considered by the ALJ if the hearing was waived) if the Board considers that the additional evidence is relevant and material to an issue before it.

* * * * *

20. Section 498.88 is amended by adding a new paragraph (g) to read as follows:

§ 498.88 Decision or remand by the Departmental Appeals Board.

* * * * *

(g) When a request for Board review is filed after an ALJ has issued a decision or dismissal order, the Board must issue a decision, dismissal order or remand to the ALJ, as appropriate, no later than 180 days after the appeal was received by the Board.

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

Dated: August 30, 2005.

Mark B. McClellan,

Administrator, Centers for Medicare and Medicaid Services.

Dated: November 8, 2006.

Micheal O. Leavitt,

Secretary.

[FR Doc. 07–870 Filed 2–23–07; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration for Children and Families

45 CFR Part 98

RIN 0970–AC29

Child Care and Development Fund Error Rate Reporting

AGENCY: Administration for Children and Families (ACF), HHS.

ACTION: Notice of proposed rulemaking.

SUMMARY: This proposed rule revises the Child Care and Development Fund (CCDF) regulations to provide for the reporting of error rates in the expenditure of CCDF grant funds by the fifty States, the District of Columbia and Puerto Rico. The error rate reports will serve to implement provisions of the *Improper Payments Information Act of 2002 (IPIA)* and the *President's Management Agenda (PMA)'s* goal of ''Eliminating Improper Payments.'' For reasons that will be explained in the preamble to the rule, the initial information collection under this proposed rule will require States, the District of Columbia, and Puerto Rico to review and report on a random sample of cases estimated to achieve the calculation of annual improper authorizations for payment (rather than improper payments made) with a 90 percent confidence interval of +/-5.0 percent.

DATES: *Comment Period:* You may submit comments through May 1, 2007. We will not consider comments received after this date.

ADDRESSES: You may mail comments to the Administration for Children and Families, Child Care Bureau, 1250 Maryland Ave. SW., 8th Floor, Washington, DC 20024. Attention: Christine Calpin, Associate Director.

Commenters also may provide comments on the ACF website. To transmit comments electronically, or to download an electronic version of the proposed rule, please go to *http://regulations.acf.hhs.gov.* We will have comments available for public inspection Monday through Friday, 8:30 a.m. to 5 p.m. at the above address. The information collection related to this regulation can be found at *http://www.acf.hhs.gov/programs/ccb/ccdf/ipi/ipi.htm.*

FOR FURTHER INFORMATION CONTACT: Jeff Polich, Child Care Program Specialist, Child Care Bureau, at (202) 205–8696, or by email at *jpolich@acf.hhs.gov.*

SUPPLEMENTARY INFORMATION:

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I. Background

This proposed rule adds a new subpart to the Child Care and Development Fund (CCDF) regulations that would require States, the District of Columbia and Puerto Rico to employ a case review process in calculating CCDF error rates in accordance with an error rate methodology established by the Secretary of Health and Human Services (the Secretary). The proposed rule would require States, the District of Columbia and Puerto Rico to report specified information regarding errors to the Department of Health and Human Services. The basic components of this error rate methodology, and how it was developed and pilot tested, are described in this proposed rule. The specifics of this methodology and how it will be implemented are detailed in the information collection forms and instructions associated with this rule, copies of which may be downloaded or requested as detailed in the section discussing the Paperwork Reduction Act below.

A. Child Care and Development Fund (CCDF)

CCDF provides Federal funds to States, Territories, Indian Tribes and tribal organizations for the purpose of assisting low-income families, including families receiving or transitioning from the Temporary Assistance for Needy Families program (TANF), in the purchase of child care services, thereby allowing parents to work or attend job training or an educational program. States and Territories must spend a portion of their CCDF allotment on expenditures to improve the quality and availability of child care. A principle goal of CCDF set forth in Section 658A of the Child Care and Development Block Grant (CCDBG) Act of 1990, as amended (42 U.S.C. 9858, *et seq.*), is to ''Allow each State maximum flexibility in developing child care programs and policies that best suit the needs of children and parents within such State.'' CCDF is provided only to States, Territories and Tribes—there is no provision for direct funding to individual families or providers.

Federal law establishes eligibility criteria for families receiving CCDF assistance; however, States and Territories administering CCDF funds may impose more restrictive eligibility standards. Regulations governing CCDF are codified in 45 CFR Parts 98 and 99, and the Federal definition of a child's eligibility for child care services is set forth in 45 CFR 98.20. This description includes eligibility requirements related to a child's age, a child's special needs or protective services status, family income and parent's work, training or educational activity. Lead Agencies of the CCDF Program—which are the State, territorial or tribal entities to which CCDF block grants are awarded and that are accountable for the use of the funds provided—have established policies and procedures that vary considerably across and even within jurisdictions, including, but not limited to, stricter income limits, special eligibility or priority for families receiving TANF and

eligibility that differs for a child with special needs. All clients seeking child care assistance supported by CCDF funds must undergo an eligibility determination process when they initially apply, and all Lead Agencies have defined a process for verifying information submitted in the application. Eligibility determination affects many other aspects of the program, including provider payment rates, authorized hours of care and a family's co-payment responsibility.

Section 658E of the CCDBG Act (42 U.S.C. 9858c) and 45 CFR 98.52 limit expenditures by States and Territories for the costs of administering the CCDF program to no more than five percent of the State's or Territory's aggregate expenditures from a fiscal year's allotment of CCDF funds. Various costs that are considered an integral part of service delivery are excluded from the five percent administrative cap, including eligibility determination and redetermination and the establishment and maintenance of computerized child care information systems.

B. Improper Payments

An August 2002 General Accountability Office (GAO) report, ''Coordinated Approach Needed to Address the Government's Improper Payments Problems,'' (GAO–02–749) found that Federal agencies reported over $19 billion in improper payments for fiscal year 2001 and estimated that the actual amount of improper payments is likely billions of dollars more. GAO further noted in a June 2004 report, ''HHS Lacks Adequate Information to Assess Risk and Assist States in Managing Improper Payments,'' (GAO–04–723) that minimizing improper payments in the CCDF program is particularly important considering that almost $5 billion in Federal CCDF funds is appropriated to the program annually. In the latter report, GAO recommended that HHS develop mechanisms to gather information on a recurring basis from all States on their internal control systems for measuring and minimizing improper payments. Finally, a November 2006 report, ''Agencies' Fiscal Year 2005 Reporting under the Improper Payments Information Act Remains Incomplete,'' (GAO–07–92) cites CCDF as a susceptible program that is not currently reporting improper payment estimates. The GAO reports may be downloaded electronically at *http://www.gao.gov/new.items/d02749.pdf, http://www.gao.gov/new.items/d04723.pdf,* and *http://www.gao.gov/new.items/d0792.pdf.*

C. Statutory and Administrative Directives To Measure Improper Payments and Calculate Error Rates

Congress responded to the issue of improper payments by enacting the Improper Payments Information Act of 2002 (IPIA) (31 U.S.C. 3321 note). The IPIA requires Federal agencies to identify programs that are vulnerable to improper payments and to estimate annually the amount of underpayments and overpayments made by these programs. An improper payment, as defined by the IPIA, is any payment that should not have been made or that was made in an incorrect amount under statutory, contractual, administrative or other legally applicable requirement. Incorrect amounts are overpayments and underpayments (including inappropriate denials of payment or service). An improper payment includes any payment that was made to an ineligible recipient or for an ineligible service. Improper payments also are duplicate payments, payments for services not received and payments that do not account for credit for applicable discounts.

According to the IPIA, Federal agencies also must report on the actions they are taking to reduce improper payments. This report must include a discussion of the causes of improper payments, what actions Federal agencies have taken to correct those causes and the results achieved. Federal agencies also must state whether they have the information systems and other infrastructure needed to reduce improper payments and, if not, what resources they have requested in their budget submissions. Finally, Federal agencies must report on what steps they have taken to hold managers accountable for reducing improper payments. The IPIA may be downloaded at *http://thomas.loc.gov/cgi-bin/bdquery/z?d107:HR04878:TOM:/bss/d107query.html.*

The Executive Branch has also worked to address the improper payments issue. The *President's Management Agenda (PMA)'s* goal of ''Eliminating Improper Payments'' promises to establish a baseline of the extent of improper payments and to work with agencies to set goals to reduce improper payments for each program. The anticipated result of this effort is greater accuracy in benefit and assistance programs, which will enable programs to serve additional eligible recipients. The *PMA* may be downloaded at *http://www.whitehouse.gov/omb/budget/fy2002/mgmt.pdf.*

The modifications proposed in this notice of proposed rulemaking (NPRM) are designed to meet the requirements of IPIA as well as to meet the PMA's goal of ''Eliminating Improper Payments.''

D. Error Rate Methodology Pilots

The methodology that will be implemented through this rule is based on a methodology the Child Care Bureau developed and field-tested in 2005 in partnership with four States that volunteered to participate in a pilot study (Arkansas, Colorado, Illinois and Ohio). This methodology focused on administrative error associated with client eligibility. A principal reason for focusing on client eligibility is that, while the methods used to determine initial and ongoing client eligibility are not uniform across States, Territories and Tribes, all States, Territories and Tribes have procedures in place for parents to apply for child care services and some system to initially determine and periodically re-determine eligibility. Also, determining client eligibility is the first step in the child care subsidy process and therefore affects the administration of the entire program.

Federal staff and contractors worked with pilot State staff to select a statistically valid statewide random sample of child care subsidy cases from the universe of cases in which a child care payment had been authorized. Electronic or hard copy files for the selected cases were then retrieved and documentation from the case record was reviewed to determine if errors were made in determining client eligibility, whether any errors that were made resulted in an improper authorization for payment and the amount of any improper authorization.

Pilot States employed this case review process to identify the percentage of cases with an error, the percentage of cases with an improper authorization for payment, the percentage of improper authorizations for payment and the average amount of improper authorization for payment per child. This methodology focused on improper authorizations for payment rather than actual payments because we believe that improper authorizations for payment are closely related to improper payments. Eligibility and authorization are the first steps in the child care subsidy process and errors made at this stage in the process are likely to affect the administration of the entire program.

The Child Care Bureau provided the pilot States with a template of items to examine as part of each case review; pilot States were asked to modify this template to reflect specific State policies

and practices. Federal staff and contractors provided guidance and oversight through on-site visits and other means regarding the selection of the sample, the identification and categorization of errors as part of the case reviews and the calculation of the resulting error rates.

In summary, the error rate methodology used in the pilot included: (1) *Sample Selection:* A sample of cases was selected by each State using a sampling frame based on the child population served by eligibility offices for a one month period. (The number of cases selected was estimated to achieve a precision level of 6 percent at the 90 percent confidence interval.); (2) *Record Review Worksheet:* A template of a record review worksheet, which captured the detail for each element of eligibility, the benefit calculation as documented by the agency, the amount of the subsidy authorized for the review month and any resulting errors, modified by each State so their worksheets would conform to the specifics of their State plans; (3) *Case Review:* State representatives conducted case reviews and collected key pieces of information for a defined review month, including the county of service, administrative errors occurring during the review month, cause of improper authorization for payment, total amount of improper authorizations for payment during the review month and total amount of authorizations during the review month; (4) *Error Rate Calculation:* These data were compiled and error rates were computed for each State, including percentage of cases with an error (case error rate) (percentage of cases with an error as compared to the total number of cases in the sample), percentage of cases with an improper authorization for payment case rate (percentage of cases with an improper authorization for payment as compared to the total number of cases in the sample), percentage of improper authorizations for payment rate (percentage of child care payment dollars that were improper authorizations for payment as compared to the total amount of child care authorizations for payment dollars for the sample), and average amount of improper authorization for payment per child (total dollar amount of child care improper authorizations for payment made divided by the number of cases that had an improper authorization for payment); (5) *Federal Oversight and Monitoring, and Ongoing Technical Assistance:* As part of the pilot, Child Care Bureau and ACF Regional staff provided ongoing oversight, monitoring and technical assistance, both on- and off-site. For example, the Child Care Bureau held a planning conference in February 2005 to provide an overview of the proposed research design and obtain input from participating States and conducted site visits of each participating State to review the error rate calculation process. Again, the pilot focused on administrative error in determining client eligibility (i.e., the extent of errors made by the agency in determining eligibility based on program rules and information available in case records); however, one State decided to extend the methodology to include provider error and client error.

The final report on the error rate methodology pilots may be downloaded electronically at *http://www.acf.hhs.gov/programs/ccb/ccdf//ipi/phase2/sec1_1.htm.* A pilot study of additional States (Florida, Kansas, New Jersey, Oregon, and West Virginia) was conducted in 2006, but results are still forthcoming.

E. Operationalizing the Error Rate Methodology

At the conclusion of the pilot, it was determined that a version of the tested methodology would be an appropriate tool for calculating error rates related to client eligibility. The proposed methodology described in this proposed rule and detailed in the information collection forms and instructions is substantively the same as the pilot described above with the following exceptions: (1) The sample size must be increased to achieve a 90% confidence level +/−5%; (2) States will do the sampling and calculate findings (a contractor performed those functions for pilot States), (3) Two items (portion of improper authorizations for payment attributable to insufficient or lack of documentation and type of improper authorization for payment [underauthorization and overauthorization]) are added to the required Data Entry Form to capture information required by revised Appendix C of OMB Circular A–123; (4) An informal process used with the pilots to consider causes of improper authorizations for payment and future actions to reduce them is formalized and requires submission of a State Improper Authorizations for Payment Report, and (5) States must review cases from each month of the year, rather than from one particular month as was done by the pilot States. The rationale for reviewing cases from each month of the year is to improve the statistical reliability of the case reviews: reviewing cases from only one designated month—as was done in the pilots—would have yielded a statistically valid error rate only for that particular month rather than for the whole year.

Although the proposed rule is broad enough to encompass reporting on all types of errors, the initial methodology and reporting requirements will focus on administrative errors associated with client eligibility and improper authorizations for payment, as described in more detail in the information collection forms and instructions associated with this rule (please refer to the section discussing the Paperwork Reduction Act below).

During the initial information collection, States, the District of Columbia, and Puerto Rico will evaluate both the frequency with which errors occurred and the amount of improper authorization for payment. ACF will use the improper authorization for payment error rates and amounts for each State, the District of Columbia, and Puerto Rico to compute a national improper authorizations for payment rate and amount that will be annually reported in the HHS's Performance and Accountability Report (PAR) beginning with the Fiscal Year 2008 PAR.

We will use a 3-year rotational cycle to measure improper authorizations for payment in Child Care programs in the States, the District of Columbia, and Puerto Rico. Out of this group, we will select 18 to measure in the first year of each cycle and 17 in the remaining 2 years of each cycle. The result is that each State, the District of Columbia, and Puerto Rico will be measured once, and only once, in every 3 years. This rotation allows respondents to plan for the reviews because they know in advance in which year they will be measured. States, the District of Columbia, and Puerto Rico will be randomly assigned using the following methodology. First, each entity will be stratified by the 10 ACF regions, with the regions randomly ordered. Then within region each group will be sorted by caseload, from the most cases to the least cases. Every third State (including the District of Columbia and Puerto Rico) on the list will be selected, using a random start number between one and three the first year. After removing those selected for the first year from the frame, a second random start is drawn between one and two and every other State (including the District of Columbia and Puerto Rico, if they remain) is selected for the second year. The third year will include those not selected in year one or year two. This sampling approach will yield a mix of county-administered and State-administered programs and programs serving both large and small numbers of children each year. A list of

States (including the District of Columbia and Puerto Rico) assigned to each review year can be found in the information collection instructions.

Again, and for the reasons noted earlier, we are proposing to require States, the District of Columbia, and Puerto Rico to measure improper authorizations for payment rather than improper payments at this time. However, we would be interested in hearing from States, the District of Columbia, and Puerto Rico—as well as other interested stakeholders—as to how closely-related authorization for payment and final payment are linked. We would also be interested in hearing about how useful information about improper authorizations for payment will be in reducing improper payments and pursuing corrective action, without information about final payment. We would also like to better understand what additional burden and/or benefit the States, the District of Columbia, and Puerto Rico might reap if, at some future date, we were to request the measurement of actual improper payments as part of the measurement of improper authorizations for payment.

II. Statutory Authority

This proposed regulation is being issued under the authority granted to the Secretary by Section 658I of the CCDBG Act (42 U.S.C. 9858g) and in accordance with the IPIA (31 U.S.C. 3321 note).

III. Provisions of Proposed Rule

A. Summary of the Existing Regulations

Under CCDF regulations, ACF employs several methods to gather the information from States, the District of Columbia, and Territories needed to comply with the statutory requirements of the CCDBG Act and to efficiently oversee the administration of the CCDF program. States and Territories must submit plans every two years detailing their intentions for implementing programs under 45 CFR 98.17. Pursuant to 45 CFR 98.70, States and Territories also must collect monthly case-level reports (which may be submitted monthly or quarterly) and submit annual aggregated reports on services provided through all CCDF grant funds. Finally, States and Territories are required to submit quarterly reports on estimates and expenditures in conjunction with 45 CFR 98.65.

45 CFR 98.65(a) requires Lead Agencies to have an audit conducted after the close of each program period in accordance with OMB Circular A–133 and the Single Audit Act Amendments of 1996 and 45 CFR 98.67(c) requires Lead Agencies to have fiscal control and accounting procedures sufficient to establish that funds have been expended appropriately. CCDF regulations do not currently require the reporting of error rates at regular intervals.

B. Consultation With States, Territories and Other Organizations

The Child Care Bureau has consulted with States, the District of Columbia and Territories since 2003 on different approaches to addressing improper payments. Through quarterly conference calls, workshops at annual State Administrators Meetings and an Improper Payments survey, the Child Care Bureau has engaged States and Territories in conversations about strategies to identify, measure, prevent, reduce and collect improper payments. The Child Care Bureau also has been in contact with national organizations such as the American Public Human Services Association, the National Association for Program Information and Performance Measurement and the United Council on Welfare Fraud through conferences, meetings and conference calls regarding strategies to address improper payments.

C. Changes Made in This Proposed Rule

While retaining the provisions governing CCDF Lead Agency audits, financial reporting requirements and fiscal requirements (located in 45 CFR 98.65 and 45 CFR 98.67), this NPRM proposes to add a new Subpart K—Error Rate Reporting to require CCDF Lead Agencies of the fifty States, the District of Columbia and Puerto Rico to measure, calculate and report to the Department of Health and Human Services error rates in accordance with an error rate methodology established by the Secretary, as summarized in this rule and detailed in the associated information collection forms and instructions.

We anticipate publishing a final rule with an effective date of October 1, 2007. This means that the first round of States (including the District of Columbia and/or Puerto Rico if applicable) subject to the final regulations would need to complete their reviews and submit their data to ACF by June 30, 2008.

Error Rate Report (Section 98.100)

Under proposed section 98.100(a), these requirements would apply only to the fifty States, the District of Columbia and Puerto Rico. American Samoa, the U.S. Virgin Islands, the Commonwealth of the Northern Mariana Islands, Guam and the Tribes would be exempted from the requirements of the proposed rule because they serve smaller numbers of families. We do not believe that the benefits of the error rate data obtained from these exempted Territories and the Tribes justify the costs of compliance with the proposed regulation, which would require a much greater portion of child care resources relative to the States, the District of Columbia and Puerto Rico. However, we would encourage exempted Territories and Tribes to comply voluntarily with the requirements of the proposed rule or to create their own methods and strategies for identifying and reducing improper payments. Additionally, should funding and provision of services change in these exempted Tribes and Territories, we will consider removing the exemption through the notice and comment rulemaking process.

As stated earlier, the terms ''error'' and ''improper payment'' have been defined broadly enough in this rule to encompass reporting on all types of errors and all types of improper payments. For example, paragraph (c) proposes a definition of ''error''; and paragraph (d) proposes a definition of ''improper payment.'' The important distinction between the two terms is that every improper payment is the result of an error; however, not every error result in an improper payment. Error is defined as any violation or misapplication of statutory, contractual, administrative, or other legally applicable requirements governing the administration of CCDF grant funds, regardless of whether such violations results in an improper payment. An improper payment is defined to mean any payment of CCDF grant funds that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative or other legally applicable requirements governing the administration of CCDF grant funds, including any payment of CCDF grant funds to an ineligible recipient, any payment of CCDF grant funds for an ineligible service, any duplicate payment of CCDF grants funds and payments of CCDF grant funds for services not received.

Though we may consider expanding the measurement of error and improper payments in the future to include the full range of errors and improper payments, we are proposing to implement this rule for the time being by focusing on the measurement of error in eligibility determinations and improper authorizations for payment. For example, under proposed paragraph (b), States, the District of Columbia and Puerto Rico would prepare a report

calculating the ''error rates,'' defined as the percentage of cases with an error (expressed as the total number of cases with an error compared to the total number of cases). At this time—and consistent with our initial focus on client eligibility errors—we will be operationalizing this requirement by asking States, the District of Columbia, and Puerto Rico to measure only administrative errors.

Similarly, for the time being, we are asking States, the District of Columbia, and Puerto Rico to review and measure the improper authorizations for payments to subsidy recipients rather than improper payments made. Thus, under proposed paragraph (b), States, the District of Columbia, and Puerto Rico would also prepare a report calculating the percentage of cases with an error, the percentage of cases with an improper authorization for payment (expressed as the total number of cases with an improper authorization for payment compared to the total number of cases); the percentage of improper authorizations for payment (expressed as the total amount of improper authorizations for payment compared to the total dollar amount of authorizations made); the average amount of improper authorization for payment; and the estimated annual amount of improper authorizations for payment. The report would provide strategies for reducing the error rates and will allow States, the District of Columbia and Puerto Rico to set target error rates for the next cycle.

The rationale for capturing the information is as follows: (1) Percentage of cases with an error within a sample of cases for a reporting period is the basic measure of error rate for a child care agency. The overall goal of an agency should be to get this rate as close to zero as possible. (2) Percentage of cases with an improper authorization for payment typically should be a lower rate than the percentage of cases with an error because not all errors result in an improper authorization for payment being made. (3) Percentage of improper authorizations for payment based on the total amount (in dollars) of child care improper authorizations for payment in the sample divided by the total amount of child care authorizations (in dollars) for the sample. This provides a measure of the magnitude (from a financial standpoint) of the improper authorizations for payment compared with the authorizations for payment properly made during the reporting period. (4) Average amount of improper authorization for payment gives an estimate of the size (i.e., the average amount in dollars) of the errors for the reporting period. This can be helpful in determining courses of action for recovery and also gives an agency a basis for estimating the potential benefit of preventive actions to improve the eligibility determination process (e.g., management interventions to reduce error rates). (5) Estimated annual amount of improper authorizations for payment gives an estimate of the total amount of improper authorizations for payment for the reporting period. The percentage of cases with an improper authorization for payment and the estimated annual amount of improper authorizations for payment are necessary to comply with the requirements of the IPIA and to provide a baseline from which future accomplishments in reducing improper authorizations for payment can be measured. We believe the other information will be useful for the States, the District of Columbia, and Puerto Rico to reduce errors and any improper payments resulting from errors. Additionally, we believe this information will be valuable to ACF in monitoring progress in addressing improper authorizations for payments, reducing improper payments, and providing technical assistance, as well as focusing entities on potential problems in the administration of their child care programs.

Case Review Methodology (Section 98.101)

Under proposed section 98.101, Case Review Methodology, the error reports that would be required by this proposed rule must be based on comprehensive reviews of case records conducted by States, the District of Columbia and Puerto Rico in accordance with a methodology established by the Secretary and detailed in this proposed rule and associated information collection forms and instructions. In determining which case records to review, States, the District of Columbia, and Puerto Rico must select a random sample of child records estimated to achieve the calculation of an estimated annual amount of improper payments with a 90 percent confidence interval of ±5.0 percent. At this time—and for reasons stated earlier—we are operationalizing this requirement, through the information collection instruments and instructions, by asking States, the District of Columbia, and Puerto Rico to select a random sample of child records estimated to achieve the calculation of an estimated annual amount of improper authorizations for payments with a 90 percent confidence interval of ±5.0 percent.

Pursuant to the proposed paragraph (b), the Secretary would provide forms for use in complying with the proposed rule, together with instructions on an acceptable methodology. These forms and instructions may be requested or downloaded as detailed in the section discussing the Paperwork Reduction Act below. States, the District of Columbia, and Puerto Rico would be required under proposed paragraph (c) to conduct case reviews and submit error rate reports every three years on a staggered basis according to a cycle established by the Secretary and shared in instructions accompanying information collection forms. The proposed rule at paragraph (d) would require States, the District of Columbia and Puerto Rico to provide access to Federal staff to participate and provide oversight in the case review and error rate calculation process. Federal staff may make site visits, as was done during the error rate methodology pilots, to provide technical assistance and review compliance with the regulatory requirements. Pursuant to paragraph (e) of the proposed rule, States, the District of Columbia, and Puerto Rico would be required to retain records pertinent to the case reviews and submission of error rate reports for a period of five years from the date of submission of the applicable error rate report or, if the error rate report was revised, from the date of submission of the revision. We selected a period of five years so that records would be available for review through two cycles of case reviews and report submissions.

Content of Error Rate Reports (Section 98.102)

This proposed rule adds a new section 98.102, Content of Error Rate Reports addressing submission of baseline reports and standard reports. Under proposed paragraph (a), in the initial cycle, States, the District of Columbia and Puerto Rico would submit a baseline report listing baseline error rate information and targets for the next cycle, as well as information about causes of, and strategies to address, error and information about their information technology systems. Under proposed paragraph (b), in subsequent cycles, States, the District of Columbia and Puerto Rico would submit a standard report that would, in addition to updating the information provided in the baseline report, enable States, the District of Columbia and Puerto Rico to examine their ability to meet previously submitted targets, set future targets, and describe strategies to reduce their error rates. This report would be used by the Department to comply with the reporting requirements of the IPIA, to advance the goals of the PMA and to

address concerns raised by GAO and others regarding the problem of improper payments.

We intend that the initial case reviews and reports would focus on administrative error associated with client eligibility and authorizations for payment for the reasons previously set forth; however the regulatory language provides flexibility to allow for changing or expanding the error rate study and report if future circumstances warrant doing so. Therefore, should we decide to broaden the examination of ''errors,'' we would provide notice and comment through the information collection process. However, we welcome comments regarding the use of improper authorizations for payment as a means to estimate improper payments as well as comments regarding the additional burden and/or benefit that measuring improper payments would entail.

We are proposing that the frequency of reporting would be every three years to conserve resources and to allow time for the results of responses to error rates undertaken by States, the District of Columbia and Puerto Rico to take effect. However, entities are encouraged to measure the impact of their corrective actions more frequently. In addition, the proposed rule would allow for sampling of cases as part of the review of case records, using methodology established by the Secretary and set forth in instructions accompanying information collection forms.

D. Relation to Existing Regulations

Administrative Costs Cap—45 CFR 98.52 prohibits Lead Agencies from spending more than five percent of the aggregate CCDF funds expended by the Lead Agency from each fiscal year's allotment for administrative activities. Section 658E(c)(3)(C) of the CCDBG Act (42 U.S.C. 9858c(c)(3)(C)) and the accompanying Conference Report (H.R. Conf. Rep. 104–725) specify that the costs of providing direct services are to be excluded from any definition of administrative costs. The Conference Report specifically identified eligibility determination and redetermination, reviews and supervision of child care placements and establishment and maintenance of computerized child care information systems as ''integral part[s] of service delivery'' that ''should not be considered administrative costs.'' Therefore, provided the focus of the error rate calculations and reports continue to focus on client eligibility, the costs to Lead Agencies of conducting case reviews and preparing error rate reports shall be considered a part of service delivery and excluded from administrative costs subject to the five percent administrative cap. Further, any costs incurred by a Lead Agency in complying with this proposed regulation that are directed toward establishing or improving child care information systems shall also be excluded from administrative costs subject to the five percent administrative cap.

Identified Improper Payments—Pursuant to 45 CFR 98.66, any actual improper payments related to specific cases that were included in the sample during the case review process would be subject to disallowance in accordance with the procedures set forth in 45 CFR 98.66. Extrapolations of estimated improper payments derived from random sampling of total cases are not subject to disallowance. In the event that improper payments identified through the case review process are recovered, 45 CFR 98.60(g) provides that such payments shall (1) if received by the Lead Agency during the applicable obligation period (described in 45 CFR 98.60(d) & (e)), be used for activities specified in the Lead Agency's approved plan and must be obligated by the end of the obligation period; or (2) if received after the end of the applicable obligation period, be returned to the Federal government.

No Private Right of Action—Section 658F(a) of the CCDBG Act (42 U.S.C. 9858d(a)) makes clear that CCDF funding is not an entitlement to any child care provider or recipient of child care services. As a result, detection of an underpayment in any specific case does not create an entitlement to that individual to a particular service or benefit. Nothing in this proposed rule should be construed to create a right requiring the States, the District of Columbia or Puerto Rico to remedy any individual, even if a payment error in the form of an underpayment has been made.

IV. Regulatory Impact Analyses

A. Executive Order 12866

Executive Order 12866 requires that regulations be drafted to ensure that they are consistent with the priorities and principles set forth in Executive Order 12866. The Department has determined that this proposed rule is consistent with these priorities and principles.

Executive Order 12866 encourages agencies, as appropriate, to provide the public with meaningful participation in the regulatory process. As described earlier, the Child Care Bureau has consulted with States, the District of Columbia, and Territories on numerous occasions since 2003 concerning different approaches to addressing improper payments. Specifically, through quarterly conference calls, workshops at annual State Administrators Meetings and an Improper Payments survey, the Child Care Bureau has engaged States and Territories in conversations about strategies to identify, measure, prevent, reduce and collect improper payments. The Child Care Bureau also has been in contact with national organizations such as the American Public Human Services Association, the National Association for Program Information and Performance Measurement and the United Council on Welfare Fraud through conferences, meetings and conference calls regarding strategies to address improper payments. In addition, we are providing a 60 day public comment period.

This rule is considered a ''significant regulatory action'' as defined under Executive Order 12866 and therefore has been reviewed by the Office of Management and Budget. Specifically, the rule raises ''novel legal or policy issues arising out of legal mandates, the President's priorities, or the principles set forth in the Executive Order.''

B. Regulatory Flexibility Analysis

The Regulatory Flexibility Act (RFA) (5 U.S.C. Ch. 6) requires the Federal government to anticipate and reduce the impact of rules and paperwork requirements on small businesses and other small entities. Small entities are defined in the RFA to include small businesses, small non-profit organizations and small governmental entities. This rule will affect only the 50 States, the District of Columbia and Puerto Rico. Therefore, the Secretary certifies that this rule will not have a significant impact on small entities.

C. Assessment of the Impact on Family Well-Being

We certify that we have made an assessment of this proposed rule's impact on the well-being of families, as required under Section 654 of the Treasury and General Appropriations Act of 1999. This proposed rule aims to identify and reduce errors in the administration of CCDF funds, thus ensuring that the program is operated as efficiently and fairly as possible. Because CCDF block grant allotments are capped (i.e., CCDF is not an entitlement), fewer improper payments translates into more funds for use in assisting low-income families in purchasing child care services, providing comprehensive consumer education to parents and the public and

improving the quality and availility of child care.

D. Paperwork Reduction Act

The proposed rule would require States, the District of Columbia and Puerto Rico to compile information regarding errors made in the administration of CCDF funds using an error rate methodology established by the Secretary and detailed in this proposed rule and proposed information collection forms and instructions. Towards this end, this rule would require States, the District of Columbia and Puerto Rico to submit reports to the Department on their findings. Copies of the proposed information collection forms and instructions 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: *rsargis@acf.hhs.gov.* Copies of the proposed information collection forms and instructions may also be obtained on the Child Care Bureau's webpage on Addressing Improper Payments at: *http://www.acf.hhs.gov/programs/ccb/ccdf/ipi/ipi.htm.*

In accordance with the Paperwork Reduction Act of 1995, this notice invites the general public and other public agencies to comment on the information collection requirements contained in this proposed rule. The Administration for Children and Families (ACF) will consider comments by the public on this proposed collection of information in the following areas:

(1) Evaluating whether the proposed collection is necessary for the proper performance of the functions of ACF, including whether the information will have practical utility. For example, will the measurement of improper authorizations for payment provide a useful and meaningful component estimate of improper payments?;

(2) Evaluating the accuracy of ACF's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhancing the quality, usefulness and clarity of the information to be collected; and

(4) Minimizing the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technology, e.g., permitting electronic submission of responses.

As required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3507(d)), the Administration for Children and Families has submitted a copy of this section, together with a copy of this notice of proposed rulemaking to the Office of Management and Budget (OMB) for its review.

OMB is required to make a decision concerning the collection of information contained in these proposed regulations between 30 and 60 days after publication of this document in the **Federal Register**. Therefore, a comment is best assured of having its full effect if OMB receives it within 30 days of publication. This does not affect the deadline for the public to comment to the Department on the proposed regulations. These information collection requirements will not become effective until approved by OMB.

To make sure that your comments and related material reach OMB, please submit them by one of the following means:

1. By fax to OMB at (202) 395–6974. To ensure your comments are received in time, mark the fax to the attention of the Desk Officer for the Administration for Children and Families.

2. By e-mail to *OIRA_submission@omb.eop.gov.* To ensure your comments are received in time, mark the e-mail to the attention of the Desk Officer for the Administration for Children and Families.

Title: Child Care and Development Fund: Error Rate Report for States, the District of Columbia and Puerto Rico.

Description: States, the District of Columbia and Puerto Rico must prepare and submit to the Department reports of errors occurring in the administration of CCDF grant funds. They would be required to report the percentage of cases with an error, the percentage of cases with an improper authorization for payment; the percentage of improper authorizations for payment; the average improper authorization for payment amount; and the estimated annual amount of improper authorizations for payment. The report also will provide strategies for reducing the error rates and allow States, the District of Columbia and Puerto Rico to set target error rates for the next cycle.

Respondents: The fifty States, the District of Columbia and Puerto Rico.

ANNUAL BURDEN ESTIMATES

Instrument or requirement	Number of respondents*	Yearly submittals	Average burden hours per submittal	Total burden hours
Record Review Worksheet	17.33	**271	13.74	64,562
Data Entry Form	17.33	**271	.14	652
State Improper Payments Report	17.33	1	367	6,360
Estimated Total Annual Burden Hours				71,574

* States, the District of Columbia and Puerto Rico will compile and submit error rate reports in staggered three-year cycles.

** These burden estimates are based on a review of 271 cases, which is estimated to be the amount needed to meet the sampling requirements of the proposed rule.

E. Unfunded Mandates Reform Act of 1995

Section 202 of the Unfunded Mandates Reform Act of 1995 (UMRA) requires that a covered agency prepare a budgetary impact statement before promulgating a rule that includes any Federal mandate that may result in the expenditure by State, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year.

ACF has estimated the cost impact of conducting an error rate case review and preparing the required reports in compliance with the proposed rule. The cost estimate analysis was based on the error rate pilots and an estimation of the amount of time and cost required to complete various tasks. The estimated cost for a single respondent to conduct its case reviews and prepare the required report is approximately $150,000. The total estimated cost includes the cost from drawing of the sample of cases from 12 monthly sampling frames, training staff,

conducting record reviews, compiling data, calculating error rates and preparing the final report. The total annual cost burden of having 17 respondents, the average number required in any year, to conduct error rate case reviews and prepare the required reports would be approximately $2.6 million. Thus, this proposed rule will not result in the expenditure by State, territorial, local and tribal governments, in the aggregate, or by the private sector, of $100 million or more in any one year.

F. Congressional Review

This proposed rule is not a major rule as defined in 5 U.S.C. 804.

G. Executive Order 13132

Executive Order 13132 on Federalism requires that Federal agencies consult with State and local government officials in the development of regulatory policies with federalism implications. As noted above, the Child Care Bureau has engaged States and Territories in conversations about strategies to identify, measure, prevent, reduce and collect improper payments through quarterly conference calls, workshops at annual State Administrators Meetings and an Improper Payments survey. Further, consistent with Executive Order 13132, we specifically solicit comment from State and local government officials on this proposed rule. We will seriously consider these comments in developing the final rule.

List of Subjects in 45 CFR Part 98

Administrative practice and procedure, Day care, Grant programs, Reporting and recordkeeping requirements.

(Catalogue of Federal Domestic Assistance Programs: 93.575, Child Care and Development Block Grant; 93.596, Child Care Mandatory and Matching Funds)

Dated: April 10, 2006.

Wade F. Horn,

Assistant Secretary for Children and Families.

Approved: February 5, 2007.

Michael O. Leavitt,

Secretary, Department of Health and Human Services.

For the reasons set forth in the preamble, the Administration for Children and Families proposes to amend part 98 of title 45 of the Code of Federal Regulations as follows:

PART 98–CHILD CARE AND DEVELOPMENT FUND

1. The authority for part 98 continues to read:

Authority: 42 U.S.C. 618, 9858.

2. Amend 45 CFR Part 98 to add Subpart K to read as follows:

Subpart K—Error Rate Reporting

Sec.

98.100 Error Rate Report.
98.101 Case Review Methodology.
98.102 Content of Error Rate Reports.

§ 98.100 Error Rate Report.

(a) *Applicability*—The requirements of this subpart apply to the fifty States, the District of Columbia and Puerto Rico.

(b) *Generally*—States, the District of Columbia and Puerto Rico shall calculate, prepare and submit to the Department, a report of errors occurring in the administration of CCDF grant funds, at times and in a manner specified by the Secretary in instructions. States, the District of Columbia and Puerto Rico must use this report to calculate their error rates, which is defined as the percentage of cases with an error (expressed as the total number of cases with an error compared to the total number of cases); the percentage of cases with an improper payment (expressed as the total number of cases with an improper payment compared to the total number of cases); the percentage of improper payments (expressed as the total amount of improper payments in the sample compared to the total dollar amount of payments made in the sample); the average amount of improper payment; and the estimated annual amount of improper payments. The report also will provide strategies for reducing their error rates and allow States, the District of Columbia and Puerto Rico to set target error rates for the next cycle.

(c) *Error Defined*—For purposes of this subpart, an ''error'' shall mean any violation or misapplication of statutory, contractual, administrative, or other legally applicable requirements governing the administration of CCDF grant funds, regardless of whether such violation results in an improper payment.

(d) *Improper Payment Defined*—For purposes of this subpart, ''improper payment'' (1) means any payment of CCDF grant funds that should not have been made or that was made in an incorrect amount (including overpayments and underpayments) under statutory, contractual, administrative, or other legally applicable requirements governing the administration of CCDF grant funds; and

(2) Includes any payment of CCDF grant funds to an ineligible recipient, any payment of CCDF grant funds for an ineligible service, any duplicate payment of CCDF grant funds and payments of CCDF grant funds for services not received.

(e) *Costs of Preparing the Error Rate Report*—Provided the error rate calculations and reports focus on client eligibility, expenses incurred by the States, the District of Columbia and Puerto Rico in complying with this rule, including preparation of required reports, shall be considered a cost of direct service related to eligibility determination and therefore is not subject to the five percent limitation on CCDF administrative costs pursuant to § 98.52(a).

§ 98.101 Case Review Methodology.

(a) *Case Reviews and Sampling*—In preparing the error reports required by this subpart, States, the District of Columbia and Puerto Rico shall conduct comprehensive reviews of case records using a methodology established by the Secretary. For purposes of the case reviews, States, the District of Columbia and Puerto Rico shall select a random sample of child records which is estimated to achieve the calculation of an estimated annual amount of improper payments with a 90 percent confidence interval of ±5.0 percent.

(b) *Methodology and Forms*—States, the District of Columbia and Puerto Rico must prepare and submit forms issued by the Secretary, following the accompanying instructions setting forth the methodology to be used in conducting case reviews and calculating the error rates.

(c) *Reporting Frequency and Cycle*—States, the District of Columbia and Puerto Rico shall conduct case reviews and submit error rate reports to the Department according to a staggered three-year cycle established by the Secretary such that each State, the District of Columbia, and Puerto Rico will be selected once, and only once, in every three years.

(d) *Access to Federal Staff*—States, the District of Columbia and Puerto Rico must provide access to Federal staff to participate and provide oversight in case reviews and error rate calculations, including access to forms related to determining error rates.

(e) *Record Retention*—Records pertinent to the case reviews and submission of error rate report shall be retained for a period of five years from the date of submission of the applicable error rate report or, if the error rate report was revised, from the date of submission of the revision. Records must be made available to Federal staff upon request.

§ 98.102 Content of Error Rate Reports.

(a) *Baseline Submission Report*—At a minimum, States, the District of Columbia and Puerto Rico shall submit an initial error rate report to the Department, as required in § 98.100, which includes the following information on errors and resulting improper payments occurring in the administration of CCDF grant funds, including Federal Discretionary Funds (which includes any funds transferred from the TANF Block Grant), Mandatory and Matching Funds and State Matching and Maintenance-of-Effort (MOE Funds):

(1) Percentage of cases with an error (regardless of whether such error resulted in an over or under payment), expressed as the total number of cases in the sample with an error compared to the total number of cases in the sample;

(2) Percentage of cases with an improper payment (both over and under payments), expressed as the total number of cases in the sample with an improper payment compared to the total number of cases in the sample;

(3) Percentage of improper payments (both over and under payments), expressed as the total dollar amount of improper payments in the sample compared to the total dollar amount of payments made in the sample;

(4) Average amount of improper payments (gross over and under payments, divided by the total number of cases in the sample that had an improper payment (both over and under payments));

(5) Estimated annual amount of improper payments (which is a projection of the results from the sample to the universe of cases statewide during the 12-month review period) calculated by multiplying the percentage of improper payments by the total dollar amount of child care payments that the State, the District of Columbia or Puerto Rico paid during the 12-month review period;

(6) For each category of data listed above, targets for errors and improper payments in the next reporting cycle (which must be lower than the most recent estimated error rates);

(7) Summary of methodology used to arrive at estimate, including fieldwork preparation, sample generation, record review and error rate computation processes;

(8) Discussion of the causes of improper payments identified and actions that will be taken to correct those causes in order to reduce the error rates;

(9) Description of the information systems and other infrastructure that assist the State, the District of Columbia and Puerto Rico in identifying and reducing improper payments, or if the State, the District of Columbia or Puerto Rico does not have these tools, a description of actions that will be taken to acquire the necessary information systems and other infrastructure; and

(10) Such other information as specified by the Secretary.

(b) *Standard Report*—At a minimum, the State, the District of Columbia and Puerto Rico shall submit an error rate report to the Department, as required in § 98.100, made subsequent to the baseline submission report as set forth in § 98.102(a) which includes the following information on errors and resulting improper payments occurring in the administration of CCDF grant funds, including Federal Discretionary Funds (which includes any funds transferred from the TANF Block Grant), Mandatory and Matching Funds and State Matching and Maintenance-of-Effort (MOE Funds):

(1) All the information reported in the baseline submission, as set forth in § 98.102(a), updated for the current cycle;

(2) For each category of data listed in § 98.102(a)(1) through (5), States, the District of Columbia and Puerto Rico must include data and targets from the prior cycle in addition to data from the current cycle and targets for the next cycle;

(3) Description of whether the State, the District of Columbia or Puerto Rico met error rate targets set in the prior cycle and, if not, an explanation of why not;

(4) Discussion of the causes of improper payments identified in the prior cycle and actions that were taken to correct those causes, in addition to a discussion on the causes of improper payments identified in the current cycle and actions that will be taken to correct those causes in order to reduce the error rates; and

(5) Such other information as specified by the Secretary.

[FR Doc. E7–3664 Filed 3–1–07; 8:45 am]

BILLING CODE 4184–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[I.D. 021507B]

South Atlantic Fishery Management Council; Public Hearings

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

ACTION: Notice of additional public hearing.

SUMMARY: The South Atlantic Fishery Management Council (Council) will hold an additional public hearing in a series of public hearings regarding Amendment 18 to the Fishery Management Plan for Coastal Migratory Pelagic Resources of the Gulf of Mexico and South Atlantic. Amendment 18 will modify the total allowable catch (TAC) for the Atlantic migratory group king mackerel and Spanish mackerel fisheries, and change the commercial trip limits for Spanish mackerel to reflect recent changes in the fishing year.

DATES: The additional public hearing will be held March 18, 2007. Written comments regarding Amendment 18 must be received in the Council office by close of business on April 10, 2007. See **SUPPLEMENTARY INFORMATION** for the date, time, and location of the public hearing.

ADDRESSES: Written comments should be sent to Bob Mahood, Executive Director, South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405, or via email to *MackerelAmendment18@safmc.net*. Copies of the public hearing document are available from Kim Iverson, South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; telephone: 843–571–4366 or toll free at 866/SAFMC–10.

FOR FURTHER INFORMATION CONTACT: Kim Iverson, South Atlantic Fishery Management Council, 4055 Faber Place Drive, Suite 201, North Charleston, SC 29405; telephone: 843–571–4366; fax: 843–769–4520; email address: *kim.iverson@safmc.net*.

SUPPLEMENTARY INFORMATION: The Council initiated a regulatory amendment in June 2006 to adjust the TAC following an assessment and report reflecting the need to reduce the current TACs for both Atlantic migratory group king and Spanish mackerel. The Council is proposing to reduce the current annual TAC for king mackerel from 10.0 million pounds to 7.1 million pounds, and for Spanish mackerel from 7.04 million pounds to 6.7 million pounds. Amendment 18 was changed from a regulatory amendment to a plan amendment in September 2006 to allow more flexibility for alternatives. While the title has changed, the alternatives and information contained in the plan amendment remain the same.

Information regarding the other public hearings was published at 72 FR 8145, February 23, 2007, remain unchanged and will not be repeated in this notification.

Public Hearing, Date, and Location

The additional public hearing will be held Sunday, March 18, 2007, at 6 p.m. The hearing will be held at the Hatteras Civic Center, Highway 12, Hatteras, NC 27943.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Council office (see **ADDRESSES**) by March 16, 2007.

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

Dated: February 26, 2007.

James P. Burgess,

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

[FR Doc. E7–3703 Filed 3–1–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 665

[Docket No. 070215037–7037–01; I.D. 020907A]

RIN 0648–AV26

Fisheries in the Western Pacific; Western Pacific Precious Corals Fisheries; Control Date

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

ACTION: Advance notice of proposed rulemaking; notification of control date; request for comments.

SUMMARY: NMFS announces that persons who enter the black coral fishery in the Au'au Channel, Hawaii, after December 21, 2006, (the ''control date'') are not guaranteed future participation in the fishery if the Western Pacific Fishery Management Council (Council) recommends, and NMFS approves, a program that limits entry into the fishery or fishing effort. This action does not commit the Council or NMFS to limit entry, or prevent any other date from being selected for use when limiting eligibility to participate in the Au'au Channel black coral fishery. The Council or NMFS may also use other criteria to limit fishing effort or participation in a limited entry program that is developed in the future.

DATES: Comments must be submitted in writing by May 1, 2007.

ADDRESSES: You may submit comments on this action identified by 0648–AV26 by any of the following methods:

- E-mail: *AV26BlackCoral@noaa.gov*. Include 0648–AV26 in the subject line of the e-mail comment following document identifier: Black coral. Comments sent via e-mail, including all attachments, must not exceed a 10 megabyte file size.
- Federal e-Rulemaking portal: *www.regulations.gov*. Follow the instructions for submitting comments.
- Mail: William L. Robinson, Regional Administrator, NMFS Pacific Islands Region (PIR), 1601 Kapiolani Blvd., Suite 1110, Honolulu, HI 96814.

FOR FURTHER INFORMATION CONTACT: Bob Harman, NMFS PIR, 808–944–2271.

SUPPLEMENTARY INFORMATION: At its 136th meeting in December, 2006, the Council adopted a control date of December 21, 2006, applicable to persons who are contemplating entering the fishery for black corals in the Au'au Channel, Hawaii (south of Maui). The Council requested that this control date be published in the **Federal Register** to provide timely notice to fishermen and the general public. Anyone entering the fishery after December 21, 2006, will not be guaranteed future access, if a management regime that limits the number of participants in the fishery is prepared and implemented.

Recent research has indicated that the biomass of the Au'au Channel black coral population has decreased by at least 25 percent in the last 30 years. Data collected in late 2001, during submersible dives, showed a decline in recruitment, as well as a decrease in the relative abundance of legal-sized coral colonies. The decline in recruitment may be related to an increase in abundance of the alien snowflake coral *Carijoa riisei*. This highly-invasive soft coral was found to be overgrowing large areas of black coral habitat and black coral colonies, especially at depths of 80–110 meters (beyond the normal working depth of black coral harvesters). Directed fishing pressure on black corals in shallower areas of the Au'au Channel bed is also considered to be an important factor in the observed population and recruitment declines.

Control dates are intended to discourage speculative entry into fisheries, as new participants entering the fisheries after the control date are forewarned that they are not guaranteed future participation in the fisheries. Establishment of this control date does not commit the Council or NMFS to any particular management regime or criteria for entry into the Au'au Channel black coral fishery. Fishermen are not guaranteed future participation in the fishery, regardless of their level of participation before or after the control date. The Council may choose a different control date, or it may choose a management regime that does not involve a control date. Other criteria, such as documentation of commercial landings and sales, may be used to determine eligibility for participation in a limited access fishery. The Council also may choose to take no further action to control entry or access to the fishery, in which case the control date may be rescinded.

Classification

This advance notice of proposed rulemaking has been determined to be not significant for the purposes of Executive Order 12866.

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

Dated: February 26, 2007.

Samuel D. Rauch III,

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

[FR Doc. E7–3702 Filed 3–1–07; 8:45 am]

BILLING CODE 3510–22–S

Notices

Federal Register
Vol. 72, No. 41
Friday, March 2, 2007

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

DEPARTMENT OF AGRICULTURE

Forest Service

Chugach National Forest, Glacier Ranger District, Alaska—Spencer Mineral Materials Project

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: This project proposes the sale of mineral materials in the form of gravel aggregate and quarry rock from up to 570 acres at Spencer on the Glacier Ranger District of the Chugach National Forest, and will analyze removal of these materials within the constraints of the Chugach National Forest Revised Land and Resource Management Plan.

DATES: Comments and input regarding the proposal were requested from the public, other groups and agencies via direct mailing on November 16, 2006. Based on the comments received, the Responsible Official has determined that an environmental impact statement will be prepared for this project. The draft environmental impact statement is expected in May, 2007 and the final environmental impact statement is expected August, 2007.

ADDRESSES: Send written comments to Alice Allen, Hell Canyon Ranger District, 330 Mt. Rushmore Rd., Custer, South Dakota 57730. Comment may also be submitted by e-mail to: *comments-alaska-chugach-glacier@fs.fed.us* with ''Spencer Minerals'' as subject.

FOR FURTHER INFORMATION CONTACT: Alice Allen, Project Coordinator, Black Hills National Forest, Hell Canyon Ranger District, at 330 Mt. Rushmore Rd., phone (605) 673–4853.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action: The purpose of the project is to authorize the sale of mineral materials (gravel aggregate and quarry rock). The EIS will determine current conditions, analyze environmental consequences of mineral extraction on those conditions, and assist the decisionmaker in selecting management/monitoring strategies consistent with meeting desired conditions in the CRLRMP, including one of the goals for ''Minerals''. The Forest Service seeks to continue to provide high quality mineral materials for the State of Alaska from the Spencer site as a valid multiple use while maintaining the integrity of the recreational experience at Spencer and restoring a more natural landscape.

Proposed Action: The Forest Service will evaluate, analyze and determine the ability to develop and extract quarry rock and gravel aggregate from a mineral materials site at Spencer. Production of these materials will be permitted on all or a portion of the approximately 570-acre site for up to 15 years. The site(s) chosen for mineral material extraction will be situated and operated so as not to conflict with a high quality recreation experience at the Spencer Glacier Whistle Stop.

Issues: Key issues identified during scoping include impacts of the proposal to recreationists at Spencer; conflicts with valid existing placer claims; impacts on water quality; impacts on wildlife and wildlife habitat; economic feasibility of the proposal; and public safety.

Possible Alternatives: The No Action alternative would not allow extraction of mineral materials from the Spencer site at this time. Alternative B would minimize impacts to recreationists. Alternative C would minimize visual impacts. Alternative D would allow gravel extraction from a larger area than Alternative B or C but less than Alternative A.

Responsible Official: The Responsible Official for this project on the Glacier Ranger District is Joe Meade, Forest Supervisor, Chugach National Forest, 3301 ''C'' Street, Suite 300, Anchorage, Alaska.

Nature of Decision To Be Made: The Forest Service will evaluate the proposed action and alternatives. After reviewing the proposed action, the alternatives, the environmental analysis, and considering public comment, the Forest Supervisor will reach a decision that is in accordance with the purpose and need for this project. The decision will include, but not be limited to:

(1) Whether or not to permit production of mineral materials from the Spencer site.

(2) What will be the size and location of the area(s) permitted for mineral materials production.

(3) What types of equipment and facilities will be allowed in the permitted area to support minerals materials operations.

(4) What methods of extraction will be allowed and/or prohibited.

(5) What constraints will apply to mineral materials operations to provide a high quality recreational experience at the Spencer Glacier Whistle Stop.

Public Comment: Comments and input regarding the proposal were requested from the public, other groups and agencies via direct mailing on November 16, 2006. Based on the comments received, the Responsible Official has determined that an environmental impact statement will be prepared for this project. Additional comments will be accepted during a 45-day public comment following publication of the draft environmental impact statement in May, 2007.

Early Notice of Importance of Public Participation in Subsequent Environmental Review: A draft environmental impact statement will be prepared for comment. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**. The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC,* 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel,* 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris,* 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of

these courts rulings, it is very important that those interested in this proposed action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

(Authority, 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21)

Dated: February 15, 2007.

Joe L. Meade,

Forest Supervisor, Chugach National Forest.

[FR Doc. 07–944 Filed 3–1–07; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

Eastern Washington Cascades Provincial Advisory Committee and the Yakima Provincial Advisory Committee

AGENCY: Forest Service, USDA.

ACTION: Notice of meeting.

SUMMARY: The Eastern Washington Cascades Provincial Advisory Committee and the Yakima Provincial Advisory Committee will meet on Wednesday, March 21, Monday, April 23, and Friday, May 18, 2007 at the Okanogan and Wenatchee National Forests Headquarters office, 215 Melody Lane, Wenatchee, WA. These meetings will begin 9 a.m. and continue until 4 p.m. During these meetings Provincial Advisory Committee members will continue discussion on Roadless Area considerations and potential Wilderness recommendations in conjunction with Forest Plan Revision for the Okanogan and Wenatchee National Forests. All Eastern Washington Cascades and Yakima Province Advisory Committee meetings are open to the public.

FOR FURTHER INFORMATION CONTACT: Direct questions regarding this meeting to Paul Hart, Designated Federal Official, USDA, Wenatchee National Forest, 215 Melody Lane, Wenatchee, Washington 98801, 509–664–9200.

Dated: February 26, 2007.

Paul Hart,

Designated Federal Official, Okanogan and Wenatchee National Forests.

[FR Doc. 07–943 Filed 3–1–07; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Cancellation of Minnesota's Delegation

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Notice.

SUMMARY: The United States Grain Standards Act, as amended (Act), provides for state agency delegations at export port locations within a state. The Minnesota Department of Agriculture (Minnesota) is delegated to provide official export inspection and weighing services. Minnesota requested that they cease providing official services on April 2, 2007. Accordingly, Grain Inspection, Packers and Stockyards Administration, USDA (GIPSA) is announcing that Minnesota's delegation will be cancelled effective April 2, 2007.

DATES: Effective April 2, 2007.

ADDRESSES: USDA, GIPSA, Karen Guagliardo, Chief, Review Branch, Compliance Division, STOP 3604, room 1647–S, 1400 Independence Ave., SW., Washington, DC 20250–3604.

FOR FURTHER INFORMATION CONTACT: Karen Guagliardo at 202–720–8262, e-mail *Karen.W.Guagliardo@usda.gov.*

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

Section 7(e)(2) of the Act authorizes GIPSA' Administrator to delegate authority to a qualified State agency to perform all or specified functions involved in official inspection at export port locations within the state. Minnesota has been delegated authority to provide official export and weighing services since April 7, 1978. On January 2, 2007, Minnesota requested that they cease providing official services on April 2, 2007. Accordingly, Minnesota's delegation will be cancelled. For export services in Minnesota after April 2, 2007, contact David Mundwiler, Field Office Manager, Toledo, Ohio, telephone number 419–259–6276.

Authority: 7 U.S.C. 71 *et seq.*

Pat Donohue-Galvin,

Acting Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. E7–3646 Filed 3–1–07; 8:45 am]

BILLING CODE 3410–KD–P

DEPARTMENT OF AGRICULTURE

Grain Inspection, Packers and Stockyards Administration

Opportunity To Comment on the Applicants for the Savage (MN) Area

AGENCY: Grain Inspection, Packers and Stockyards Administration, USDA.

ACTION: Notice.

SUMMARY: GIPSA requests comments on the applicants for designation to provide official services in Minnesota.

DATES: Comments must be postmarked or electronically dated on or before April 2, 2007.

ADDRESSES: Comments must be submitted in writing to USDA, GIPSA, Karen Guagliardo, Review Branch Chief, Compliance Division, STOP 3604, Room 1647–S, 1400 Independence Avenue, SW., Washington, DC 20250–3604. FAX 202–690–2755; e-mail *Karen.W.Guagliardo@usda.gov.* All comments received will be made available for public inspection at the above address located at 1400 Independence Avenue, SW., during regular business hours.

FOR FURTHER INFORMATION CONTACT: Karen Guagliardo at 202–720–7312, e-mail *Karen.W.Guagliardo@usda.gov.*

SUPPLEMENTARY INFORMATION: This action has been reviewed and determined not to be a rule or regulation as defined in Executive Order 12866 and Departmental Regulation 1512–1; therefore, the Executive Order and Departmental Regulation do not apply to this action.

In the December 8, 2006, **Federal Register** (71 FR 71122), GIPSA asked persons interested in providing official services in the Savage, Minnesota, area to submit an application for designation.

There were three applicants for the Savage area: Mid-Iowa Grain Inspection, Inc. (Mid-Iowa) and State Grain Inspection, Inc. (State Grain) both

currently designated official agencies. North Dakota Grain Inspection (North Dakota) also applied but subsequently withdrew its application. State Grain applied for designation to provide official services in the entire area currently assigned to them. Mid-Iowa applied for all or part of the area currently assigned to State Grain. GIPSA is publishing this notice to provide interested persons the opportunity to present comments concerning the applicants. Commenters are encouraged to submit reasons and pertinent data for support or objection to the designation of the applicants. All comments must be submitted to the Compliance Division at the above address. Comments and other available information will be considered in making a final decision. GIPSA will publish notice of the final decision in the **Federal Register**, and GIPSA will send the applicants written notification of the decision.

Authority: 7 U.S.C. 71 *et seq.*

Pat Donohue-Galvin,

Acting Administrator, Grain Inspection, Packers and Stockyards Administration.

[FR Doc. E7–3647 Filed 3–1–07; 8:45 am]

BILLING CODE 3410–KD–P

ARCHITECTURAL AND TRANSPORTATION BARRIERS COMPLIANCE BOARD

Meeting

AGENCY: Architectural and Transportation Barriers Compliance Board.

ACTION: Notice of meeting.

SUMMARY: The Architectural and Transportation Barriers Compliance Board (Access Board) has scheduled its regular business meetings to take place in Washington, DC, Monday through Wednesday, March 12–14, 2007, at the times and location noted below.

DATES: The schedule of events is as follows:

Monday, March 12, 2007

10:30–Noon Technical Programs Committee
1:30–3 p.m. Planning and Evaluation Committee
3–3:30 Budget Committee
3:30–5 Committee of the Whole—Board meeting dates; Additional Board members; Transfer heights for amusement rides (Closed Session)

Tuesday, March 13, 2007

9–Noon Passenger Vessels Guidelines Ad Hoc Committee
1:30–5 p.m. Transportation Vehicle Guidelines Ad Hoc Committee

Wednesday, March 14, 2007

9 a.m.–Noon Electronic and Information Technology–Access Issues in Electronic and Information Technology
1:30–3 p.m. Board Meeting

ADDRESSES: All meetings will be held at The Madison Hotel, 1177 15th Street, NW., Washington, DC 20005.

FOR FURTHER INFORMATION CONTACT: For further information regarding the meetings, please contact Lawrence W. Roffee, Executive Director, (202) 272–0001 (voice) and (202) 272–0082 (TTY).

SUPPLEMENTARY INFORMATION: At the Board meeting, the Access Board will consider the following agenda items:

- Approval of the January 2007 draft Board Meeting Minutes
- Technical Programs Committee Report
- Planning and Evaluation Committee Report
- Budget Committee Report
- Committee of the Whole Report
- Transportation Vehicle Guidelines Ad Hoc Committee Report
- Passenger Vessels Guidelines Ad Hoc Committee Report
- Election of Officers

All meetings are accessible to persons with disabilities. An assistive listening system, computer assisted real-time transcription (CART), and sign language interpreters will be available at the Board meetings. Persons attending Board meetings are requested to refrain from using perfume, cologne, and other fragrances for the comfort of other participants.

Lisa Fairhall,

Deputy General Counsel.

[FR Doc. E7–3639 Filed 3–1–07; 8:45 am]

BILLING CODE 8150–01–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

[Docket No. 04–BIS–15]

In the Matter of: S.P. Equipamentos de Proteção ao Trabalho Ltda., Rua Visconde de Inhaúma 386–Saúde, 04146–030 São Paulo, Brazil, Respondent; Final Decision and Order

This matter is before me upon a Recommended Decision and Order (''RDO'') of an Administrative Law Judge (''ALJ''), as further described below.

In a charging letter filed on September 13, 2004, the Bureau of Industry and Security (''BIS'') alleged that Respondent, S.P. Equipamentos de Proteção ao Trabalho Ltda. (''S.P. Equipamentos''), committed two violations of the Export Administration Regulations (''Regulations'') [1], issued under the Export Administration Act of 1979, as amended (50 U.S.C. app. sections 2401–2420 (2000)) (the ''Act''). [2] Specifically, the charging letter alleged that S.P. Equipamentos engaged in conduct prohibited by the Regulations by transferring one thermal imaging camera classified under Export Control Classification Number (''ECCN'') 6A003.b.4 to the State Secretariet of Civil Defense (Military Police of the State of Rio de Janeiro) in violation of condition 4 of license D274828, which forbade the resale, reexport, or transfer of the thermal imaging camera to any part other than that listed on the license without the prior approval of the United States Government. In transferring the thermal imaging camera to a non-approved end-user without prior U.S. Government authorization, S.P. Equipamentos committed one violation of Section 764.2(a) of the Regulations.

The charging letter further alleged that S.P. Equipamentos sold one thermal imaging camera classified under ECCN 6A003.b.4 to the State Secretariet of Civil Defense (Military Police of the State of Rio Janeiro) with the knowledge that doing so was a violation of condition 4 of license D274828, which forbade the resale, reexport, or transfer of the thermal imaging camera to any party other than that listed on the license without the prior approval of the United States Government. In transferring the thermal imaging camera with such knowledge, S.P. Equipamentos committed one violation of Section 764.2(e) of the Regulations.

In accordance with Section 766.3(b)(1) of the Regulations, on September 13, 2004, BIS mailed the notice of issuance of the charging letter by registered mail to S.P. Equipamentos at its last known address. The record

[1] The violations charged occurred in 2002. The Regulations governing the violations at issues are found in the 2002 version of the Code of Federal Regulations (15 CFR Parts 730–774 (2002)). The 2006 Regulations establish the procedures that apply to this matter.

[2] From August 21, 1994 through November 12, 2000, the Act was in lapse. During that period, the President, through Executive Order 12924, which had been extended by successive Presidential Notices, the last of which was August 3, 2000 (3 CFR, 2000 Comp. 397 (2001)), continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (2000)) (''IEEPA''). On November 13, 2000, the Act was preauthorized and it remained in effect through August 20, 2001. Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13222 of August 17, 2001 (3 CFR, 2001 Comp. 783 (2002)), which has been extended by successive Presidential Notices, the most recent being that of August 3, 2006 (71 FR 44,551 (August 7, 2006)), has continued the Regulations in effect under IEEPA.

establishes that the notice of issuance of a charging letter was received by S.P. Equipamentos on September 24, 2004. Counsel for S.P. Equipamentos filed a Notice of Appearance in this matter of February 7, 2005. To date, however, S.P. Equipamentos has not filed an answer to the charging letter with the ALJ, as required by the Regulations.

In accordance with Section 766.7 of the Regulations, BIS filed a Motion for Default Order on or about November 11, 2006. This Motion for Default Order recommended that S.P. Equipamentos be denied export privileges for a period of ten years. Under Section 766.7(a) of the Regulations, ''[f]ailure of the respondents to file an answer within the time provided constitutes a waiver of the respondent's right to appear,'' and ''on BIS's motion and without further notice to the respondent, [the ALJ] shall find the facts to be as alleged in the charging letter.'' The ALJ has found S.P. Equipamentos in default.

On January 31, 2007, based on the record before him, the ALJ issued an RDO in which he found that S.P. Equipamentos committed one violation of Section 764.2(a) and one violation of Section 764.2(e). The ALJ also recommended the penalty of denial of S.P. Equipamentos' export privileges under the Regulations for ten years.

The ALJ's RDO, together with the entire record in this case, has been referred to me for final action under Section 766.22 of the Regulations. I find that the record supports the ALJ's findings of fact and conclusions of law. I also find that the penalty recommended by the ALJ is appropriate, given the nature of the violations and the facts of this case, and the importance of preventing future unauthorized exports.

Based on my review of the entire record, I affirm the findings of fact and conclusions of law as recommended by the ALJ.

Accordingly, *it is therefore ordered,*

FIRST, that for a period of ten years from the date of this Order, S.P. Equipamentos de Proteção ao Trabalho Ltda., Rua Visconde de Inhaúma, 386-Saúde, 04146–030 São Paulo, Brazil, its successors and assigns, and when acting for or on behalf of S.P. Equipamentos, its representatives, agents and employees (hereinafter collectively referred to as the ''Denied Person''), may not, directly or indirectly, participate in any way in any transaction involving any commodity, software or technology (hereinafter collectively referred to as ''item'') exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations, including, but not limited to:

A. Applying for, obtaining, or using any license, License Exception, or export control document;

B. Carrying on negotiations concerning, or ordering, buying, receiving, using, selling, delivering, storing, disposing of, forwarding, transporting, financing, or otherwise servicing in any way, any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations; or

C. Benefitting in any way from any transaction involving any item exported or to be exported from the United States that is subject to the Regulations, or in any other activity subject to the Regulations.

Second, that no person may, directly or indirectly, do any of the following:

A. Export or reexport to or on behalf of the Denied Person any item subject to the Regulations;

B. Take any action that facilitates the acquisition or attempted acquisition by the Denied Person of the ownership, possession, or control of any item subject to the Regulations that has been or will be exported from the United States, including financing or other support activities related to a transaction whereby the Denied Person acquires or attempts to acquire such ownership, possession or control;

C. Take any action to acquire from or to facilitate the acquisition or attempted acquisition from the Denied Person of any item subject to the Regulations that has been exported from the United States;

D. Obtain from the Denied Person in the United States any item subject to the Regulations with knowledge or reason to know that the item will be, or is intended to be, exported from the United States; or

E. Engage in any transaction to service any item subject to the Regulations that has been or will be exported from the United States and that is owned, possessed or controlled by the Denied Person, or service any item, of whatever origin, that is owned, possessed or controlled by the Denied Person if such service involves the use of any item subject to the Regulations that has been or will be exported from the United States. For purposes of this paragraph, servicing means installation, maintenance, repair, modification or testing.

Third, that after notice and opportunity for comment as provided in Section 766.23 of the Regulations, any person, firm, corporation, or business organization related to the Denied Person by affiliation, ownership, control, or position of responsibility in the conduct of trade or related services may also be made subject to the provisions of this Order.

Fourth, that this Order does not prohibit any export, reexport, or other transaction subject to the Regulations where the only items involved that are subject to the Regulations are the foreign-produced direct product of U.S.-origin technology.

Fifth, that this Order shall be served on the Denied Person and on BIS, and shall be published in the **Federal Register**. In addition, the ALJ's Recommended Decision and Order, except for the section related to the Recommended Order, shall be published in the **Federal Register**.

This Order, which constitutes the final agency action in this matter, is effective immediately.

Dated: February 26, 2007.

Mark Foulon,

Acting Under Secretary of Commerce, for Industry and Security.

Certificate of Service

I hereby certify that on February 26, 2007, I caused a copy of the foregoing Decision and Order signed by Mark Foulon, Acting Under Secretary of Commerce for Industry and Security, in the matter of S.P. Equipamentos de Proteção ao Trabalho Ltda. (Docket No.: 04–BIS–15), to be sent via FedEx or mailed first-class, postage prepaid to:

S.P. Equipamentos de Proteção ao Trabalho Ltda., Rua Visconde de Inhaúma, 386–Saúde, 04146–030 São Paulo, Brazil.

ALJ Docketing Center, Attn: Jenny L. Collins, United States Coast Guard, 40 S. Gay Street, Room 412, Baltimore, MD 21202–4022.

I hereby also certify that on February 26, 2007, a copy of the same foregoing Decision and Order was delivered to Melissa B. Mannino, Esq., Office of Chief Counsel for Industry and Security, U.S. Department of Commerce, Room H–3839, 14th and Constitution Avenue, NW., Washington, DC 20030.

Catherine J. Parker,
Executive Secretariat.

Recommended Decision and Order

On September 13, 2004, the Bureau of Industry and Security (''BIS''), U.S. Department of Commerce, issued a Charging Letter initiating this administrative enforcement proceeding against S.P. Equipmantos de Proteção ao Trabalho Ltda. (''S.P. Equipamentos''). The Charging Letter alleged that S.P. Equipamentos committed one violation of § 764.2(a) and one violation of § 764.2(e) of the Export Administration Regulations (currently codified at 15 CFR Parts 730–774 (2006))

(''Regulations''),[1] issued under the Export Administration Act of 1979, as amended (50 U.S.C. app. 2401–2420 (2000)) (''Act'').[2] In accordance with § 766.7 of Regulations, BIS moved for the issuance of an Order of Default against S.P. Equipamentos as S.P. Equipamentos failed to file an answer to the allegations in the Charging Letter issued by BIS within the time period required by law.

A. Legal Authority for Issuing an Order of Default

Section 776.7 of the Regulations states that BIS may file a motion for an order of default if a respondent fails to file a timely answer to a charging letter. That section, entitled Default, provides in pertinent part:

> Failure of the respondent to file an answer within the time provided constitutes a waiver of the respondent's right to appear and contest the allegations in the charging letter. In such event, the administrative law judge, on BIS's motion and without further notice to the respondent, shall find the facts to be as alleged in the charging letter and render an initial or recommended decision containing findings of fact and appropriate conclusions of law and issue or recommend an order imposing appropriate sanctions.

15 CFR 766.7 (2005).

Pursuant to § 766.6 of the Regulations, a respondent must file an answer to the charging letter ''within 30 days after being served with notice of the issuance of the charging letter * * *'' initiating the proceeding.

B. Service of the Notice of Issuance of Charging Letter

In this case, BIS served notice of issuance of the Charging Letter in accordance with § 766.3(b)(1) of the Regulations when it sent a copy of the Charging Letter by registered mail to S.P. Equipamentos at its last known address on September 13, 2004. BIS submitted evidence that established the Charging letter was received by S.P. Equipamentos on or about September 24, 2004. Counsel for S.P. Equipamentos filed a Notice of Appearance in this matter on February 7, 2005. To date, however, S.P. Equipamentos has failed to file an answer or otherwise file a response to the Charging Letter. Accordingly, because S.P. Equipamentos failed to file an answer to the Charging Letter within thirty (30) days from the time it received notice of issuance of the Charging Letter, as required by § 766.6 of the Regulations, the undersigned finds S.P. Equipamentos to be in default.

C. Summary of Violations Charged

The Charging Letter issued by BIS included a total of two (2) charges. Specifically, the Charging letter alleged that on one occasion, on or about February 25, 2002, S.P. Equipamentos engaged in conduct prohibited by the Regulations by transferring one thermal imaging camera classified under Export Control Classification Number (''ECCN'') 6A003.b.4 to State Secretariet of Civil Defense (Military Police of the State of Rio de Janeiro) in violation of condition 4 of license D274828, which forbade the resale, reexport, or transfer of the thermal imaging camera to any party other than that listed on the license without the prior approval of the United States Government. In transferring the thermal imaging camera to a non-approved end-user without prior U.S. Government authorization, S.P. Equipamentos committed one violation of § 764.2(a) of the Regulations. (Charge 1).

The Charging Letter further alleged that S.P. Equipamentos sold one thermal imaging camera classified under ECCN 6A003.b.4 to the State Secretariet of Civil Defense (Military Police of the State of Rio de Janeiro) with the knowledge that doing so was a violation of condition 4 license D274828, which forbade the resale, reexport, or transfer of the thermal imaging camera to any party other than that listed on the license without the prior approval of the United States Government. In transferring the thermal imaging camera with such knowledge, S.P. Equipamentos committed one violation of § 764.2(e) of the Regulations.

D. Penalty Recommendation

[REDACTED SECTION]

E. Conclusion

Accordingly, I am referring this Recommended Decision and Order to the Under Secretary of Commerce for Industry and Security for review and final action for the agency, without further notice to the Respondent, as provided in § 766.7 of the Regulations. Within thirty (30) days after receipt of this Recommended Decision and Order, the Under Secretary shall issue a written order affirming, modifying, or vacating the Recommended Decision and Order. *See* 15 CFR 766.22(c).

Dated: January 31, 2007.

The Honorable Joseph N. Ingolia,

Chief Administrative Law Judge.

CERTIFICATE OF SERVICE

I hereby certify that I have served the foregoing RECOMMENDED DECISION AND ORDER by First Class Mail, Postage Prepaid to the following person:

Peter R. Klason, Esq., Office of Chief Counsel for Industry and Security, U.S. Department of Commerce, Room H–3839, 14th Street and Constitution Avenue, NW., Washington, DC 20230, Telephone: (202) 482–5301, Facsimile: (202) 482–0085.

Jenny L. Collins,

Hearing Docket Clerk.

Done and dated this 2nd day of February, 2007, Baltimore, Maryland.

[FR Doc. 07–949 Filed 3–1–07; 8:45 am]

BILLING CODE 3510–DT–M

[1] The charged violations occurred during 2002. The Regulations governing the violations at issue are found in the 2002 version of the Code of Federal Regulations (15 CFR Parts 730–774 (2002)). The 2006 Regulations establish the procedures that apply to this matter.

[2] Since August 21, 2001, the Act has been in lapse and the President, through Executive Order 13,222 of August 17, 2001, 3 CFR, 2001 Comp. 783 (2002), as extended by the Notice of August 3, 2006 (71 FR 44,551 (August 7, 2006)), has continued the Regulations in effect under the International Emergency Economic Powers Act (50 U.S.C. §§ 1701–1706 (2000)).

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity To Request Administrative Review

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

FOR FURTHER INFORMATION CONTACT: Sheila E. Forbes, Office of AD/CVD Operations, Customs Unit, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230, telephone: (202) 482–4697.

Background

Each year during the anniversary month of the publication of an antidumping or countervailing duty order, finding, or suspension of investigation, an interested party, as defined in section 771(9) of the Tariff Act of 1930, as amended (the Act), may request, in accordance with section 351.213(2004) of the Department of Commerce (the Department) Regulations, that the Department conduct an administrative review of that antidumping or countervailing duty order, finding, or suspended investigation.

Opportunity to Request a Review: Not later than the last day of March 2007[1], interested parties may request administrative review of the following orders, findings, or suspended investigations, with anniversary dates in March for the following periods:

	Period
Antidumping Duty Proceeding	
Brazil:	
Certain Hot-Rolled Carbon Steel Flat Products, A–351–828	3/1/06—2/28/07
Orange Juice, A–351–840	8/24/05–2/28/07
Canada:	
Iron Construction Castings, A–122–503	3/1/06–2/28/07
Ecuador:	
Frozen Warmwater Shrimp,[2] A–331–802	2/1/06–1/31/07
France:	
Brass Sheet & Strip, A–427–602	3/1/06–2/28/07
Stainless Steel Bar, A–427–820	3/1/06–2/28/07
Germany:	
Brass Sheet & Strip, A–428–602	3/1/06–2/28/07
Stainless Steel Bar, A–428–830	3/1/06–2/28/07
India:	
Sulfanilic Acid, A–533–806	3/1/06–2/28/07
Italy:	
Brass Sheet & Strip, A–475–601	3/1/06–2/28/07
Stainless Steel Bar, A–475–829	3/1/06–2/28/07
Japan:	
Stainless Steel Butt-Weld Pipe Fittings, A–588–702	3/1/06–2/28/07
Republic of Korea:	
Stainless Steel Bar, A–580–847	3/1/06–2/28/07
Russia:	
Silicon Metal, A–821–817	3/1/06–2/28/07
Spain:	
Stainless Steel Bar, A–469–805	3/1/06–2/28/07
Taiwan:	
Light-Walled Welded Rectangular Carbon Steel Tubing, A–583–803	3/1/06–2/28/07
Thailand:	
Circular Welded Carbon Steel Pipes & Tubes, A–549–502	3/1/06–2/28/07
The People's Republic of China:	
Chloropicrin, A–570–002	3/1/06–2/28/07
Glycine, A–570–836	3/1/06–2/28/07
Tissue Paper Products, A–570–894	3/1/06–2/28/07
United Kingdom:	
Stainless Steel Bar, A–412–822	3/1/06–2/28/07
Countervailing Duty Proceeding	
India:	
Sulfanilic Acid, C–533–807	1/1/06–12/31/06
Iran:	
In-Shell Pistachios Nuts, C–507–501	1/1/06–12/31/06
Italy:	
Stainless Steel Bar, C–475–830	1/1/06–12/31/06
Turkey: Welded Carbon Steel Pipes and Tubes, C–489–502	1/1/06–12/31/06

Suspension Agreements

None.

In accordance with section 351.213(b) of the regulations, an interested party as defined by section 771(9) of the Act may request in writing that the Secretary conduct an administrative review. For both antidumping and countervailing duty reviews, the interested party must specify the individual producers or exporters covered by an antidumping finding or an antidumping or countervailing duty order or suspension agreement for which it is requesting a review, and the requesting party must state specifically, on an order-by-order basis, which exporter(s) the request is intended to cover.

Please note that, for any party the Department was unable to locate in prior segments, the Department will not accept a request for an administrative review of that party absent new information as to the party's location. Moreover, if the interested party who files a request for review is unable to locate the producer or exporter for which it requested the review, the

[1] Or the next business day, if the deadline falls on a weekend, Federal holiday or any other day when the Department is closed.

[2] In the opportunity notice that published on February 2, 2007 (72 FR 5007), the review period for the above referenced case was incorrect. The period listed above is the correct period of review for this case.

[3] If the review request involves a non-market economy and the parties subject to the review request do not qualify for separate rates, all other exporters of subject merchandise from the non-market economy country who do not have a separate rate will be covered by the review as part of the single entity of which the named firms are a part.

interested party must provide an explanation of the attempts it made to locate the producer or exporter at the same time it files its request for review, in order for the Secretary to determine if the interested party's attempts were reasonable, pursuant to 19 CFR 351.303(f)(3)(ii).

As explained in *Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties,* 68 FR 23954 (May 6, 2003), the Department has clarified its practice with respect to the collection of final antidumping duties on imports of merchandise where intermediate firms are involved. The public should be aware of this clarification in determining whether to request an administrative review of merchandise subject to antidumping findings and orders. See also the Import Administration Web site at *http://ia.ita.doc.gov*.

Six copies of the request should be submitted to the Assistant Secretary for Import Administration, International Trade Administration, Room 1870, U.S. Department of Commerce, 14th Street & Constitution Avenue, NW., Washington, DC 20230. The Department also asks parties to serve a copy of their requests to the Office of Antidumping/Countervailing Operations, Attention: Sheila Forbes, in room 3065 of the main Commerce Building. Further, in accordance with section 351.303(f)(l)(i) of the regulations, a copy of each request must be served on every party on the Department's service list.

The Department will publish in the **Federal Register** a notice of ''Initiation of Administrative Review of Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation'' for requests received by the last day of March 2007. If the Department does not receive, by the last day of March 2007, a request for review of entries covered by an order, finding, or suspended investigation listed in this notice and for the period identified above, the Department will instruct the U.S.Customs and Border Protection to assess antidumping or countervailing duties on those entries at a rate equal to the cash deposit of (or bond for) estimated antidumping or countervailing duties required on those entries at the time of entry, or withdrawal from warehouse, for consumption and to continue to collect the cash deposit previously ordered.

This notice is not required by statute but is published as a service to the international trading community.

Dated: February 22, 2007.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E7–3688 Filed 3–1–07; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Advance Notification of Sunset Reviews

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

ACTION: Notice of Upcoming Sunset Reviews

Background

Every five years, pursuant to section 751(c) of the Tariff Act of 1930, as amended, the Department of Commerce (''the Department'') and the International Trade Commission automatically initiate and conduct a review to determine whether revocation of a countervailing or antidumping duty order or termination of an investigation suspended under section 704 or 734 would be likely to lead to continuation or recurrence of dumping or a countervailable subsidy (as the case may be) and of material injury.

Upcoming Sunset Reviews for April 2007

The following Sunset Review is scheduled for initiation in April 2007 and will appear in that month's Notice of Initiation of Five-year Sunset Reviews.

Antidumping Duty Proceedings	Department Contact
Silicomanganese from India (A–533–823)	Dana Mermelstein (202) 482–1391
Silicomanganese from Kazakhstan (A–834–807)	Dana Mermelstein (202) 482–1391
Silicomanganese from Venezuela (A–307–820)	Dana Mermelstein (202) 482–1391

Countervailing Duty Proceedings

No countervailing duty orders are scheduled for initiation in April 2007

Suspended Investigations

No suspended investigations are scheduled for initiation in April 2007.

The Department's procedures for the conduct of Sunset Reviews are set forth in 19 CFR 351.218. Guidance on methodological or analytical issues relevant to the Department's conduct of Sunset Reviews is set forth in the Department's Policy Bulletin 98.3--Policies Regarding the Conduct of Five-year (''Sunset'') Reviews of Antidumping and Countervailing Duty Orders; Policy Bulletin, 63 FR 18871 (April 16, 1998) (''Sunset Policy Bulletin''). The Notice of Initiation of Five-year (''Sunset'') Reviews provides further information regarding what is required of all parties to participate in Sunset Reviews.

Pursuant to 19 CFR 351.103(c), the Department will maintain and make available a service list for these proceedings. To facilitate the timely preparation of the service list(s), it is requested that those seeking recognition as interested parties to a proceeding contact the Department in writing within 15 days of the publication of the Notice of Initition.

Please note that if the Department receives a Notice of Intent to Participate from a member of the domestic industry within 15 days of the date of initiation, the review will continue. Thereafter, any interested party wishing to participate in the Sunset Review must provide substantive comments in response to the notice of initiation no later than 30 days after the date of initiation.

This notice is not required by statute but is published as a service to the international trading community.

Dated: February 22, 2007.

Stephen J. Claeys,

Deputy Assistant Secretaryfor Import Administration.

[FR Doc. E7–3691 Filed 3–1–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–904]

Final Determination of Sales at Less Than Fair Value: Certain Activated Carbon from the People's Republic of China

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

DATES: March 2, 2007.

SUMMARY: On October 11, 2006, the Department of Commerce (''the Department'') published its preliminary determination of sales at less than fair value (''LTFV'') in the antidumping investigation of certain activated carbon from the People's Republic of China (''PRC''). The period of investigation (''POI'') is July 1, 2005, through December 31, 2005. We invited interested parties to comment on our preliminary determination of sales at LTFV. Based on our analysis of the comments we received, we have made changes to our calculations for the mandatory respondents. The final dumping margins for this investigation are listed in the ''Final Determination Margins'' section below.

FOR FURTHER INFORMATION CONTACT: Catherine Bertrand or Anya Naschak, AD/CVD Operations, Office 9, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC, 20230; telephone: (202) 482–3207 or 482–6375, respectively.

Final Determination

We determine that certain activated carbon from the PRC is being, or is likely to be, sold in the United States at LTFV as provided in section 735 of the Tariff Act of 1930, as amended (''the Act''). The estimated margins of sales at LTFV are shown in the ''Final Determination Margins'' section of this notice.

SUPPLEMENTARY INFORMATION:

Case History

The Department published its preliminary determination of sales at LTFV on October 11, 2006. *See Preliminary Determination of Sales at Less Than Fair Value and Postponement of Final Determination: Certain Activated Carbon from the People's Republic of China*, 71 FR 59721 (October 11, 2006) (''*Preliminary Determination*''). The Department conducted verification of Calgon Carbon (Tianjin) Co., Ltd. (''CCT'') and certain of its suppliers. As the Department determined in the *Preliminary Determination* that Jacobi Carbons AB (''Jacobi AB'') was the appropriate mandatory respondent in this case (*see Preliminary Determination* at 71 FR at 59725), the Department conducted verification of Jacobi AB and certain of its suppliers. The Department also conducted verification of Jilin Province Bright Future Chemicals Co. Ltd. (''JBF Chemical'') and its affiliated company Jilin Province Bright Future Industry & Commerce Co. Ltd. (''JBF Industry'') (collectively, ''Jilin Bright Future'') and one of its suppliers, in both the PRC and the United States (where applicable), and Ningxia Huahui Activated Carbon Co., Ltd., one of the separate rate applicants. *See* the ''Verification'' section below for additional information.

We invited parties to comment on the *Preliminary Determination*. We received a case brief from Carbochem Inc. (''Carbochem'') on January 11, 2007. We received case briefs from respondents Jacobi AB and CCT on January 16, 2007. We also received a case brief from Calgon Carbon Corporation and Norit Americas Inc. (''Petitioners''), on January 12, 2007. We received rebuttal briefs on January 22, 2007, from the following companies: Jacobi AB, CCT, Jilin Bright Future, and Petitioners. All parties that timely requested a hearing in this case withdrew those requests prior to the submission of case briefs. Therefore, the Department did not hold a hearing in this case.

On February 2, 2007, we invited parties to comment on the revised NME wage rate, to be used in the final determination of this investigation. No parties submitted comments on this issue.

Analysis of Comments Received

All issues raised in the case and rebuttal briefs by parties to this investigation are addressed in the Issues and Decision Memorandum for the Final Determination in the Investigation of Certain Activated Carbon from the People's Republic of China, dated February 23, 2007, which is hereby adopted by this notice (''Issues and Decision Memorandum''). A list of the issues which parties raised and to which we respond in the Issues and Decision Memorandum is attached to this notice as an Appendix. The Issue and Decision Memorandum is a public document and is on file in the Central Records Unit (''CRU''), Main Commerce Building, Room B–099, and is accessible on the Web at *http://www.trade.gov/ia*. The paper copy and electronic version of the memorandum are identical in content.

Changes Since the Preliminary Determination

Based on our analysis of comments received, we have made changes to the margin calculation for CCT, Jacobi AB and Jilin Bright Future as follows.

CCT:

We have made changes resulting from minor corrections and findings at CCT's verifications. For a detailed analysis of CCT's margin calculation *see* the Final Analysis Memorandum for CCT, dated February 23, 2007.

Jacobi:

We have made the following changes to Jacobi AB's margin calculation:

We have determined that it is appropriate to apply partial adverse facts available (''AFA'') to Jacobi for its reported factors of production supplied by Ningxia Guanghua Activated Carbon Co., Ltd.'s (''NXGH''). *See* below and Issues and Decision Memorandum at Comment 7. We have revised the application of facts available for one of Jacobi AB's suppliers. In addition, we have made changes to Jacobi AB's U.S. sales and factors of production resulting from minor corrections and findings at Jacobi AB's verifications. *See* Issues and Decision Memorandum at Comment 19 and Memorandum to the File from Anya L. Naschak: Jacobi Carbons AB, Tianjin Jacobi International Trading Co., Ltd., and Jacobi Carbons, Inc. Program Analysis for the Final Determination, dated February 23, 2007 (''Jacobi Final Analysis Memorandum''). For a detailed analysis of Jacobi AB's margin calculation, *see* Jacobi Final Analysis Memorandum. Jilin Bright Future:

As discussed in Comment 27 of the Issues and Decision Memorandum, we have determined to apply total adverse facts available to Jilin Bright Future. We have assigned the PRC–wide margin of 228.11 percent to Jilin Bright Future.

In addition, the Department has made changes to its calculation of the truck freight surrogate value as described in the Issues and Decision Memorandum at Comment 3, and to the calculation of certain chemical inputs as described in the Issues and Decision Memorandum at Comment 18. *See also*, Jacobi and CCT's Final Analysis Memoranda. The Department has also revised the surrogate value for labor to $0.83, a the revised expected wage rate posted on the Department's website on February 2, 2007. Further, the Department determines that it is appropriate to apply the methodology described in the December 27, 2006 **Federal Register**

Notice to this investigation. *See* Issues and Decision Memorandum at Comment 4 and *Final Modification; Calculation of the Weighted–Average Dumping Margin During an Antidumping Investigation*, 71 FR 77722 (December 27, 2006).

Affiliation

The Department preliminarily determined that Jacobi AB, Tianjin Jacobi International Trading Co., Ltd. (''Jacobi Tianjin''), and Jacobi Carbons, Inc. (''Jacobi US'') (collectively, ''Jacobi'') are affiliated with each other, and that Jacobi AB is the appropriate mandatory respondent in this case. *See* Memorandum to the File: Certain Activated Carbon from the People's Republic of China: Affiliation and Treatment of Sales of Jacobi Tianjin International Trading Co., Ltd., Jacobi Carbons AB, and Jacobi Carbons, Inc., dated October 4, 2006, for further details regarding this issue. No comments were received on this issue and no information was placed on the record that would call into question the Department's determination in this regard. Therefore, the Department continues to find that Jacobi AB, Jacobi Tianjin, and Jacobi US are affiliated and Jacobi AB is the appropriate mandatory respondent in this case.

Scope of Investigation

The merchandise subject to this investigation is certain activated carbon. Certain activated carbon is a powdered, granular, or pelletized carbon product obtained by ''activating'' with heat and steam various materials containing carbon, including but not limited to coal (including bituminous, lignite, and anthracite), wood, coconut shells, olive stones, and peat. The thermal and steam treatments remove organic materials and create an internal pore structure in the carbon material. The producer can also use carbon dioxide gas (CO_2) in place of steam in this process. The vast majority of the internal porosity developed during the high temperature steam (or CO_2 gas) activated process is a direct result of oxidation of a portion of the solid carbon atoms in the raw material, converting them into a gaseous form of carbon.

The scope of this investigation covers all forms of activated carbon that are activated by steam or CO_2, regardless of the raw material, grade, mixture, additives, further washing or post activation chemical treatment (chemical or water washing, chemical impregnation or other treatment), or product form. Unless specifically excluded, the scope of this investigation covers all physical forms of certain activated carbon, including powdered activated carbon (''PAC''), granular activated carbon (''GAC''), and pelletized activated carbon.

Excluded from the scope of the investigation are chemically–activated carbons. The carbon–based raw material used in the chemical activation process is treated with a strong chemical agent, including but not limited to phosphoric acid, zinc chloride sulfuric acid or potassium hydroxide, that dehydrates molecules in the raw material, and results in the formation of water that is removed from the raw material by moderate heat treatment. The activated carbon created by chemical activation has internal porosity developed primarily due to the action of the chemical dehydration agent. Chemically activated carbons are typically used to activate raw materials with a lignocellulosic component such as cellulose, including wood, sawdust, paper mill waste and peat.

To the extent that an imported activated carbon product is a blend of steam and chemically activated carbons, products containing 50 percent or more steam (or CO_2 gas) activated carbons are within this scope, and those containing more than 50 percent chemically activated carbons are outside this scope. This exclusion language regarding blended material applies *only* to mixtures of steam and chemically activated carbons.

Also excluded from the scope are reactivated carbons. Reactivated carbons are previously used activated carbons that have had adsorbed materials removed from their pore structure after use through the application of heat, steam and/or chemicals.

Also excluded from the scope is activated carbon cloth. Activated carbon cloth is a woven textile fabric made of or containing activated carbon fibers. It is used in masks and filters and clothing of various types where a woven format is required.

Any activated carbon meeting the physical description of subject merchandise provided above that is not expressly excluded from the scope is included within this scope. The products under investigation are currently classifiable under the Harmonized Tariff Schedule of the United States (''HTSUS'') subheading 3802.10.00. Although HTSUS subheadings are provided for convenience and customs purposes, the written description of the scope of this investigation is dispositive. *Scope Comments*

We have addressed comments to the Scope in our Issues and Decision Memorandum and have determined not to revise the scope of this investigation other than to clarify that the exclusion for certain blended activated carbon only applies to mixtures of steam and chemically activated carbons.

Facts Available

Section 776(a)(2) of the Act provides that if an interested party: (A) withholds information that has been requested by the Department; (B) fails to provide such information in a timely manner or in the form or manner requested, subject to subsections 782(c)(1) and (e) of the Act; (C) significantly impedes a determination under the antidumping statute; or (D) provides such information but the information cannot be verified, the Department shall, subject to subsection 782(d) of the Act, use facts otherwise available in reaching the applicable determination.

Section 776(b) of the Act states that if the administering authority finds that an interested party has not acted to the best of its ability to comply with a request for information, the administering authority may, in reaching its determination, use an inference that is adverse to that party. The adverse inference may be based upon: (1) the petition, (2) a final determination in the investigation under this title, (3) any previous review under section 751 or determination under section 753, or (4) any other information placed on the record.

CCT:

For this final determination, in accordance with section 776(a)(2) of the Act and 776(b) of the Act, we have determined that the use of adverse facts available (''AFA'') is appropriate for CCT's suppliers that have been deemed uncooperative. *See* Issues and Decision Memorandum at Comment 20. As partial AFA, we are applying the weighted–average of the two highest calculated CONNUM–specific NVs selected from all of the cooperating suppliers[1] of CCT andJacobi to all sales made by CCT of these suppliers products. *See* Memorandum to the File from Anya Naschak: Calculation of Adverse Facts Available Rate dated February 23, 2007.

Jacobi:

For this final determination, in accordance with section 776(a)(2) of the Act and 776(b) of the Act, we have determined that the use of adverse facts available (''AFA'') is appropriate for Jacobi's reported factors of production supplied by Ningxia Guanghua

[1] We excluded the supplier NXGH of Jacobi as well as CCT's suppliers who did not provide FOP information.

Activated Carbon Co., Ltd.'s (''NXGH''). *See* Issues and Decision Memorandum at Comment 7. As partial AFA, we are applying the weighted–average of the two highest calculated CONNUM–specific NVs selected from all of the cooperating suppliers[2] of CCT and Jacobi to all sales made by Jacobi of NXGH–produced products. *See* Memorandum to the File From Anya Naschak: Calculation of Adverse Facts Available Rate dated February 23, 2007.

Jilin Bright Future:

For the final determination, the Department is applying total adverse facts available to Jilin Bright Future. The Department is applying the facts otherwise available to Jilin Bright Future because it failed to provide verifiable factors of production data and misrepresented and misreported its production operations and factors of production, in accordance with sections 776(a)(2)(A), (C) & (D) of the Act. Furthermore, in accordance with section 776(b) of the Act, the Department found that Jilin Bright Future failed to cooperate to the best of its ability to comply with the Department's request for information, and, therefore, finds an adverse inference is warranted in determining the facts otherwise available. For a complete discussion of this matter, see Comment 27 of the Issues and Decision Memorandum.

Verification

As provided in section 782(i) of the Act, we verified the information submitted by the respondents and one separate rate applicant for use in our final determination. *See* the Department's verification reports on the record of this investigation in the CRU with respect to CCT, Jacobi, Jilin Bright Future, and Ningxia Huahui Activated Carbon Co., Ltd. For all verified companies, we used standard verification procedures, including examination of relevant accounting and production records, as well as original source documents provided by respondents.

Surrogate Country

In the *Preliminary Determination*, we stated that we had selected India as the appropriate surrogate country to use in this investigation for the following reasons: (1) it is a significant producer of comparable merchandise; (2) it is at a similar level of economic development pursuant to 773(c)(4) of the Act; and (3) we have reliable data from India that we can use to value the factors of production. *See Preliminary Determination*. For the final determination, we received no comments and made no changes to our findings with respect to the selection of a surrogate country.

Separate Rates

In proceedings involving non–market-economy (''NME'') countries, the Department begins with a rebuttable presumption that all companies within the country are subject to government control and, thus, should be assigned a single antidumping duty deposit rate. It is the Department's policy to assign all exporters of merchandise subject to an investigation in an NME country this single rate unless an exporter can demonstrate that it is sufficiently independent so as to be entitled to a separate rate. *See Final Determination of Sales at Less Than Fair Value: Sparklers from the People's Republic of China*, 56 FR 20588 (May 6, 1991) (''*Sparklers*''), as amplified by *Notice of Final Determination of Sales at Less Than Fair Value: Silicon Carbide from the People's Republic of China*, 59 FR 22585 (May 2, 1994) (''*Silicon Carbide*''), and Section 351.107(d) of the Department's regulations.

In the *Preliminary Determination*, we found that CCT, Jacobi and Jilin Bright Future, and the separate rate applicants who received a separate rate (''Separate Rate Applicants'') in the *Preliminary Determination* demonstrated their eligibility for separate–rate status. For the final determination, we continue to find that the evidence placed on the record of this investigation by CCT, Jacobi and Jilin Bright Future, and the Separate Rate Applicants demonstrate both a *de jure* and *de facto* absence of government control, with respect to their respective exports of the merchandise under investigation, and, thus are eligible for separate rate status. We determined in the *Preliminary Determination* that Panshan Import and Export Corporation is not entitled to a separate rate. We received no comments on this issue and we continue to find that Panshan Import and Export Corporation is not entitled to a separate rate.

The PRC–Wide Rate

In the *Preliminary Determination*, the Department found that certain companies and the PRC–wide entity did not respond to our requests information. In the *Preliminary Determination* we treated these PRC producers/exporters as part of the PRC–wide entity because they did not demonstrate that they operate free of government control. No additional information has been placed on the record with respect to these entities after the *Preliminary Determination*. The PRC–wide entity has not provided the Department with the requested information; therefore, pursuant to section 776(a)(2)(A) of the Act, the Department continues to find that the use of facts available is appropriate to determine the PRC–wide rate. Section 776(b) of the Act provides that, in selecting from among the facts otherwise available, the Department may employ an adverse inference if an interested party fails to cooperate by not acting to the best of its ability to comply with requests for information. *See Notice of Final Determination of Sales at Less Than Fair Value: Certain Cold–Rolled Flat–Rolled Carbon–Quality Steel Products from the Russian Federation*, 65 FR 5510, 5518 (February 4, 2000). *See also, ''Statement of Administrative Action''* accompanying the URAA, H.R. Rep. No. 103–316, vol. 1, at 870 (1994) (''SAA''). We find that, because the PRC–wide entity did not respond to our request for information, it has failed to cooperate to the best of its ability. The PRC wide entity includes Datong Huibao Activated Carbon Co., Ltd and its affiliated company Beijing Hibridge Trading Co., Ltd., who we preliminary determined was part of the PRC–wide entity as it was selected as a mandatory respondent and then withdrew. Therefore, the Department finds that, in selecting from among the facts otherwise available, an adverse inference is appropriate for the PRC–wide entity.

Because we begin with the presumption that all companies within a NME country are subject to government control and because only the companies listed under the ''Final Determination Margins'' section below have overcome that presumption, we are applying a single antidumping rate - the PRC–wide rate - to all other exporters of subject merchandise from the PRC. Such companies did not demonstrate entitlement to a separate rate. *See, e.g., Synthetic Indigo from the People's Republic of China: Notice of Final Determination of Sales at Less Than Fair Value*, 65 FR 25706 (May 3, 2000). The PRC–wide rate applies to all entries of subject merchandise except for entries from the respondents which are listed in the ''Final Determination Margins'' section below (except as noted).

Corroboration

At the *Preliminary Determination*, in accordance with section 776(c) of the Act, we corroborated our adverse facts available (''AFA'') margin using

[2] We excluded the supplier NXGH of Jacobi as well as the CCT's suppliers who did not provided FOP information.

information submitted by certain respondents. To assess the probative value of the total AFA rate it has chosen for the PRC–wide entity, the Department compared the final margin calculations of certain respondents in this investigation with the rate of 228.11 percent from the petition, as used in the *Preliminary Determination*. We continue to find that the rate is within the range of the highest margins we have determined in this investigation. *See* Memorandum to the File: Corroboration of the PRC–Wide Facts Available Rate for the Final Determination in the Antidumping Duty Investigation of Certain Activated Carbon from the People's Republic of China, dated February 23, 2007 (''Final Corroboration Memo''). Since the record of this investigation contains margins within the range of 228.11 percent, the margin selected from the petition, we determine that the rate used in the *Preliminary Determination* continues to be relevant for use in this investigation. As discussed therein, we found that the margin of 228.11 percent has probative value. *See* Final Corroboration Memo. Accordingly, we find that the rate of 228.11 percent is corroborated within the meaning of section 776(c) of the Act.

Combination Rates

In its initiation notice, the Department stated that it would calculate combination rates for certain respondents that are eligible for a separate rate in this investigation. *See Initiation of Antidumping Duty Investigation: Certain Activated Carbon From the People's Republic of China*, 71 FR 16757 (April 4, 2006) (''Initiation Notice''). Therefore, for the final determination, we have assigned a combination rate to respondents that are eligible for a separate rate.

Final Determination Margins

We determine that the following percentage weighted–average margins exist for the POI:

Exporter	Supplier	WA Margin
Beijing Pacific Activated Carbon Products Co., Ltd.	Alashan Yongtai Activated Carbon Co., Ltd.	73.60
Beijing Pacific Activated Carbon Products Co., Ltd.	Changji Hongke Activated Carbon Co., Ltd.	73.60
Beijing Pacific Activated Carbon Products Co., Ltd.	Datong Forward Activated Carbon Co., Ltd.	73.60
Beijing Pacific Activated Carbon Products Co., Ltd.	Datong Locomotive Coal & Chemicals Co., Ltd.	73.60
Beijing Pacific Activated Carbon Products Co., Ltd.	Datong Yunguang Chemicals Plant	73.60
Beijing Pacific Activated Carbon Products Co., Ltd.	Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd.	73.60
Beijing Pacific Activated Carbon Products Co., Ltd.	Ningxia Luyuangheng Activated Carbon Co., Ltd.	73.60
Calgon Carbon Tianjin Co., Ltd.	Calgon Carbon Tianjin Co., Ltd.	78.89
Calgon Carbon Tianjin Co., Ltd.	Datong Carbon Corporation	78.89
Calgon Carbon Tianjin Co., Ltd.	Datong Changtai Activated Carbon Co., Ltd.	78.89
Calgon Carbon Tianjin Co., Ltd.	Datong Forward Activated Carbon Co., Ltd.	78.89
Calgon Carbon Tianjin Co., Ltd.	Datong Fuping Activated Carbon Co., Ltd.	78.89
Calgon Carbon Tianjin Co., Ltd.	Datong Hongtai Activated Carbon Co., Ltd.	78.89
Calgon Carbon Tianjin Co., Ltd.	Datong Huanqing Activated Carbon Co., Ltd.	78.89
Calgon Carbon Tianjin Co., Ltd.	Datong Huibao Activated Carbon Co., Ltd.	78.89
Calgon Carbon Tianjin Co., Ltd.	Datong Kangda Activated Carbon Factory	78.89
Calgon Carbon Tianjin Co., Ltd.	Datong Runmei Activated Carbon Factory	78.89
Calgon Carbon Tianjin Co., Ltd.	Dushanzi Chemical Factory	78.89
Calgon Carbon Tianjin Co., Ltd.	Fangyuan Carbonization Co., Ltd.	78.89
Calgon Carbon Tianjin Co., Ltd.	Hongke Activated Carbon Co., Ltd.	78.89
Calgon Carbon Tianjin Co., Ltd.	Huairen Jinbei Chemical Co., Ltd.	78.89
Calgon Carbon Tianjin Co., Ltd.	Jiaocheng Xinxin Purification Material Co., Ltd.	78.89
Calgon Carbon Tianjin Co., Ltd.	Ningxia Guanghua Cherishment Activated Carbon Co., Ltd.	78.89
Calgon Carbon Tianjin Co., Ltd.	Ningxia Guanghua A/C Co., Ltd.	78.89
Calgon Carbon Tianjin Co., Ltd.	Ningxia Honghua Carbon Industrial Corporation	78.89
Calgon Carbon Tianjin Co., Ltd.	Ningxia Luyuanheng Activated Carbon Co., Ltd.	78.89
Calgon Carbon Tianjin Co., Ltd.	Ningxia Pingluo Yaofu Activated Carbon Factory	78.89
Calgon Carbon Tianjin Co., Ltd.	Ningxia Tianfu Activated Carbon Co., Ltd.	78.89
Calgon Carbon Tianjin Co., Ltd.	Ningxia Yinchuan Lanqiya Activated Carbon Co., Ltd.	78.89
Calgon Carbon Tianjin Co., Ltd.	Nuclear Ningxia Activated Carbon Co., Ltd.	78.89
Calgon Carbon Tianjin Co., Ltd.	Pingluo Xuanzhong Activated Carbon Co., Ltd.	78.89
Calgon Carbon Tianjin Co., Ltd.	Shanxi Xuanzhong Chemical Industry Co., Ltd.	78.89
Calgon Carbon Tianjin Co., Ltd.	Xingtai Coal Chemical Co., Ltd.	78.89
Calgon Carbon Tianjin Co., Ltd.	Yuyang Activated Carbon Co., Ltd.	78.89
Datong Juqiang Activated Carbon Co., Ltd.	Datong Juqiang Activated Carbon Co., Ltd.	73.60
Datong Locomotive Coal & Chemicals Co., Ltd.	Datong Locomotive Coal & Chemicals Co., Ltd.	73.60
Datong Municipal Yunguang Activated Carbon Co., Ltd.	Datong Municipal Yunguang Activated Carbon Co., Ltd.	73.60
Datong Yunguang Chemicals Plant	Datong Yunguang Chemicals Plant	73.60
Hebei Foreign Trade and Advertising Corporation	Da Neng Zheng Da Activated Carbon Co., Ltd.	73.60
Hebei Foreign Trade and Advertising Corporation	Shanxi Bluesky Purification Material Co., Ltd.	73.60
Jacobi Carbons AB	Datong Forward Activated Carbon Co., Ltd.	62.08
Jacobi Carbons AB	Datong Hongtai Activated Carbon Co., Ltd.	62.08
Jacobi Carbons AB	Datong Huibao Activated Carbon Co., Ltd.	62.08
Jacobi Carbons AB	Ningxia Guanghua Activated Carbon Co., Ltd.	62.08
Jacobi Carbons AB	Ningxia Huahui Activated Carbon Company Limited	62.08
Jilin Bright Future Chemicals Company, Ltd.	Shanxi Xinhua Activated Carbon Co., Ltd.	228.11

Exporter	Supplier	WA Margin
Jilin Bright Future Chemicals Company, Ltd.	Tonghua Bright Future Activated Carbon Plant	228.11
Jilin Bright Future Chemicals Company, Ltd.	Zuoyun Bright Future Activated Carbon Plant	228.11
Jilin Province Bright Future Industry and Commerce Co., Ltd.	Shanxi Xinhua Activated Carbon Co., Ltd.	228.11
Jilin Province Bright Future Industry and Commerce Co., Ltd.	Tonghua Bright Future Activated Carbon Plant	228.11
Jilin Province Bright Future Industry and Commerce Co., Ltd.	Zuoyun Bright Future Activated Carbon Plant	228.11
Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd.	Ningxia Guanghua Cherishmet Activated Carbon Co., Ltd.	73.60
Ningxia Huahui Activated Carbon Co., Ltd.	Ningxia Huahui Activated Carbon Co., Ltd.	73.60
Ningxia Mineral & Chemical Limited	Ningxia Baota Activated Carbon Co., Ltd.	73.60
Shanxi DMD Corporation China Nuclear	Ningxia Activated Carbon Plant	73.60
Shanxi DMD Corporation	Ningxia Guanghua Activated Carbon Co., Ltd.	73.60
Shanxi DMD Corporation	Shanxi Xinhua Chemical Co., Ltd.	73.60
Shanxi DMD Corporation	Tonghua Xinpeng Activated Carbon Factory	73.60
Shanxi Industry Technology Trading Co., Ltd.	Actview Carbon Technology Co., Ltd.	73.60
Shanxi Industry Technology Trading Co., Ltd.	Datong Forward Activated Carbon Co., Ltd.	73.60
Shanxi Industry Technology Trading Co., Ltd.	Datong Tri–Star & Power Carbon Plant	73.60
Shanxi Industry Technology Trading Co., Ltd.	Fu Yuan Activated Carbon Co., Ltd.	73.60
Shanxi Industry Technology Trading Co., Ltd.	Jing Mao (Dongguan) Activated Carbon Co., Ltd.	73.60
Shanxi Industry Technology Trading Co., Ltd.	Xi Li Activated Carbon Co., Ltd.	73.60
Shanxi Newtime Co., Ltd.	Datong Forward Activated Carbon Co., Ltd.	73.60
Shanxi Newtime Co., Ltd.	Ningxia Guanghua Chemical Activated Carbon Co., Ltd.	73.60
Shanxi Newtime Co., Ltd.	Ningxia Tianfu Activated Carbon Co., Ltd.	73.60
Shanxi Qixian Foreign Trade Corporation	Datong Locomotive Coal & Chemicals Co., Ltd.	73.60
Shanxi Qixian Foreign Trade Corporation	Datong Tianzhao Activated Carbon Co., Ltd.	73.60
Shanxi Qixian Foreign Trade Corporation	Ningxia Huinong Xingsheng Activated Carbon Co., Ltd.	73.60
Shanxi Qixian Foreign Trade Corporation	Ningxia Yirong Alloy Iron Co., Ltd.	73.60
Shanxi Qixian Foreign Trade Corporation	Ninxia Tongfu Coking Co., Ltd.	73.60
Shanxi Qixian Foreign Trade Corporation	Shanxi Xiaoyi Huanyu Chemicals Co., Ltd.	73.60
Shanxi Sincere Industrial Co., Ltd.	Datong Guanghua Activated Co., Ltd.	73.60
Shanxi Sincere Industrial Co., Ltd.	Ningxia Guanghua–Cherishmet Activated Carbon Co., Ltd.	73.60
Shanxi Sincere Industrial Co., Ltd.	Ningxia Pingluo County YaoFu Activated Carbon Factory	73.60
Shanxi Xuanzhong Chemical Industry Co., Ltd.	Ningxia Pingluo Xuanzhong Activated Carbon Co., Ltd.	73.60
Tangshan Solid Carbon Co., Ltd.	Datong Zuoyun Biyun Activated Carbon Co., Ltd.	73.60
Tangshan Solid Carbon Co., Ltd.	Ningxia Guanghua Activated Carbon Co., Ltd.	73.60
Tangshan Solid Carbon Co., Ltd.	Ningxia Xingsheng Coal and Active Carbon Co., Ltd.	73.60
Tangshan Solid Carbon Co., Ltd.	Pingluo Yu Yang Activated Carbon Co., Ltd.	73.60
Tianjin Maijin Industries Co., Ltd.	Hegongye Ninxia Activated Carbon Factory	73.60
Tianjin Maijin Industries Co., Ltd.	Ningxia Pingluo County YaoFu Activated Carbon Plant	73.60
Tianjin Maijin Industries Co., Ltd.	Yinchuan Lanqiya Activated Carbon Co., Ltd.	73.60
United Manufacturing International (Beijing) Ltd.	Datong Fu Ping Activated Carbon Co., Ltd.	73.60
United Manufacturing International (Beijing) Ltd.	Datong Locomotive Coal & Chemical Co. Ltd.	73.60
United Manufacturing International (Beijing) Ltd.	Xinhua Chemical Company Ltd.	73.60
Xi'an Shuntong International Trade & Industrials Co., Ltd.	DaTong Tri–Star & Power Carbon Plant	73.60
Xi'an Shuntong International Trade & Industrials Co., Ltd.	Ningxia Huahui Activated Carbon Company Limited	73.60
PRC–Wide Rate		228.11

Disclosure

We will disclose the calculations performed within five days of the date of publication of this notice to parties in this proceeding in accordance with 19 CFR 351.224(b).

Continuation of Suspension of Liquidation

Pursuant to section 735(c)(1)(B) of the Act, we will instruct U.S. Customs and Border Protection (''CBP'') to continue to suspend liquidation of all entries of subject merchandise from the PRC entered, or withdrawn from warehouse, for consumption on or after October 11, 2006, the date of publication of the *Preliminary Determination*. CBP shall continue to require a cash deposit or the posting of a bond equal to the estimated amount by which the normal value exceeds the U.S. price as shown above. These instructions suspending liquidation will remain in effect until further notice.

ITC Notification

In accordance with section 735(d) of the Act, we have notified the International Trade Commission (''ITC'') of our final determination of sales at LTFV. As our final determination is affirmative, in accordance with section 735(b)(2) of the Act, within 45 days the ITC will determine whether the domestic industry in the United States is materially injured, or threatened with material injury, by reason of imports or sales (or the likelihood of sales) for importation of the subject merchandise. If the ITC determines that material injury or threat of material injury does not exist, the proceeding will be terminated and all securities posted will be refunded or canceled. If the ITC determines that such injury does exist, the Department will issue an antidumping duty order directing CBP

to assess antidumping duties on all imports of the subject merchandise entered, or withdrawn from warehouse, for consumption on or after the effective date of the suspension of liquidation.

Notification Regarding APO

This notice also serves as a reminder to the parties subject to administrative protective order (''APO'') of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 CFR 351.305. Timely notification of return or destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation. This determination and notice are issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

This determination and notice are issued and published in accordance with sections 735(d) and 777(i)(1) of the Act.

Dated: February 23, 2007.

David M. Spooner,

Assistant Secretary for Import Administration.

Appendix I

Changes from the Preliminary Determination

General Issues

Comment 1: Whether to Clarify the Scope With Respect to Blended Products

Comment 2: Whether to Exclude Carbochem Products from the Scope
Comment 3: Whether to Correct Freight Ministerial Error
Comment 4: Whether to Change the Department's Zeroing Methodology
Comment 5: Whether to Grant a By–Product Offset for Activated Carbon Products

Comment 6: Treatment of Non–Production Electricity and Labor

Company–Specific Issues

Jacobi Issues

Comment 7: Whether to Apply Total Adverse Facts Available to Jacobi
Comment 8: Treatment of Powdered Activated Carbon Sold to the United States

Comment 9: Whether to Recalculate Jacobi's FOPs to Include By–products in the Denominator
Comment 10: Whether to Apply Adverse Facts Available for DTFH
Comment 11: Whether to Apply Adverse Facts Available to Jacobi's Electricity and Labor
Comment 12: Treatment of Impregnated Material at NXGH for which No Data Were Reported
Comment 13: Whether to Impute Verification Findings of NXGH and DTHB to Jacobi's Other Suppliers
Comment 14: Treatment of Water
Comment 15: Treatment of Packing and Factory Labor
Comment 16: Valuation of Carbonized Material

Comment 17: Valuation of Coal
Comment 18: Valuation of Chemical Inputs

Comment 19: Calculation of Indirect Selling Expense

CCT Issues

Comment 20: Whether to Continue to Apply Adverse Facts Available to Certain CCT Suppliers
Comment 21: PXZ's Pressroom Product
Comment 22: Whether to Impute the Verification Findings of NXGH to CCT
Comment 23: Production Denominator
Comment 24: Calculation of Indirect Selling Expense
Comment 25: U.S. Warehousing Expense

Comment 26: Marine Insurance

Jilin Issues

Comment 27: Whether to Apply Adverse Facts Available to Jilin Bright Future

[FR Doc. E7–3693 Filed 3–1–07; 8:45 am]
BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–427–801)

Ball Bearings and Parts Thereof from France: Initiation of an Antidumping Duty Changed–Circumstances Review

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

SUMMARY: In response to a request for a changed–circumstances review from Societe Nouvelle de Fabrication Aeronautique S.A.S.U., SKF France S.A., and SKF Aerospace France S.A.S. and pursuant to section 751(b) of the Tariff Act of 1930, as amended, and 19 CFR § 351.216 and 351.221(c)(3), the Department of Commerce is initiating a changed–circumstances review of the antidumping duty order on ball bearings and parts thereof from France.

EFFECTIVE DATE: March 2, 2007.

FOR FURTHER INFORMATION CONTACT: Edythe Artman at (202) 482–3931 or Richard Rimlinger at (202) 482–4477, AD/CVD Operations, Office 5, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230.

SUPPLEMENTARY INFORMATION:

Background

The Department of Commerce (the Department) published antidumping duty orders on ball bearings, cylindrical roller bearings, and spherical plain bearings and parts thereof from France on May 15, 1989. See *Antidumping Duty Orders: Ball Bearings, Cylindrical Roller Bearings, Spherical Plain Bearings, and Parts Thereof From France*, 54 FR 20902 (May 15, 1989). The order on cylindrical roller bearings and parts thereof from France was revoked, effective January 1, 2000. See *Revocation of Antidumping Duty Orders on Certain Bearings From Hungary, Japan, Romania, Sweden, France, Germany, Italy, and the United Kingdom*, 65 FR 42667 (July 11, 2000). The order on spherical plain bearings and parts thereof from France was also revoked, effective July 11, 2005. See *Antifriction Bearings and Parts Thereof from France and Singapore: Revocation of Antidumping Duty Orders*, 71 FR 54468 (September 15, 2006).

Societe Nouvelle de Fabrication Aeronautique S.A.S.U. (SNFA) and SKF France S.A. have participated in numerous administrative reviews of the order on ball bearings and parts thereof from France. On August 11, 2000, the Department revoked the order, effective May 1, 1999, with respect to sales of bearings by SNFA. See *Antifriction Bearings (Other Than Tapered Roller Bearings) and Parts Thereof from France, Germany, Italy, Japan, Romania, Singapore, Sweden and the United Kingdom; Final Results of Antidumping Duty Administrative Reviews and Revocation of Orders in Part*, 65 FR 49219 (August 11, 2000).

On January 9, 2007, SNFA and SKF France S.A. and SKF Aerospace France S.A.S. (collectively SKF France) requested that the Department initiate and conduct a changed–circumstances review in order to determine that, for purposes of the order on ball bearings and parts thereof, SNFA is not a successor–in-interest to SKF France following SNFA's acquisition by that company and that it is the successor–in-interest to the pre–acquisition SNFA.

We did not receive any other comments.

Scope of the Order

The products covered by these orders are ball bearings (other than tapered roller bearings) and parts thereof. These

products include all bearings that employ balls as the rolling element. Imports of these products are classified under the following categories: antifriction balls, ball bearings with integral shafts, ball bearings (including radial ball bearings) and parts thereof, and housed or mounted ball bearing units and parts thereof.

Imports of these products are classified under the following *Harmonized Tariff Schedules of the United States* (HTSUS) subheadings: 3926.90.45, 4016.93.00, 4016.93.10, 4016.93.50, 6909.19.5010, 8431.20.00, 8431.39.0010, 8482.10.10, 8482.10.50, 8482.80.00, 8482.91.00, 8482.99.05, 8482.99.2580, 8482.99.35, 8482.99.6595, 8483.20.40, 8483.20.80, 8483.50.8040, 8483.50.90, 8483.90.20, 8483.90.30, 8483.90.70, 8708.50.50, 8708.60.50, 8708.60.80, 8708.70.6060, 8708.70.8050, 8708.93.30, 8708.93.5000, 8708.93.6000, 8708.93.75, 8708.99.06, 8708.99.31, 8708.99.4960, 8708.99.50, 8708.99.5800, 8708.99.8080, 8803.10.00, 8803.20.00, 8803.30.00, 8803.90.30, and 8803.90.90.

Although the HTSUS item numbers above are provided for convenience and customs purposes, written descriptions of the scope of this order remain dispositive.

For a listing of scope determinations which pertain to the order on ball bearings and parts thereof, see the Scope Determination Memorandum (Scope Memorandum) from the Antifriction Bearings Team to Laurie Parkhill, dated March 2, 2006. The Scope Memorandum is on file in the Central Records Unit (CRU), main Commerce building, Room B–099, in the General Issues record (A–100–001) for the 2004/2005 administrative reviews of the orders on antifriction bearings.

Initiation of Changed–Circumstances Review

Pursuant to section 751(b)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR § 351.216 (2005), the Department will conduct a changed–circumstances review upon receipt of information concerning, or a request from an interested party for a review of, an antidumping duty order which shows changed circumstances sufficient to warrant a review of the order. SNFA and SKF France claim that they have satisfied the criteria to warrant such a review. See 19 CFR § 351.216(d). We agree that the information submitted by SNFA and SKF France demonstrates changed circumstances sufficient to warrant a review. Therefore, in accordance with the above–referenced regulation, the Department is initiating a changed–circumstances review.

SNFA and SKF France also claim that the information contained in their January 9, 2007, request demonstrates that the post–acquisition SNFA is the successor–in-interest to the pre–acquisition SNFA. The requesting parties ask that the Department thus refrain from issuing a changed–circumstances questionnaire. The Department finds that the request does not clearly establish the entity to which SNFA is the successor–in-interest. Therefore, in accordance with 19 CFR § 351.221(b)(2) and (4) and 19 CFR § 351.221(c)(3)(i), we will issue a questionnaire requesting factual information for the review and will publish a notice of preliminary results of the antidumping duty changed–circumstances review in the **Federal Register**. The notice will set forth the factual and legal conclusions upon which our preliminary results are based. Pursuant to 19 CFR § 351.221(b)(4)(ii), interested parties will have an opportunity to comment on the preliminary results of review. We will issue final results of review no later than the regulatory deadline in accordance with 19 CFR § 351.216(e). During the course of this antidumping duty changed–circumstances review, we will not change the cash–deposit requirements for the subject merchandise. The cash–deposit rate will be altered, if warranted, pursuant only to the final results of this review.

This notice of initiation is in accordance with section 751(b)(1) of the Act, 19 CFR § 351.216(b) and (d), and 19 CFR § 351.221(b)(1).

Dated: February 23, 2007.

David M. Spooner,

Assistant Secretaryfor Import Administration.

[FR Doc. E7–3697 Filed 3–1–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–427–808)

Certain Corrosion–Resistant Carbon Steel Flat Products from France: Notice of Rescission of Antidumping Duty Administrative Review

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

SUMMARY: The U.S. Department of Commerce (the Department) is rescinding its administrative review of the antidumping duty order on certain corrosion–resistant carbon steel flat products (CORE) from France for the period August 1, 2005, through July 31, 2006.

EFFECTIVE DATE: March 2, 2007.

FOR FURTHER INFORMATION CONTACT: Judy Lao or Angelica Mendoza, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue NW, Washington, DC 20230; telephone: (202) 482–7924 and (202) 482–3019, respectively.

SUPPLEMENTARY INFORMATION:

Background

On August 1, 2006, the Department published in the **Federal Register** its notice of opportunity to request an administrative review of the antidumping duty order on CORE from France. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 71 FR 43441 (August 1, 2006). In response, on August 31, 2006, United States Steel Corporation (U.S. Steel), a domestic interested party, requested an administrative review of the antidumping duty order on CORE from France for the period of review (POR) of August 1, 2005, through July 31, 2006, with respect to entries of merchandise exported or shipped by Duferco Coating SA and Sorral SA (collectively, Duferco Sorral). Respondent Duferco Sorral did not request an administrative review. On September 29, 2006, the Department initiated an administrative review of Duferco Sorral. *See Initiation of Antidumping and Countervailing Duty Administrative*, 71 FR 57465 (September 29, 2006). On October 16, 2006, the Department issued its antidumping duty questionnaire to Duferco Sorral. On November 13, 2006, Duferco Sorral and its U.S. affiliate, Duferco Steel, Inc., filed certifications that they did not, directly or indirectly, enter for consumption, or sell, export, or ship for entry for consumption in the United States, subject merchandise during the POR. *See* Letter to the Secretary from White and Case LLP, dated November 13, 2006.

On December 11, 2006, the Department issued a ''No Shipment Inquiry'' to U.S. Customs and Border Protection (CBP) to confirm that there were no shipments or entries of CORE from France exported by Duferco Sorral during the POR of the instant administrative review. On December 27, 2006, the Department confirmed, based on its internal review of CBP data and the results of its CBP inquiry, there were no entries of subject merchandise exported or shipped by Duferco Sorral

during the POR. *See* Memorandum to the File from Angelica L. Mendoza, through Stephen Bailey, Acting Program Manager, Office 7, Duferco Coating SA and Sorral SA (collectively Duferco Sorral) - No Shipments of Certain Corrosion–Resistant Carbon Steel Flat Products from France Per CBP Inquiry, dated December 27, 2006. On January 19, 2007, U.S. Steel submitted a letter withdrawing its request for an administrative review of shipments or entries of CORE from France exported by Duferco Sorral. *See* Letter from Skadden, Arps, Slate, Meagher & Flom, LLP, dated January 19, 2007.

Rescission of Antidumping Duty Administrative Review

19 C.F.R. § 351.213(d)(1) provides that the Department will rescind an administrative review if the party that requested the review withdraws its request for review within 90 days of the date of publication of the notice of initiation of the requested review, or withdraws at a later date if the Department determines it is reasonable to extend the time limit for withdrawing the request. U.S. Steel's request is past the 90-day time limit; however, we find that it is reasonable to extend the deadline. In response to U.S. Steel's withdrawal of its request for an administrative review as well as the fact that Duferco Sorral had no shipments of subject merchandise during the POR pursuant to 19 C.F.R. § 351.213(d)(3), the Department hereby rescinds the administrative review of the antidumping duty order on CORE from France for the period August 1, 2005, through July 31, 2006.

The Department intends to issue appropriate assessment instructions to CBP 15 days after the date of the publication of this notice. The Department will direct CBP to assess antidumping duties for Duferco Sorral at the cash deposit rate in effect on the date of entry for entries during the period August 1, 2005, through July 31, 2006.

Notification to Importers

This notice serves as a final reminder to importers of their responsibility under 19 C.F.R. § 351.402(f)(2) to file a certificate regarding the reimbursement of antidumping duties prior to liquidation of the relevant entries during this review period. Failure to comply with this requirement could result in the Secretary's assumption that reimbursement of antidumping duties occurred and the subsequent assessment of double antidumping duties.

This notice also serves as a reminder to parties subject to administrative protective order (APO) of their responsibility concerning the disposition of proprietary information disclosed under APO in accordance with 19 C.F.R. § 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and the terms of an APO is a sanctionable violation.

This notice is published in accordance with section 777(i)(1) of the Tariff Act of 1930, as amended, and 19 C.F.R. § 351.213(d)(4).

Dated: February 23, 2007.

Stephen J. Claeys,

Deputy Assistant Secretaryfor Import Administration.

[FR Doc. E7–3698 Filed 3–1–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–549–817)

Certain Hot–Rolled Carbon Steel Flat Products from Thailand: Extension of Time Limit for the Final Results of Antidumping Duty Administrative Review

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

EFFECTIVE DATE: March 2, 2007

FOR FURTHER INFORMATION CONTACT: Stephen Bailey or Dena Crossland, AD/CVD Operations, Office 7, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–0193 or (202) 482–3362, respectively.

SUPPLEMENTARY INFORMATION:

Background

On November 8, 2006, the Department of Commerce (''the Department'') published the preliminary results of the administrative review of the antidumping duty order on certain hot–rolled carbon steel flat products (''hot–rolled steel'') from Thailand covering the period November 1, 2004, through October 31, 2005. *See Certain Hot–Rolled Carbon Steel Flat Products From Thailand; Preliminary Results of Antidumping Duty Administrative Review and Rescission in Part*, 71 FR 65458 (November 8, 2006). The final results for the antidumping duty administrative review of hot–rolled steel from Thailand are currently due no later than March 8, 2007.

Extension of Time Limits for Final Results of Review

Section 751(a)(3)(A) of the Tariff Act of 1930, as amended (''the Act''), requires the Department to issue the final results within 120 days after the date on which the preliminary results are published. However, if it is not practicable to complete the review within that time period, section 751(a)(3)(A) of the Act allows the Department to extend the time limit of the final results to 180 days from the date of publication of the preliminary results.

Due to the complexity of the affiliation issue present in this administrative review, as well as the demands of other proceedings handled by the office administering this review, the Department has determined that it is not practicable to complete this review within the original time period. Accordingly, the Department is extending the time for completion of the final results to 180 days from the publication date of the preliminary results, until no later than May 7, 2007, in accordance with section 751(a)(3)(A) of the Act.

We are issuing and publishing this notice in accordance with sections 751(a)(1) and 777(i)(1) of the Act.

Dated: February 23, 2007.

Stephen J. Claeys,

Deputy Assistant Secretaryfor Import Administration.

[FR Doc. E7–3699 Filed 3–1–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

International Trade Administration

(A–580–844)

Steel Concrete Reinforcing Bars from The Republic of Korea: Notice of Rescission of Antidumping Duty Administrative Review

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

EFFECTIVE DATE: March 2, 2007.

FOR FURTHER INFORMATION CONTACT: Terre Keaton Stefanova or Katherine Johnson, AD/CVD Operations, Office 2, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW, Washington, DC 20230; telephone: (202) 482–1280 or (202) 482–4929, respectively.

SUPPLEMENTARY INFORMATION:

Background

On September 1, 2006, the Department of Commerce (the Department) published in the **Federal Register** a notice of ''Opportunity To Request Administrative Review'' of the antidumping duty order on steel concrete reinforcing bars from the Republic of Korea for the period September 1, 2005, through August 31, 2006. *See Antidumping or Countervailing Duty Order, Finding, or Suspended Investigation; Opportunity to Request Administrative Review*, 71 FR 52061 (September 1, 2006). On September 29, 2006, the Rebar Trade Action Coalition and its individual members[1] (the petitioners) requested a review of the antidumping duty order on steel concrete reinforcing bars from the Republic of Korea produced or exported by Dongkuk Steel Mill Co., Ltd. (DSM), Korea Iron and Steel Co., Ltd. (KISCO), and Hwanyoung Steel Industries Co., Ltd. (HSI) (collectively referred to as the respondents). On October 31, 2006, the Department published a notice of initiation of an administrative review with respect to these companies. *See Notice of Initiation of Antidumping and Countervailing Duty Administrative Reviews*, 71 FR 63752 (October 31, 2006).

On November 14, 2006, the Department received letters from each of the respondents stating that neither they nor any company deemed affiliated with them in the Department's past determinations in this proceeding: 1) exported any subject merchandise to the United States; 2) made any sales of subject merchandise to customers in the United States; or, 3) had any entries of subject merchandise for consumption by customers in the United States during the period of review (*i.e.*, September 1, 2005, through August 31, 2006) (POR). In order to substantiate the respondents' statements, we conducted a query of the U.S. Customs and Border Protection's (CBP) database and found no entries of subject merchandise during the POR. On December 18, 2006, based on our findings, we notified parties of our intent to rescind the review and provided them the opportunity to submit comments (*see* December 18, 2006, memorandum to the file titled *Intent to Rescind in the Antidumping Duty Administrative Review on Steel Concrete Reinforcing Bars from the Republic of Korea)* (December 18, 2006, memo). On January 5, 2007, the petitioners filed comments.

[1] Nucor Corporation, Gerdau Ameristeel Corporation, and Commercial Metals Company.

The petitioners argue that, prior to rescinding this review, the Department should ensure that during the POR, DSM's U.S. affiliate, Dongkuk International Inc., did not sell subject merchandise produced by Korean manufacturers other than DSM, and did not sell from inventory subject merchandise that entered during a previous POR.

Regarding the petitioners' argument, as stated above, we conducted a query of the CBP database in order to substantiate the respondents' statements that neither they nor their affiliates made exports, sales or entries of subject merchandise during the POR, which is our standard practice for confirming a respondent's ''no–shipments'' claims. Furthermore, the Department's practice, supported by substantial precedent, requires that there be entries during the POR upon which to assess antidumping duties. *See e.g., Granular Polytetrafluoroethylene Resin from Japan: Notice of Rescission of Antidumping Duty Administrative Review,* 70 FR 44088 (August 1, 2005). The results of our query indicate that there were no entries of subject merchandise during the POR. Therefore, absent evidence to the contrary on the record of this review, we have no reason to call into question the statements made by DSM or the other respondents.

Rescission of Review

In accordance with 19 CFR 351.213(d)(3), the Department may rescind an administrative review, in whole or with respect to a particular exporter or producer, if the Department concludes that, during the period covered by the review, there were no entries, exports, or sales of the subject merchandise. Because we found no evidence of entries of subject merchandise and because we have no reason to question the respondents' statement that they nor any company deemed affiliated with them in past segments of this proceeding had sales, exports or entries of subject merchandise during the POR, we are rescinding this review pursuant to 19 CFR 351.213(d)(3). *See, e.g., Steel Concrete Reinforcing Bars From Turkey; Final Results, Rescission of Antidumping Duty Administrative Review in Part, and Determination not to Revoke in Part*, 68 FR 53127 (September 9, 2003) (after finding no evidence of entries of subject merchandise from two companies that made ''no–shipments'' claims, the Department stated that ''consistent with our practice, we are rescinding our review for Diler and Ekinciler'').

Although the respondents did not have any sales or exports of subject merchandise to the United States during the POR, their subject merchandise may have entered the United States during the POR under their CBP antidumping case number by way of intermediaries (without their knowledge). After 15 days of publication of this notice, the Department will instruct CBP to liquidate such entries at the ''All–Others'' rate in effect on the date of the entry. *See Antidumping and Countervailing Duty Proceedings: Assessment of Antidumping Duties*, 68 FR 23954 (May 6, 2003).

This notice serves as a reminder to parties subject to administrative protective orders (APOs) of their responsibility concerning the return or destruction of proprietary information disclosed under APO in accordance with 19 CFR Sec. 351.305(a)(3). Timely written notification of the return/destruction of APO materials or conversion to judicial protective order is hereby requested. Failure to comply with the regulations and terms of an APO is a sanctionable violation.

This notice is published in accordance with sections 751(a)(1) and 777(i)(1) of the Tariff Act of 1930, as amended, and 19 CFR 351.213(d)(4).

Dated: February 26, 2007.

Stephen J. Claeys,

Deputy Assistant Secretaryfor Import Administration.

[FR Doc. E7–3700 Filed 3–1–07; 8:45 am]

BILLING CODE 3510–DS–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 022607A]

General Advisory Committee to the U.S. Section to the Inter-American Tropical Tuna Commission (IATTC); Meeting Announcement

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

ACTION: Notice of public meeting.

SUMMARY: NMFS announces the meeting of the General Advisory Committee to the U.S. Section to the IATTC on May 30, 2007.

DATES: The meeting of the General Advisory Committee will be held on May 30, 2007, from 9 a.m. to 5 p.m. (or until business is concluded), Pacific Time.ADDRESS: The meeting will be held at NMFS, Southwest Regional

Office, 501 West Ocean Boulevard, Suite 3400, Long Beach, CA 90803–4213.

FOR FURTHER INFORMATION CONTACT: Allison Routt at (562)980–4019 or (562) 980–4030.

SUPPLEMENTARY INFORMATION: In accordance with the Tuna Conventions Act, as amended, the Department of State has appointed a General Advisory Committee to the U.S. Section to the IATTC. The U.S. Section consists of the four U.S. Commissioners to the IATTC and the representative of the Deputy Assistant Secretary of State for Oceans and Fisheries. The Advisory Committee supports the work of the U.S. Section in a solely advisory capacity with respect to U.S. participation in the work of the IATTC, with particular reference to the development of policies and negotiating positions pursued at meetings of the IATTC. NMFS, Southwest Region, administers the Advisory Committee in cooperation with the Department of State.

The General Advisory Committee to the U.S. Section to the IATTC will meet to receive and discuss information on: (1) 2006 and 2007 IATTC activities; (2) status of the stocks and status of the fishery in 2006; (3) recent and upcoming meetings of the IATTC and its working groups; (4) possible conservation and management measures for yellowfin and bigeye tuna for 2007 and beyond; (5) measures to be taken in cases of non-compliance with the IATTC's conservation and management measures; (6) management of fishing capacity; (7) measures to address bycatch (such as juvenile tunas, sea turtles, seabirds, and sharks); (8) financial issues pertinent to the financial solvency of the IATTC; (9) IATTC cooperation with other regional fishery management organizations; (10) Advisory Committee operational issues; and other issues.

Special Accommodations

The meeting location is physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to Allison Routt at (562) 980–4019 or (562) 980–4030 at least 10 days prior to the meeting date.

Dated: February 26, 2007.

James P. Burgess,

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

[FR Doc. E7–3704 Filed 3–1–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

[I.D. 022607E]

International Whaling Commission; 59th Annual Meeting; Announcement of Public Meeting

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

ACTION: Notice of meeting.

SUMMARY: This notice announces the date and location of the public meeting being held prior to the 59th annual International Whaling Commission (IWC) meeting.

DATES: The public meeting will be held April 5, 2007, at 1 p.m.

ADDRESSES: The meeting will be held in the NOAA Science Center Room, 1301 East West Highway, Silver Spring, MD 20910.

FOR FURTHER INFORMATION CONTACT: Cheri McCarty, 301–713–9090, Extension 183.

SUPPLEMENTARY INFORMATION: The Secretary of Commerce is charged with the responsibility of discharging the domestic obligations of the United States under the International Convention for the Regulation of Whaling, 1946. The U.S. Commissioner has responsibility for the preparation and negotiation of U.S. positions on international issues concerning whaling and for all matters involving the IWC. He is staffed by the Department of Commerce and assisted by the Department of State, the Department of the Interior, Marine Mammal Commission, and by other agencies.

Once the draft agenda for the annual IWC meeting is completed, it will be posted on the IWC Secretariat's website at *http://www.iwcoffice.org*.

Each year NOAA holds a meeting prior to the annual IWC meeting to discuss the tentative U.S. positions for the upcoming IWC meeting. Because the meeting discusses U.S. positions, the substance of the meeting must be kept confidential. Any U.S. citizen with an identifiable interest in U.S. whale conservation policy may participate, but NOAA reserves the authority to inquire about the interests of any person who appears at a meeting and to determine the appropriateness of that person's participation.

Persons who represent foreign interests may not attend. These stringent measures are necessary to protect the confidentiality of U.S. negotiating positions and are a necessary basis for the relatively open process of preparing for IWC meetings.

The meeting will be held at 1 p.m. at the NOAA Science Center Room, 1301 East West Highway, Silver Spring, MD 20910. Photo identification is required to enter the building.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretation or other auxiliary aids should be directed to the Cheri McCarty, 301–713–9090 by March 26, 2007.

Dated: February 26, 2007.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

[FR Doc. E7–3696 Filed 3–1–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

Technology Administration

[Docket No.: 070208027–7028–01]

National Medal of Technology's Call for Nominations 2007

AGENCY: Technology Administration, Department of Commerce.

ACTION: Notice.

SUMMARY: The Department of Commerce's Technology Administration is accepting nominations for its National Medal of Technology (NMT) 2007 program.

Established by statute in 1980, the President of the United States awards the National Medal of Technology to our Nation's leading innovators. If you know of a candidate who has made an outstanding, lasting contribution to the economy through technology, you may obtain a nomination form from: *http://www.technology.gov/medal.*

DATES: The deadline for submission of an application is May 31, 2007.

ADDRESSES: The NMT Nomination form for the year 2007 may be obtained by visiting the Web site at *http://www.technology.gov/medal.* Please return the completed application to the National Medal of Technology Program at: *NMT@technology.gov or by mail to:* Technology Administration, U.S. Department of Commerce, 1401 Constitution Avenue, NW., Room 4824, Washington, DC 20230.

FOR FURTHER INFORMATION CONTACT: *NMT@technology.gov* or call the Technology Administration at 202/482–1575.

SUPPLEMENTARY INFORMATION: The National Medal of Technology is the highest honor awarded by the President of the United States to America's leading innovators. Enacted by statute in 1980, the Medal of Technology was first awarded in 1985. The Medal is given to individuals, teams, or companies who have improved the American economy and quality of life by their outstanding contributions through technology.

The primary purpose of the National Medal of Technology is to recognize American innovators whose vision, creativity, and brilliance in moving ideas to market have had a profound and lasting impact on our economy and way of life. The Medal highlights the national importance of fostering technological innovation based upon solid science, resulting in commercially successful products and services.

Eligibility And Criteria: Information on eligibility and nomination criteria is provided on the Nominations Guidelines Form at *http://www.technology.gov/medal.* Applicants that do not have internet access should contact Connie Chang, Research Director, Technology Administration at the email address or telephone number above to request this information.

Dated: February 23, 2007.

Robert Cresanti,

Under Secretary for Technology.

[FR Doc. E7–3631 Filed 3–1–07; 8:45 am]

BILLING CODE 3510–18–P

DEPARTMENT OF EDUCATION

Safe and Drug-Free Schools and Communities Advisory Committee

AGENCY: Office of Safe and Drug-Free Schools.

ACTION: Notice of Open Meeting.

SUMMARY: This notice sets forth the schedule and proposed agenda of an upcoming open meeting of The Safe and Drug-Free Schools and Communities Advisory Committee. The notice also describes the functions of the Committee. Notice of this meeting is required by section 10(a)(2) of the Federal Advisory Committee Act and is intended to notify the public of their opportunity to attend.

DATES: Monday, March 19, 2007.

Time: 8 a.m. to 6 p.m.

ADDRESSES: The Committee will meet at the U.S. Department of Education, 400 Maryland Avenue, SW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Catherine Davis, Executive Director, The Safe and Drug-Free Schools and Communities Advisory Committee, Room 1E110B, 400 Maryland Avenue, SW., Washington, DC, *telephone:* (202) 205–4169, *e-mail: OSDFSC@ed.gov.*

SUPPLEMENTARY INFORMATION: The Committee was established to provide advice to the Secretary on Federal, State, and local programs designed to create safe and drug-free schools, and on issues related to crisis planning. The focus of this meeting is to discuss the findings and recommendations on three topics given to the Committee by the Secretary of Education: the Safe and Drug-Free Schools and Communities State Grants Program, the Unsafe School Choice Option, and data requirements under the Safe and Drug-Free Schools and Communities Act. Further, the Committee will begin to outline its findings and recommendations for the final report to the Secretary of Education due June 30, 2007.

Individuals who need accommodations for a disability in order to attend the meeting (e.g., interpreting services, assistive listening devices or materials in alternative formats) should notify Catherine Davis at *OSDFSC@ed.gov.* or (202) 205–4169 no later than March 12, 2007. We will attempt to meet requests for accommodations after this date but cannot guarantee their availability. The meeting site is accessible to individuals with disabilities.

Individuals interested in attending the meeting must register in advance because limited space is available at the meeting site. Please notify Catherine Davis at *OSDFSC@ed.gov* or (202) 205–4169 of your intention to attend the meeting.

Opportunities for public comment are available on March 19 from 8:05 a.m.–8:40 a.m. on a first come, first served basis. Comments presented at the meeting are limited to 5 minutes in length. Written comments to accompany oral remarks are optional. Five copies of written comments are recommended and should be submitted to the committee Chairman at the meeting.

Request for Written Comments: We invite the public to submit written comments relevant to the focus of the Advisory Committee. We would like to receive written comments from members of the public no later than April 30, 2007. *Addresses:* Submit all comments to the Advisory Committee using one of the following methods: 1. Internet. We encourage the public to submit comments through the Internet to the following address: *OSDFSC@ed.gov.* 2. Mail: The public may also submit comments via mail to Catherine Davis, Office of Safe and Drug-Free Schools, U.S. Department of Education, 400 Maryland Avenue, SW., Room 1E110B, Washington, DC 20202. Due to delays in mail delivery caused by heightened security, please allow adequate time for the mail to be received.

Records are kept of all Committee proceedings and are available for public inspection at the staff office for the Committee located at the U.S. Department of Education, 400 Maryland Avenue, SW., Room 1E110B, Washington, DC 20202 between the hours of 9 a.m. to 5 p.m.

Raymond Simon,

Deputy Secretary, U.S. Department of Education.

[FR Doc. 07–950 Filed 3–1–07; 8:45 am]

BILLING CODE 4001–01–M

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings # 1

February 26, 2007.

Take notice that the Commission received the following electric rate filings.

Docket Numbers: ER99–4102–005.

Applicants: Milford Power, LLC.

Description: Milford Power, LLC submits a supplement to its 1/31/07 tariff filing.

Filed Date: 02/16/2007.

Accession Number: 20070221–0037

Comment Date: 5 p.m. Eastern Time on Friday, March 9, 2007.

Docket Numbers: ER00–1952–004; ER04–1208–002; ER03–802–004; ER01–1784–007; ER99–1248–006; ER03–222–006.

Applicants: Black Hills Colorado, LLC; Black Hills Power, Inc.; Black Hill Wyoming, Inc.; Fountain Valley Power, LLC; Harbor Cogeneration Company, LLC; Las Vegas Cogeneration II, LLC.

Description: Black Hills Corporation on behalf of Black Hills Utilities submits amendments to its market-based rate wholesale power sales rate schedules, Order 652.

Filed Date: 02/20/2007.

Accession Number: 20070223–0039.

Comment Date: 5 p.m. Eastern Time on Tuesday, March 13, 2007.

Docket Numbers: ER00–2268–022; EL05–10–000; ER99–4124–018; EL05–11–000; ER00–3312–018; EL05–12–000; ER99–4122–022; EL–5–13–000.

Applicants: Pinnacle West Capital Corporation; Arizona Public Service Company; Pinnacle West Energy Corporation; APS Energy Services, Inc.

Description: Pinnacle West Companies, et al. submit revised simultaneous, import limit studies and delivered price tests to support their request for market-based authority in the APS control area, pursuant to FERC's 12/21/06 Order.

Filed Date: 02/20/2007.

Accession Number: 20070222–0226.

Comment Date: 5 p.m. Eastern Time on Tuesday, March 13, 2007.

Docket Numbers: ER03–1165–002.

Applicants: Energy Cooperative Association of Pennsylvania.

Description: Energy Cooperative Association of Pennsylvania submits its request for acceptance of their FERC Electric Tariff, Original, Volume 1.

Filed Date: 02/20/2007.

Accession Number: 20070222–0073.

Comment Date: 5 p.m. Eastern Time on Tuesday, March 13, 2007.

Docket Numbers: ER05–1410–004; EL05–148–004.

Applicants: PJM Interconnection, LLC.

Description: PJM Interconnection, LLC submits revisions to its PJM OATT and the Reliability Assurance Agreement among Load-Serving Entities in the PJM Region pursuant to FERC's 12/22/06 Order.

Filed Date: 02/20/2007.

Accession Number: 20070222–0071.

Comment Date: 5 p.m. Eastern Time on Tuesday, March 13, 2007.

Docket Numbers: ER06–432–006.

Applicants: Southwest Power Pool, Inc.

Description: Southwest Power Pool, Inc submits its revised tariff language to accommodate the inclusion of the credit policy pursuant to FERC's 1/17/07 Order.

Filed Date: 02/16/2007.

Accession Number: 20070221–0038.

Comment Date: 5 p.m. Eastern Time on Friday, March 9, 2007.

Docket Numbers: ER06–1485–001; ER1485–003; ER07–266–001.

Applicants: Southwestern Public Service Company.

Description: Southwestern Public Service Co submits revised version of Schedule 4A–Reserve Sharing Energy Charges, to its OATT, FERC Electric Tariff, First Revised Volume 1.

Filed Date: 02/23/2007.

Accession Number: 20070226–0037.

Comment Date: 5 p.m. Eastern Time on Friday, March 16, 2007.

Docket Numbers: ER07–61–001.

Applicants: Southern Company Services, Inc.

Description: Southern Company Services, Inc, agent for Alabama Power Co *et al* submits modifications to the materials included in its 10/24/06, submission of Revision 2–Agreement for Network Integration, Service etc, w/US Department of Energy.

Filed Date: 02/21/2007.

Accession Number: 20070223–0019.

Comment Date: 5 p.m. Eastern Time on Wednesday, March 14, 2007.

Docket Numbers: ER07–99–001.

Applicants: New York Independent System Operator, Inc.

Description: New York Independent System Operator, Inc submits the Report of Operating Reserves Cost Allocation Adjustments for the period of 3/1/05 through 10/24/06.

Filed Date: 02/21/2007.

Accession Number: 20070223–0146.

Comment Date: 5 p.m. Eastern Time on Wednesday, March 14, 2007.

Docket Numbers: ER07–361–001.

Applicants: Ameren Energy Marketing Company; Central Illinois Light Company; Central Illinois Public Service Company; Illinois Power Company; Union Electric Company.

Description: Central Illinois Light Co dba AmerenCILCO *et al* submits an amendment to their 12/22/06 application proposed to amend their market based rate tariffs to permit certain affiliate power sales transactions.

Filed Date: 02/16/2007.

Accession Number: 20070223–0018.

Comment Date: 5 p.m. Eastern Time on Friday, March 9, 2007.

Docket Numbers: ER07–486–001.

Applicants: Saguaro Power Company, a Ltd. Partnership.

Description: Saguaro Power Co submits a Substitute Original Sheet 1 *et al* to FERC Electric Tariff, Original Volume 1.

Filed Date: 02/20/2007.

Accession Number: 20070222–0074.

Comment Date: 5 p.m. Eastern Time on Tuesday, March 13, 2007.

Docket Numbers: ER07–531–001.

Applicants: PJM Interconnection, L.L.C.

Description: PJM Interconnection, LLC submits a corrected version of its Wholesale Market Participation Agreement that addresses the typographical errors in the 2/9/07 filing.

Filed Date: 02/22/2007.

Accession Number: 20070223–0307.

Comment Date: 5 p.m. Eastern Time on Thursday, March 15, 2007.

Docket Numbers: ER07–552–000.

Applicants: Hudson Bay Energy Solutions LLC.

Description: Hudson Bay Energy Solutions, LLC submits an application for order accepting initial market-based rate tariff, waiving regulations, and granting blanket approvals etc, effective 3/30/07.

Filed Date: 02/16/2007.

Accession Number: 20070221–0039.

Comment Date: 5 p.m. Eastern Time on Friday, March 09, 2007.

Docket Numbers: ER07–553–000; ER07–554–000; ER07–555–000; ER07–556–000; ER07–557–000.

Applicants: Emera Energy Services Subsidiary No. 1 LLC; Emera Energy Services Subsidiary No. 2 LLC; Emera Energy Services Subsidiary No. 3 LLC; Emera Energy Services Subsidiary No. 4 LLC; Emera Energy Services Subsidiary No. 5 LLC.

Description: Emera Energy Services Subsidiary 1, LLC *et al* submits a petition for acceptance of initial tariff waivers and blanket authority.

Filed Date: 02/20/2007.

Accession Number: 20070222–0072.

Comment Date: 5 p.m. Eastern Time on Tuesday, March 13, 2007.

Docket Numbers: ER07–558–000.

Applicants: PacifiCorp.

Description: PacifiCorp submits the Facilities Agreement dated 2/1/07 with Flowell Electric Association.

Filed Date: 02/20/2007.

Accession Number: 20070223–0041.

Comment Date: 5 p.m. Eastern Time on Tuesday, March 13, 2007.

Docket Numbers: ER07–559–000.

Applicants: Flat Earth Energy.

Description: Flat Earth Energy, LLC submits a petition for acceptance of initial rate tariff waivers and blanket authority.

Filed Date: 02/21/2007.

Accession Number: 20070223–0042.

Comment Date: 5 p.m. Eastern Time on Wednesday, March 14, 2007.

Docket Numbers: ER07–560–000.

Applicants: KGEN Enterprise LLC.

Description: KGen Power Management Inc submits a Notice of Cancellation of Rate Schedule and a Second Revised Sheet 1 to its market-based rate tariff.

Filed Date: 02/21/2007.

Accession Number: 20070223–0044.

Comment Date: 5 p.m. Eastern Time on Wednesday, March 14, 2007.

Docket Numbers: ER07–561–000.

Applicants: KGen Marshall LLC.

Description: KGen Power Management Inc submits a Notice of Cancellation of Rate Schedule and a Second Revised Sheet 1 to KGen Marshall LLC's market-based rate tariff

Filed Date: 02/21/2007.

Accession Number: 20070223–0043.

Comment Date: 5 p.m. Eastern Time on Wednesday, March 14, 2007.

Docket Numbers: ER07–562–000.

Applicants: Trans-Allegheny Interstate Line Company.

Description: Trans-Allegheny Interstate Line Co submits tariff sheets

Exhibit TRC–201 for inclusion in their Open Access Transmission Tariff pursuant to FERC's Orders 679 and 679–A, effective 6/1/07.

Filed Date: 02/21/2007.

Accession Number: 20070223–0015.

Comment Date: 5 p.m. Eastern Time on Wednesday, March 14, 2007.

Take notice that the Commission received the following electric securities filings.

Docket Numbers: ES07–21–000.

Applicants: Entergy Nuclear Palisades, LLC.

Description: Application of Entergy Nuclear Palisades, LLC for Authorization to Issue Securities under ES07–21.

Filed Date: 02/20/2007.

Accession Number: 20070220–5019.

Comment Date: 5 p.m. Eastern Time on Tuesday, March 13, 2007.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Magalie R. Salas,

Secretary.

[FR Doc. E7–3714 Filed 3–1–07; 8:45 am]

BILLING CODE 6717–01–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6684–6]

Environmental Impact Statements and Regulations; Availability of EPA Comments

Availability of EPA comments prepared pursuant to the Environmental Review Process (ERP), under section 309 of the Clean Air Act and Section 102(2)(c) of the National Environmental Policy Act as amended. Requests for copies of EPA comments can be directed to the Office of Federal Activities at 202–564–7167.

An explanation of the ratings assigned to draft environmental impact statements (EISs) was published in FR dated April 7, 2006 (71 FR 17845).

Draft EISs

EIS No. 20060357, ERP No. D–COE–K39100–CA, Hemet/San Jacinto Integrated Recharge and Recovery Program, Construction and Operation, US Army COE Section 404 Permit, Riverside County, CA.

Summary: EPA expressed environmental concerns about potential impacts to waters of the U.S.; aquatic resources; biological resources, including endangered species habitat; and air quality. Rating EC2.

EIS No. 20060479, ERP No. D–FRC–C03016–NY, Broadwater Liquefied Natural Gas (LNG) Project, Construction and Operation a Natural Gas Pipeline Facilities, (Docket Nos. CP06–54, *et al.*), Long Island Sound, NY.

Summary: EPA expressed environmental concerns about potential impacts to air quality, water quality, and biological resources, and recommended that the FEIS contain additional information and/or analyses to address those impacts. Rating EC2.

EIS No. 20060481, ERP No. D–AFS–L65528–OR, Crawford Project and Proposed Nonsignificant Forest Plan Amendments, Commercial Timber Harvest, Prescribed Burning, Adjustments to Dedicated Old Growth Areas, and Road Closure and Decommissioning Activities, Implementation, Blue Mountain Ranger District, Malheur National Forest, Grant County, OR.

Summary: EPA expressed environmental concerns about potential increases in sediment loads to streams due to additional roads. EPA also recommended that the document clarify questions related to the number and location of road miles, sedimentation rates, and address concerns with the undocumented cost and timing of restoration measures. Rating EC1.

EIS No. 20060502, ERP No. D–NPS–K39103–CA, Giacomini Wetland Restoration Project, Propose to Restore Natural Hydrologic and Ecological Processes, Golden Gate National Recreation Area, Point Reyes National Seashore, Marin County, CA.

Summary: EPA supports the proposed project and believes it will significantly improve the hydrologic and ecological processes and functions in the Tomales Bay Watershed. Rating LO.

Final EISs

EIS No. 20060528, ERP No. F–AFS–L61131–ID, Emerald Creek Garnet Area, To Provide a Public Recreational Area for Collecting Garnet Gemstone, US Army COE Section 404 Permit, Idaho Panhandle National Forest, St. Joe Ranger District, Latah County, ID.

Summary: The final EIS addressed EPA's major concerns regarding water quality and wetlands; therefore, EPA does not object to the proposed project.

EIS No. 20060540, ERP No. F–NOA–G39038–LA, PROGRAMMATIC—The Louisiana Regional Restoration Planning Program, Establishing and Implementation of Natural Resource Trust Mandates, LA.

Summary: EPA does not object to the proposed project.

EIS No. 20060543, ERP No. F–COE–K36144–CA, San Juan Creek and Western San Mateo Creek Watershed Special Area Management Plan (SAMP), Proposed Watershed-Based SAMP to Balance Aquatic Resource Protection and Reasonable Economic Development, Southern Portion of Orange County, CA.

Summary: EPA is supportive of the SAMP, however, it has concerns about the alternatives analysis, permitting procedures, air quality impacts, and compliance with Clean Water Act Section 404(S)

(1) Guidelines. EPA will continue to work with the Corps to resolve these issues.

Dated: February 27, 2007.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. E7–3671 Filed 3–1–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6684–5]

Environmental Impacts Statements; Notice of Availability

Responsible Agency: Office of Federal Activities, General Information (202) 564–7167 or *http://www.epa.gov/compliance/nepa/.*

Weekly receipt of Environmental Impact Statements

Filed 02/19/2007 through 02/23/2007

Pursuant to 40 CFR 1506.9.

EIS No. 20070065, Draft EIS, BLM, CA, Eastern San Diego County Resource Management Plan, Implementation, San Diego County, CA, Comment Period Ends: 05/31/2007, Contact: Erin Dreyfuss 760–337–4436.

EIS No. 20070066, Final EIS, BLM, AZ, Arizona Strip Field Office Resource Management Plan, which includes: Vermilion Cliffs National Monument, Grand-Canyon-Parashant National Monument (Parashant) BLM Portion, General Management Plan for the Grand Canyon-Parashant National Monument NPS Portion of Parashant, Implementation, AZ, Wait Period Ends: 04/02/2007, Contact: Diana Hawks 435–688–3266.

EIS No. 20070067, Draft EIS, SFW, PR, Vieques National Wildlife Refuge Comprehensive Conservation Plan, Implementation, Vieques, PR, Comment Period Ends: 04/30/2007, Contact: Jim Oland 410–573–4592.

EIS No. 20070068, Draft EIS, BLM, AZ, Ironwood Forest National Monument, Resource Management Plan, Implementation, Tucson Field Office, AZ, Comment Period Ends: 05/31/2007, Contact: Patrick Madigan 520–258–7200

EIS No. 20070069, Second Final Supplement, FHW, WV, Appalachian Corridor H Project, Construction of a 9-mile Long Segment between the Termini of Parsons and Davis, Updated Information the Parsons-to-Davis Project, Funding and U.S. Army COE Section 404 Permit Issuance, Tucker County, WV, Wait Period Ends: 04/27/2007, Contact: Thomas J. Smith 304–347–5928.

EIS No. 20070070, Second Draft Supplement, AFS, CA, Empire Vegetation Management Project, Supplemental Information to Clarify Cumulative Effects Analysis, Mount Hough Ranger District, Plumas National Forest, Plumas County, CA, Comment Period Ends: 04/16/2007, Contact: Gary Rotta 530–283–0555.

EIS No. 20070071, Draft EIS, USA, VA, Fort Belvoir 2005 Base Realignment and Closure (BRAC) Recommendations and Related Army Actions, Implementation, Fairfax County, VA, Comment Period Ends: 05/01/2007, Contact: Karen Wilson 703–602–2861.

Amended Notices

EIS No. 20070044, Draft EIS, AFS, NM, Surface Management of Gas Leasing and Development, Proposes to Amend the Forest Plan include Standard and Guidelines Related to Gas Leasing and Development in the Jicarilla Ranger District, Carson National Forest, Rio Arriba County, NM, Comment Period Ends: 04/17/2007, Contact: Audrey Kuykendall 505–758–6212 Revision of FR Notice Published 02/16/2007: Extending Comment Period from 04/02/2007 to 04/17/2007.

Dated: February 27, 2007.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. E7–3672 Filed 3–1–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8283–1]

Notice of Meeting of the EPA's Children's Health Protection Advisory Committee (CHPAC)

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of meeting.

SUMMARY: Pursuant to the provisions of the Federal Advisory Committee Act, Public Law 92–463, notice is hereby given that the next meeting of the Children's Health Protection Advisory Committee (CHPAC) will be held March 13–15th, 2007 at RESOLVE, Washington, DC. The CHPAC was created to advise the Environmental Protection Agency on science, regulations, and other issues relating to children's environmental health.

DATES: Task Groups will meet on Tuesday March 13th and the CHPAC Plenary will meet on Wednesday March 14th and Thursday March 15th, 2007 at RESOLVE.

ADDRESSES: RESOLVE, 1255 23rd Street, NW., Suite 275 Washington, DC.

FOR FURTHER INFORMATION CONTACT: Carolyn Hubbard, Office of Children's Health Protection and Environmental Education, USEPA, MC 1107A, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, (202) 564–2189, *hubbard.carolyn@epa.gov.*

SUPPLEMENTARY INFORMATION: The meetings of the CHPAC are open to the public. Task Group meetings will take place on Tuesday March 13th, 2007 at RESOLVE from 8:30 a.m. to 5:30 p.m. The CHPAC plenary will meet on Wednesday, March 14th from 8:30 a.m. to 5:45 p.m. and Thursday March 15th from 8:30 a.m. to 12:30 p.m. Agenda items include discussion and next steps from the Emerging Chemicals of Concern, NAAQS for Lead and Ozone, and 2007 Anniversary Task Groups and a presentation on the NIEHS January 2007 workshop. Draft agenda attached.

Access and Accommodations: For information on access or services for individuals with disabilities, please contact Carolyn Hubbard at 202–564–2189 or *hubbard.carolyn@epa.gov.* To request accommodation of a disability, please contact Carolyn Hubbard preferably at least 10 days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: February 27, 2007.

Carolyn Hubbard,

Designated Federal Official.

U.S Environmental Protection Agency

Children's Health Protection Advisory Committee

RESOLVE 1255 23rd Street, NW., Suite 275, Washington, DC 20037.

Draft Agenda

Tuesday, March 13, 2007

Task Group Meetings

8:30–5:30 Emerging Chemicals of Concern Task Group (ECOC)
12:15–1:30 Lunch (on your own)
1:30–5:30 Next Decade: 10 Year Anniversary of the Executive Order Task Group
1:30–5:30 National Ambient Air Quality Standard (NAAQS) for Ozone and Lead Task Group

Wednesday, March 14, 2007

CHPAC Plenary Session

8:30–9:00 *Continental Breakfast and Gathering*
9:00–9:15 *Welcome, Introductions, Review Meeting Agenda*
9:15–9:30 *Highlights of Recent OCHPEE Activities*
9:30–10:30 *Report on NIEHS January Meeting and Vision for Next Decade of Children's Environmental Health*

10:30–10:45 Break
10:45–12:00 *10 Year Anniversary Task Group Update and Comment Letter*
12:00–1:30 Lunch (on your own)
1:30–3:00 *ECOC Task Group Update*
3:00–3:15 Break
3:15–5:00 *National Ambient Air Quality Standard (NAAQS) for Lead and Ozone Update*
5:00–5:45 *Public Comment*
5:45 Adjourn for the Day

Thursday, March 15, 2007

CHPAC Plenary Session continued

8:30–9:00 Coffee
9:00–10:00 TBD
10:00–10:15 Break
10:15–11:15 *10 Year Anniversary Recommendations*
11:15–12:15 *NAAQS for Ozone Recommendations*
12:15–12:30 *Wrap Up/Next Steps*
12:30 Adjourn

[FR Doc. E7–3682 Filed 3–1–07; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8282–7; Docket ID No. EPA–HQ–ORD–2007–0108]

External Review Draft, Evaluating Ecological Risk to Invertebrate Receptors From PAHs in Sediments at Hazardous Waste Sites

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of public comment period.

SUMMARY: EPA is announcing a 30-day public comment period for the draft document titled, ''Evaluating Ecological Risk to Invertebrate Receptors from PAHs in Sediments at Hazardous Waste Sites'' (EPA/600/R–06/162). The document was prepared by the Ecological Risk Assessment Support Center managed by the National Center for Environmental Assessment within EPA's Office of Research and Development.

EPA is releasing this draft document solely for the purpose of pre-dissemination peer review under applicable information quality guidelines. This document has not been formally disseminated by EPA. It does not represent and should not be construed to represent any Agency policy or determination. EPA will consider any public comments submitted in accordance with this notice when revising the document.

DATES: The 30-day public comment period begins March 2, 2007, and ends April 2, 2007. Technical comments should be in writing and must be received by EPA by April 2, 2007.

ADDRESSES: The draft document, ''Evaluating Ecological Risk to Invertebrate Receptors from PAHs in Sediments at Hazardous Waste Sites,'' is available primarily via the Internet on the National Center for Environmental Assessment's home page under the ''Recent Additions'' and ''Publications'' menus at *http://www.epa.gov/ncea.* A limited number of paper copies are available from the Technical Information Staff, NCEA–Cin; telephone: 513–569–7257; facsimile: 513–569–7916. If you are requesting a paper copy, please provide your name, your mailing address, and the document title, ''Evaluating Ecological Risk to Invertebrate Receptors from PAHs in Sediments at Hazardous Waste Sites.''

Comments may be submitted electronically via *www.regulations.gov,* by mail, by facsimile, or by hand delivery/courier. Please follow the detailed instructions provided in the **SUPPLEMENTARY INFORMATION** section of this notice.

FOR FURTHER INFORMATION CONTACT: For information on the public comment period, contact the Office of Environmental Information Docket; telephone: 202–566–1752; facsimile: 202–566–1753; or e-mail: *ORD.Docket@epa.gov.*

For technical information, contact Michael Kravitz, NCEA; telephone: 513–569–7740; facsimile: 513–487–2540; or email: *kravitz.michael@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. Information About the Project/ Document

U.S. EPA's Ecological Risk Assessment Support Center (ERASC) is a knowledge center that provides technical information and addresses scientific questions on topics relevant to ecological risk assessment at hazardous waste sites for EPA's Office of Solid Waste and Emergency Response (OSWER) and Regional Superfund/ Resource Conservation and Recovery Act (RCRA) staff. Topics are submitted to ERASC by users in EPA program offices and regions. The ERASC is managed by the Office of Research and Development's (ORD's) National Center for Environmental Assessment and is located in Cincinnati, Ohio.

The ERASC recently completed an external review draft document titled, ''Evaluating Ecological Risk to Invertebrate Receptors from PAHs in Sediments at Hazardous Waste Sites.'' It provides an overview of an approach for assessing risk to invertebrate receptors resulting from exposure to PAHs in contaminated sediments. The approach, based on procedures described in the EPA document, Procedures for the Derivation of Equilibrium Partitioning Sediment Benchmarks (ESBs) for the Protection of Benthic Organisms: PAH Mixtures (EPA/600/R–02/013), involves the use of equilibrium partitioning techniques to determine exposure/ bioavailability and narcosis theory to estimate sublethal toxicity of PAHs. Examples of how to use this approach with analytical data resulting from the analysis of contaminated sediments are provided. The approach offers risk assessors a useful tool for assessing the risk of PAHs to benthic invertebrates at hazardous waste sites, particularly when used with other contaminated sediment assessment methods. The External Review Draft only addresses risks to benthic invertebrates because reaching a consensus scientific position on vertebrate risk issues is a longer-term prospect.

II. How To Submit Technical Comments to the Docket at www.regulations.gov

Submit your comments, identified by Docket ID No. EPA–HQ–ORD–2007–0108 by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: ORD.Docket@epa.gov.*
- *Fax:* 202–566–1753.
- *Mail:* Office of Environmental Information (OEI) Docket (Mail Code: 2822T), U.S. Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460. The phone number is 202–566–1752.
- *Hand Delivery:* The OEI Docket is located in the EPA Headquarters Docket Center, Room 3334 EPA West Building, 1301 Constitution Ave., NW., Washington, DC. The EPA Docket Center Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is 202–566–1744. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

If you provide comments by mail or hand delivery, please submit three copies of the comments. For attachments, provide an index, number pages consecutively with the comments, and submit an unbound original and three copies.

Instructions: Direct your comments to Docket ID No. EPA–HQ–ORD–2007–0108. It is EPA's policy to include all comments it receives in the public

docket without change and to make the comments available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov, your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: Documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, e.g., CBI or other information whose disclosure is restricted by statute. Certain other materials, such as copyrighted material, are publicly available only in hard copy. Publicly available docket materials are available either electronically at www.regulations.gov or in hard copy at the OEI Docket in the EPA Headquarters Docket Center.

Dated: February 22, 2007.

Peter W. Preuss,

Director, National Center for Environmental Assessment.

[FR Doc. E7–3685 Filed 3–1–07; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL DEPOSIT INSURANCE CORPORATION

Notice of Cancellation of Agency Meeting

Pursuant to the provisions of the ''Government in the Sunshine Act'' (5 U.S.C. 552b), notice is hereby given that the previously announced closed meeting of the Board of Directors of the Federal Deposit Insurance Corporation scheduled to be held at 10 a.m. on Thursday, March 1, 2007, has been cancelled.

No earlier notice of this cancellation was practicable.

Dated: February 28, 2007.

Federal Deposit Insurance Corporation.

Robert E. Feldman,

Executive Secretary.

[FR Doc. 07–992 Filed 2–28–07; 12:35 pm]

BILLING CODE 6714–01–M

FEDERAL DEPOSIT INSURANCE CORPORATION

Privacy Act of 1974, as Amended; System of Records

AGENCY: Federal Deposit Insurance Corporation.

ACTION: Notice of New and Altered Systems of Records.

SUMMARY: The Federal Deposit Insurance Corporation (''FDIC'') proposes to add four new systems of records to its collection of systems of records notices published pursuant to the Privacy Act of 1974. These new systems of records are entitled: Parking Program Records; Transit Subsidy Program Records; Personnel Benefits and Enrollment Records; and, Safety and Security Incident Records. The FDIC also proposes to revise its existing system of records entitled ''Unofficial Personnel Records'' by removing several existing categories of records and updating various system elements. We hereby publish this notice for comment on the proposed actions.

DATES: Comments on the proposed systems of records must be received on or before April 2, 2007. The proposed systems of records will become effective 45 days following publication in the **Federal Register**, unless a superseding notice to the contrary is published before that date.

ADDRESSES: You may submit written comments by any of the following methods:

- *Agency Web site:* Located at *http://www.fdic.gov/regulations/laws/federal/propose.html*. Follow instructions for submitting comments on this Web site.
- *E-mail:* Send to *comments@fdic.gov*. Include ''FDIC System of Records'' in the subject line.
- *Hand Delivery/Courier:* Guard station at the rear of the 550 17th Street Building (located on F Street) on business days between 7 a.m. and 5 p.m. (EST).
- *Mail:* Send to Fredrick L. Fisch, Supervisory Counsel, Attention: Comments, FDIC System of Records, 550 17th Street, NW., Washington, DC 20429.

Public Inspection: All comments received will be posted without change to *http://www.fdic.gov/regulations/laws/federal* including any personal information provided. Comments may be inspected and photocopied in the FDIC Public Information Center, 3501 North Fairfax Drive, Room E–1002, Arlington, VA 22226, between 9 a.m. and 5 p.m. (EST) on business days. Paper copies of public comments may be ordered from the Public Information Center by telephone at (877) 275–3342 or (703) 562–2200.

FOR FURTHER INFORMATION CONTACT: Fredrick L. Fisch, Supervisory Counsel, FOIA–PA Group, FDIC, 550 17th Street, NW., Washington, DC 20429, (202) 898–6901.

SUPPLEMENTARY INFORMATION: In accordance with the Privacy Act of 1974, as amended, the FDIC proposes to add the description of four new systems of records, and revise one system of records. The first new system of records is designated as FDIC–30–64–0009 (Safety and Security Incident Records). This system of records will be used to support the administration and reporting of safety and security investigations involving FDIC personnel and facilities. The second new system of records is designated as FDIC–30–64–0014 (Personnel Benefits and Enrollment Records). This system of records will be used to support the administration of enrollment information in FDIC-sponsored employee benefits programs. The third new system of records is designated as FDIC–30–64–0026 (Transit Subsidy Program Records). This system of records will be used to administer and monitor employee compliance with the FDIC transit subsidy program. The fourth new system of records is designated as FDIC–30–64–0027 (Parking Program Records). This system of records will be used to administer the parking program and provide for the safe use of FDIC facilities.

In addition, the FDIC proposes to revise the system of records designated

as FDIC–30–64–0015 (Unofficial Personnel System) by changing the name to ''Personnel Records'' and updating system elements including the addition of a statement of the purpose for maintaining the system and the removal of categories of records with different purposes or security requirements. The FDIC previously published a notice concerning this system of records in the **Federal Register** at 54 FR 25169 (June 13, 1989).

More detailed information on the proposed new and revised systems of records may be viewed in the complete text below.

FDIC–30–64–0009

SYSTEM NAME:

Safety and Security Incident Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

FDIC, Division of Administration, 550 17th Street, NW., Washington, DC 20429, and the FDIC regional or area offices. (See *Appendix A* for a list of the FDIC regional offices and their addresses.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

To the extent not covered by any other system, this system covers current and past FDIC employees, contractors, volunteers, visitors, and others involved in the investigation of accidents, injuries, criminal conduct, and related civil matters involving the FDIC.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains investigative reports, correspondence and other communications that may include, without limitation, name, home and office address and phone numbers, physical characteristics, and vehicle information.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE(S):

This system of records is used to support the administration and maintenance of a safety and security incident investigation, tracking and reporting system involving FDIC facilities, property, personnel, contractors, volunteers, or visitors.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, 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;

(2) To a court, magistrate, or other administrative body 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 FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) It is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(9) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the Federal Government.

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 within individual file folders.

RETRIEVABILITY:

Records are indexed and retrieved by name, date, or case number.

SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel. Paper records are maintained in lockable metal file cabinets accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Paper records and electronic media are retained for five years after their creation in accordance with the FDIC Records Retention and Disposition Schedule. Disposal is by shredding or other appropriate disposal systems.

SYSTEM MANAGER(S) AND ADDRESS:

FDIC Associate Director, Division of Administration, FDIC, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals wishing to determine if they are named in this system of records or who are seeking access or amendment to records maintained in this system of records must submit their request in writing to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street, NW., Washington, DC 20429, in accordance with FDIC regulations at 12 CFR 310. Individuals requesting their own records must provide their name, address and a notarized statement attesting to their identity.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system of records should specify the information being contested, their

reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR 310.

RECORD SOURCE CATEGORIES:

The sources of records in this category include current FDIC employees, contractors, members of the public, witnesses, law enforcement officials, medical providers, and other parties providing information to the FDIC to facilitate an inquiry or resolve the complaint.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

Certain records contained within this system of records may be exempted from certain provisions of the Privacy Act (5 U.S.C. 552a) pursuant to 5 U.S.C. 552a(c)(3), (d), (e)(1), (e)(4)(G), (H), and (I), and (f).

FDIC–30–64–0014

SYSTEM NAME:

Personnel Benefits and Enrollment Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

The Division of Administration, FDIC, 550 17th Street, NW., Washington, DC 20429. For administrative purposes, duplicate systems may exist within the FDIC at the duty station of each employee. (See Appendix A for a list of the FDIC regional offices.) The FDIC also has an interagency agreement with the U.S. Department of Agriculture, National Finance Center in New Orleans, Louisiana, to provide and maintain payroll, personnel, and related services and systems involving FDIC employees. The FDIC also has agreements with T. Rowe Price, Benefit Allocation Systems, and other benefit plan contractors to provide employee benefits and related administrative services.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

To the extent not covered by any other system, this system covers current and former FDIC employees and their dependents who are enrolled in the FDIC-sponsored Savings Plan, health, life, and other insurance or benefit programs.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains general personnel and enrollment information for the FDIC-sponsored Savings Plan, flexible spending account (FSA) plans and insurance plans (life, dental, vision, or long-term disability). The FDIC maintains information on earnings, number and name of dependents, gender, birth date, home address, social security number, employee locator information (including e-mail and office addresses), claims for FSA reimbursements, and related correspondence.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) and Executive Order 9397.

PURPOSE(S):

The records are collected, maintained and used to support the administration and management of the FDIC personnel benefits programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, 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;

(2) To a court, magistrate, or other administrative body 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 FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) It is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(9) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the Federal Government;

(10) To the Department of Agriculture, National Finance Center to provide personnel, payroll, and related services and systems involving FDIC personnel;

(11) To the Internal Revenue Service and appropriate State and local taxing authorities;

(12) To appropriate Federal agencies to effect salary or administrative offsets, or for other purposes connected with the collection of debts owed to the United States;

(13) To the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services for the purpose of locating individuals to establish paternity, establish and modify orders of child support enforcement actions as required by the Personal Responsibility and Work Opportunity Reconciliation Act, the Federal Parent Locator System and the Federal Tax Offset System;

(14) To the Office of Child Support Enforcement for release to the Social Security Administration for verifying social security numbers in connection with the operation of the Federal Parent Locator System by the Office of Child Support Enforcement;

(15) To the Office of Child Support Enforcement for release to the Department of Treasury for purposes of

administering the Earned Income Tax Credit Program and verifying a claim with respect to employment in a tax return;

(16) To Benefit Allocation Systems, T. Rowe Price, and other benefit providers, carriers, vendors, contractors, and agents to process claims and provide related administrative services involving FDIC personnel.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Pursuant to 5 U.S.C. 552a(b)(12), disclosures may be made from this system to consumer reporting agencies as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media or in paper format within individual file folders.

RETRIEVABILITY:

Records are indexed and retrieved by the name or social security number of the employee.

SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel. Paper records are maintained in lockable metal file cabinets accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Paper records and electronic media are retained in accordance with National Archives and Records Administration and FDIC Records Retention and Disposition Schedules. Disposal is by shredding or other appropriate disposal systems.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, Human Resources Branch, FDIC Division of Administration, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves or who are seeking access to records maintained in this system of records must submit their request in writing to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street, NW., Washington, DC 20429, and comply with the procedures contained in FDIC's Privacy Act regulations, 12 CFR 310.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system of records should specify the information being contested, their reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

RECORD SOURCE CATEGORIES:

The sources of records in this category include the individuals to whom the records pertain and information retrieved from official FDIC records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0015

SYSTEM NAME:

Personnel Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

The Division of Administration, FDIC, 550 17th Street, NW., Washington, DC 20429. For administrative purposes, duplicate systems may exist within the FDIC at the duty station of each employee. (See Appendix A for a list of the FDIC regional offices.) The FDIC also has an interagency agreement with the U.S. Department of Agriculture, National Finance Center in New Orleans, Louisiana, to provide and maintain payroll, personnel, and related services and systems involving FDIC employees.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

To the extent not covered by any other system, this system covers current and former FDIC employees, contractors, and applicants for employment.

CATEGORIES OF RECORDS IN THE SYSTEM:

This system contains a variety of records relating to personnel actions and determinations made about individuals while employed or seeking employment. These records may contain information about an individual relating to name, birth date, Social Security Number (SSN), personal telephone numbers and addresses, employment applications, background, identity verification and credentials, duty station telephone numbers and addresses, compensation, performance, separation, Internal Revenue Service (IRS) or court-ordered levies, emergency contacts, and related records and correspondence. **Note:** Records maintained by the FDIC in the official personnel file are described in the government-wide Privacy Act System Notice known as OPM/GOVT–1 and other government-wide system notices published by the Office of Personnel Management, and are not included within this system. Also not included in this system are records covered by FDIC–30–64–0009 (Safety and Security Incident Records), FDIC–30–64–0014 (Personnel Benefits and Enrollment Records), FDIC–30–64–0026 (Transit Subsidy Program Records), and FDIC–30–64–0027 (Parking Program Records).

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819) and Executive Order 9397.

PURPOSE(S):

The records are collected, maintained and used to support the administration and management of the FDIC personnel and benefits programs.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy At, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, 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;

(2) To a court, magistrate, or other administrative body 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 FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a)

It is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(9) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the Federal Government.

(10) To the Department of Agriculture, National Finance Center to provide personnel, payroll, and related services and systems involving FDIC personnel;

(11) To the Internal Revenue Service and appropriate State and local taxing authorities;

(12) To appropriate Federal agencies to effect salary or administrative offsets, or for other purposes connected with the collection of debts owed to the United States;

(13) To the Office of Child Support Enforcement, Administration for Children and Families, Department of Health and Human Services for the purpose of locating individuals to establish paternity, establish and modify orders of child support enforcement actions as required by the Personal Responsibility and Work Opportunity Reconciliation Act, the Federal Parent Locator System and the Federal Tax Offset System;

(14) To the Office of Child Support Enforcement for release to the Social Security Administration for verifying social security numbers in connection with the operation of the Federal Parent Locator System by the Office of Child Support Enforcement;

(15) To the Office of Child Support Enforcement for release to the Department of Treasury for purposes of administering the Earned Income Tax Credit Program and verifying a claim with respect to employment in a tax return.

DISCLOSURE TO CONSUMER REPORTING

Disclosures may be made pursuant to 5 U.S.C. 552a(b)(12) and section 3 of the Debt Collection Act of 1982. Debt information concerning a government claim against an individual is also furnished, in accordance with 5 U.S.C. 552a(b)(12) and Section 3 of the Debt Collection Act of 1982, to consumer reporting agencies to encourage repayment of an overdue debt. Disclosures may be made to a consumer reporting agency as defined in the Fair Credit Reporting Act (15 U.S.C. 1681a(f)) or the Federal Claims Collection Act of 1966 (31 U.S.C. 3701(a)(3)).

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media or in paper format within individual file folders.

RETRIEVABILITY:

Records are indexed and retrieved by the name or social security number of the employee.

SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel. Paper records are maintained in lockable metal file cabinets accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Records are retained in accordance with National Archives and Records Administration and FDIC Records Retention and Disposition Schedules. Disposal is by shredding or other appropriate disposal systems.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, Human Resources Branch, FDIC Division of Administration, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves or who are seeking access to records maintained in this system of records must submit their request in writing to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street, NW., Washington, DC 20429, and comply with the procedures contained in FDIC's Privacy Act regulations, 12 CFR 310.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system of records should specify the information being contested, their reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

RECORD SOURCE CATEGORIES:

The sources of records in this category include the individuals to whom the records pertain and information retrieved from official FDIC records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0026

SYSTEM NAME:

Transit Subsidy Program Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

The Division of Administration, FDIC, 550 17th Street, NW., Washington, DC 20429 and the FDIC regional or area offices. (See Appendix A for a list of the FDIC regional offices.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

To the extent not covered by any other system, this system covers employees who apply for and receive transit subsidy program benefits.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains completed transit subsidy application forms (FDIC Form 3440). The applications include, but are not limited to, the applicant's name, home address, title, grade, Division, Office, work hours, room and telephone numbers, commuting schedule, and transit system(s) used.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE(S):

The records are used to administer the FDIC transit subsidy program.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, 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;

(2) To a court, magistrate, or other administrative body 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 FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) It is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(9) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the Federal Government.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media or in paper format within individual file folders.

RETRIEVABILITY:

Records are indexed and retrieved by the name of the transit subsidy program participant.

SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel. Paper records are maintained in lockable metal file cabinets accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Records are retained in accordance with National Archives and Records Administration and FDIC Records Retention and Disposition Schedules. Disposal is by shredding or other appropriate disposal systems.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, FDIC Division of Administration, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves or who are seeking access to records maintained in this system of records must submit their request in writing to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street, NW., Washington, DC 20429, and comply with the procedures contained in FDIC's Privacy Act regulations, 12 CFR part 310.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system of records should specify the information being contested, their reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

RECORD SOURCE CATEGORIES:

The sources of records in this category include the individuals to whom the records pertain and information taken from official FDIC records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

FDIC–30–64–0027

SYSTEM NAME:

Parking Program Records.

SECURITY CLASSIFICATION:

Unclassified but sensitive.

SYSTEM LOCATION:

The Division of Administration, FDIC, 550 17th Street, NW., Washington, DC 20429 and regional offices with FDIC parking facilities. (See Appendix A for a list of the FDIC regional offices.)

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

To the extent not covered by any other system, this system covers employees and others who have applied for and/or been issued a parking permit for the use of FDIC parking facilities; individuals who car-pool with employees holding such permits; and employees interested in joining a car pool.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains completed parking application forms (FDIC Forms 3410), car pool information, disability parking applications, special parking authorizations, and visitor parking requests. The information includes, but is not limited to, the applicant's name, home address, title, grade, make, year and license number of vehicle, Division, Office, work hours, room and telephone numbers, and arrival/departure times.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

Section 9 of the Federal Deposit Insurance Act (12 U.S.C. 1819).

PURPOSE(S):

The records are used to administer the parking program, to allocate the limited number of parking spaces in the FDIC parking facilities among employees and visitors, to facilitate the formation of car pools with employees who have been issued parking permits, and to provide for the safe use of FDIC facilities.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

In addition to those disclosures generally permitted under 5 U.S.C. 552a(b) of the Privacy Act, all or a portion of the records or information contained in this system may be disclosed outside the FDIC as a routine use as follows:

(1) To appropriate Federal, State, and local authorities responsible for investigating or prosecuting a violation of, or for enforcing or implementing a statute, rule, regulation, or order issued, 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;

(2) To a court, magistrate, or other administrative body 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 FDIC is a party to the proceeding or has a significant interest in the proceeding, to the extent that the information is determined to be relevant and necessary;

(3) To a congressional office in response to an inquiry made by the congressional office at the request of the individual who is the subject of the record;

(4) To appropriate Federal, State, local authorities, and other entities when (a) It is suspected or confirmed that the security or confidentiality of information in the system has been compromised; (b) there is a risk of harm to economic or property interests, identity theft or fraud, or harm to the security or integrity of this system or other systems or programs that rely upon the compromised information; and (c) the disclosure is made to such agencies, entities, and persons who are reasonably necessary to assist in efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm;

(5) To appropriate Federal, State, and local authorities in connection with hiring or retaining an individual, conducting a background security or suitability investigation, adjudication of liability, or eligibility for a license, contract, grant, or other benefit;

(6) To appropriate Federal, State, and local authorities, agencies, arbitrators, and other parties responsible for processing any personnel actions or conducting administrative hearings or corrective actions or grievances or appeals, or if needed in the performance of other authorized duties;

(7) To appropriate Federal agencies and other public authorities for use in records management inspections;

(8) To officials of a labor organization when relevant and necessary to their duties of exclusive representation concerning personnel policies, practices, and matters affecting working conditions;

(9) To contractors, grantees, volunteers, and others performing or working on a contract, service, grant, cooperative agreement, or project for the Federal Government.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Records are stored in electronic media or in paper format within individual file folders.

RETRIEVABILITY:

Records are indexed and retrieved by the name of the permit holder, employee identification number, or license tag number.

SAFEGUARDS:

Electronic records are password-protected and accessible only by authorized personnel. Paper records are maintained in lockable metal file cabinets accessible only to authorized personnel.

RETENTION AND DISPOSAL:

Records are retained in accordance with National Archives and Records Administration and FDIC Records Retention and Disposition Schedules. Disposal is by shredding or other appropriate disposal systems.

SYSTEM MANAGER(S) AND ADDRESS:

Associate Director, FDIC Division of Administration, 550 17th Street, NW., Washington, DC 20429.

NOTIFICATION PROCEDURE:

Individuals seeking to determine whether this system of records contains information pertaining to themselves or who are seeking access to records maintained in this system of records must submit their request in writing to the Legal Division, FOIA & Privacy Act Group, FDIC, 550 17th Street, NW., Washington, DC 20429, and comply with the procedures contained in FDIC's Privacy Act regulations, 12 CFR 310.

RECORD ACCESS PROCEDURES:

See ''Notification Procedure'' above.

CONTESTING RECORD PROCEDURES:

See ''Notification Procedure'' above. Individuals wishing to contest or amend information maintained in this system of records should specify the information being contested, their reasons for contesting it, and the proposed amendment to such information in accordance with FDIC regulations at 12 CFR part 310.

RECORD SOURCE CATEGORIES:

The sources of records in this category include the individuals to whom the records pertain, information retrieved from official FDIC records, or information from other agency parking records.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Appendix A

FDIC Atlanta Regional Office, 10 Tenth Street, NE., Suite 800, Atlanta, GA 30309–3906.

FDIC Boston Regional Office, 18 Braintree Hill Office Park, Suite 100, Braintree, MA 02184–8701.

FDIC Chicago Regional Office, 500 West Monroe Street, Suite 3500, Chicago, IL 60661–3097.

FDIC Dallas Regional Office, 1910 Pacific Avenue, 19th floor, Dallas, TX 75201–4586.

FDIC Kansas City Regional Office, 2345 Grand Boulevard, Suite 1200, Kansas City, MO 64108–2638.

FDIC Memphis Area Office, 5100 Poplar Avenue, Suite 1900, Memphis, TN 38157.

FDIC New York Regional Office, 20 Exchange Street, 4th Floor, New York, NY 10005.

FDIC San Francisco Regional Office, San Francisco, CA 94105–2780.

Dated at Washington, DC, this 15th day of February, 2007.

By order of the Board of Directors.

Robert E. Feldman,

Executive Secretary.

[FR Doc. E7–3678 Filed 3–1–07; 8:45 am]

BILLING CODE 6714–01–P

FEDERAL ELECTIONS COMMISSION

Sunshine Act Notices

AGENCY: Federal Election Commission

DATE AND TIME: Thursday, March 8, 2007, at 10 a.m.

PLACE: 999 E Street, NW., Washington, DC (Ninth Floor)

STATUS: This meeting will be open to the public.

ITEMS TO BE DISCUSSED:

Correction and Approval of Minutes.

Advisory Opinion 2007–01: Senator Claire McCaskill and McCaskill for Auditor by counsel, Marc E. Elias and Caroline P. Goodson.

Advisory Opinion 2007–02: The Arizona Libertarian Party, Inc. by Warren Severin, Treasurer.

Demonstration of Advisory Opinion Search System.

Management and Administrative Matters.

PERSON TO CONTACT FOR INFORMATION: Mr. Robert Biersack, Press Officer, Telephone: (202) 694–1220.

Mary W. Dove,

Secretary of the Commission.

[FR Doc. 07–995 Filed 2–28–07; 2:15 pm]

BILLING CODE 6715–01–M

FEDERAL MARITIME COMMISSION

Agency Information Collection Activities: Submission for OMB Review; Comment Request

AGENCY: Federal Maritime Commission.

ACTION: Final notice of submission for OMB review.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, the Federal Maritime Commission hereby gives notice that it has submitted to the Office of Management and Budget a request for an extension of the existing collection requirements under 46 CFR Part 535—Ocean Common Carrier and Marine Terminal Operator Agreements Subject to the Shipping Act of 1984. The FMC has requested an extension of an existing collection as listed below.

DATES: Written comments on this final notice must be submitted on or before April 2, 2007.

ADDRESSES: Comments should be addressed to: Office of Information and Regulatory Affairs, Office of Management and Budget, Attention: Mark Menchek, Desk Officer for FMC, 725—17th Street, NW., Washington, DC 20503, *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806, and to Derek O. Scarbrough, Chief Information Officer, Office of Administration, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573 (Telephone: (202) 523–5800), *cio@fmc.gov*. Copies of the submission(s) may be obtained by contacting Jane Gregory on 202–523–5800 or e-mail: *jgregory@fmc.gov*.

SUPPLEMENTARY INFORMATION: A notice that FMC would be submitting this request was published in the **Federal Register** on December 22, 2006, allowing for a 60-day comment period. No comments were received.

The FMC hereby informs potential respondents that an agency may not conduct or sponsor, and that a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

Information Collection Open for Comment

Title: 46 CFR Part 535—Ocean Common Carrier and Marine Terminal Operator Agreements Subject to the Shipping Act of 1984.

OMB Approval Number: 3072–0045 (Expires March 31, 2007).

Abstract: Section 4 of the Shipping Act of 1984, 46 U.S.C. 40301 (2006), identifies certain commercial agreements by or among ocean common carriers that fall within the jurisdiction of the Shipping Act. Section 5 of the Shipping Act, 46 U.S.C. 40302, requires that carriers file those agreements with the Federal Maritime Commission. Section 6 of the Shipping Act, 46 U.S.C. 40304, specifies the Commission actions that may be taken with respect to filed agreements, including requiring the submission of additional information. Section 15 of the Shipping Act, 46 U.S.C. 40104, authorizes the Commission to require that ocean common carriers, among other persons, file periodic reports. Requests for additional information and the filing of periodic reports are meant to assist the Commission in fulfilling its statutory mandate of overseeing the activities of the ocean transportation industry. These reports are necessary so that the Commission can monitor agreements parties' activities to determine how or if their activities will have an impact on competition.

Current Actions: There are no changes to this information collection, and it is being submitted for extension purposes only.

Type of Review: Extension.

Needs and Uses: The Commission staff uses the information filed by agreement parties to monitor their activities as required by the Shipping Act. Under section 6(g) of the Shipping Act, 46 U.S.C. 41307, the Commission must determine whether filed agreements will have substantially anticompetitive effects on prevailing trade conditions and, if so, whether the agreements will likely, by a reduction in competition, result in an unreasonable reduction in competition, result in an unreasonable reduction in transportation service or an unreasonable increase in transportation cost. If it is shown, based on information collected under this rule, that an agreement is likely to have the foregoing adverse effects, the Commission may bring suit in U.S. District Court to enjoin the operation of that agreement. The information collected is not disclosed to the public and is only for internal analysis in support of the Commission's decision-making process.

Frequency: This information is collected generally on a quarterly basis or as required under the rules.

Type of Respondents: The types of respondents are ocean common carriers and marine terminal operators subject to the Act.

Number of Annual Respondents: The Commission estimates a potential annual respondent universe of 574 entities.

Estimated Time per Response: The average time for filing agreements is estimated to be two person-hours per filing. The average time for preparing and filing information required by Form FMC–150, Information Form for Agreements Between or Among Ocean Common Carriers, is estimated to be 12 to 48 person-hours per response. The average time for completing Form FMC–151, Monitoring Report for Agreements Between or Among Ocean Common Carriers, is estimated to range between seven to 50 person-hours for agreement staff and three to 12 hours for each agreement carrier party, depending on the complexity of the required information. The total average time for reporting and recordkeeping for all responses is 8.15 person-hours.

Total Annual Burden: The Commission estimates the total person-hour burden at 13,620 person-hours.

Bryant L. VanBrakle,

Secretary.

[FR Doc. E7–3794 Filed 3–1–07; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The application also will be available for inspection at the offices of the Board of Governors. Interested

persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than March 29, 2007.

A. Federal Reserve Bank of Atlanta (David Tatum, Vice President) 1000 Peachtree Street, N.E., Atlanta, Georgia 30309:

1. Banco de Sabadell, S.A., Sabadell, Spain; to become a bank holding company by acquiring 100 percent of the voting shares of TransAtlantic Holding Corp., and thereby indirectly acquire TransAtlantic Bank, both of Miami, Florida.

2. United Community Banks, Inc., Blairsville, Georgia; to merge with Gwinnett Commercial Group, Inc., and thereby indirectly acquire First Bank of The South, both of Lawrenceville, Georgia.

Board of Governors of the Federal Reserve System, February 27, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–3668 Filed 3–1–07; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL TRADE COMMISSION

Transfer of Delegations of Authority To Disclose Certain Nonpublic Information to Foreign Law Enforcement Agencies and To Sign Confidentiality Agreements With Certain Foreign Agencies

AGENCY: Federal Trade Commission.

ACTION: Transfer of delegation of authority.

SUMMARY: The Commission has delegated authority to share information with certain law enforcement agencies in Canada, Australia, the United Kingdom, Ireland, Mexico, Costa Rica, and Spain to the Director of the Bureau of Consumer Protection. The Commission has also delegated to the Director of International Affairs authority to execute confidentiality agreements with certain foreign agencies, as a condition of their being granted access to nonpublic databases. These delegations include authority previously delegated to the Associate Director for International Consumer Protection.

EFFECTIVE DATE: February 26, 2007.

FOR FURTHER INFORMATION CONTACT: Lisa M. Harrison, Attorney, Office of the General Counsel, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–3204, *lharrison@ftc.gov,* or Michael L. Shore, Attorney, Office of International Affairs, Federal Trade Commission, 600 Pennsylvania Avenue, NW., Washington, DC 20580, (202) 326–2708, *mshore@ftc.gov*.

SUPPLEMENTARY INFORMATION: Notice is hereby given, pursuant to Reorganization Plan No. 4 of 1961, 26 FR 6191, that the Commission has transferred from the Associate Director for International Consumer Protection to the Director of the Bureau of Consumer Protection (BCP Director) its prior delegations of authority to: (1) Disclose to Canadian law enforcement agencies, information regarding consumer protection investigations involving Canadian businesses or consumers (67 FR 45738–01 (July 10, 2002)); (2) disclose to the Australian Competition and Consumer Commission, information regarding consumer protection investigations involving Australian businesses or consumers (67 FR 45738–01 (July 10, 2002)); (3) disclose to Australian law enforcement agencies, information contained in the Consumer Sentinel database of consumer complaints and law enforcement information (67 FR 45738–01 (July 10, 2002)); (4) disclose to the United Kingdom Office of Fair Trading and the United Kingdom Directorate for Trade and Industry, information regarding consumer protection investigations involving U.K. businesses or consumers (67 FR 45738–01 (July 10, 2002)); (5) disclose to Ireland's Office of the Director of Consumer Affairs, information regarding consumer protection investigations involving Ireland (68 FR 60107–01 (Oct. 21, 2003)); (6) disclose to Mexico's Procuraduría Federal del Consumidor, information regarding consumer protection matters involving Mexico (70 FR 6442–01 (Feb. 7, 2005)); (7) disclose to Costa Rica's Ministry of Economy, Industry, and Commerce, information regarding consumer protection matters involving Costa Rica (71 FR 14895–01 (Mar. 24, 2006)); (8) disclose to the United Kingdom's Office of Fair Trading, the United Kingdom's Information Commissioner, Her Majesty's Secretary of State for Trade and Industry in the United Kingdom, the Australian Competition and Consumer Commission, and the Australian Communications Authority, information regarding commercial e-mail investigations that involve consumers, businesses, commerce or markets in the United Kingdom or Australia (69 FR 44008–01 (July 23, 2004)); and (9) disclose to Spain's Agencia Espanola de Proteccion de Datos, information regarding commercial e-mail investigations that involve consumers, businesses, commerce or markets in Spain (70 FR 12487–03 (Mar. 14, 2005)). The BCP Director's authority may be redelegated.

This delegated authority does not apply to competition-related investigations. This delegated authority includes the authority to respond to disclosure and other requests within the ambit of any memorandum of understanding or agreement concerning consumer protection cooperation between the Commission and an agency listed or described in this notice or within the ambit of any agreement concerning consumer protection cooperation between the United States and any country listed in this notice. For this delegated authority, ''consumer protection investigations involving businesses or consumers'' of a country, ''consumer protection investigations involving'' a country and ''consumer protection matters involving'' a country shall include any consumer protection investigation or matter involving that country or with a nexus to any person, entity, commerce, or market in that country. The phrase ''commercial e-mail investigations that involve consumers, businesses, commerce or markets in'' a country shall include any commercial e-mail investigation or matter involving that country or with a nexus to any person, entity, commerce, or market in that country.

When exercising its delegated authority, the BCP Director will require assurances of confidentiality from the relevant foreign law enforcement agency. Disclosures shall be made only to the extent consistent with limitations on disclosure including, where applicable, sections 6(f) and 21 of the FTC Act, 15 U.S.C. 46(f) and 57b–2 (as amended by sections 4(a) and 6(a) of the U.S. SAFE WEB Act of 2006, Public Law 109–455, 120 Stat. 3372, 3372–73 and 3376–77), Commission Rule 4.10(d), 16 CFR 4.10(d), and with the Commission's enforcement policies and other

important interests. Where the subject matter of the information to be shared raises significant policy concerns, the BCP Director shall notify the Commission before disclosing such information. In addition, the Commission has transferred from the Associate Director for International Consumer Protection to the Director of the Office of International Affairs (OIA Director) its prior delegations of authority to execute econsumer.gov confidentiality agreements with consumer protection authorities from current or future International Consumer Protection and Enforcement Network (ICPEN) member countries, and to execute Consumer Sentinel confidentiality agreements with any foreign law enforcement agency whose access has been authorized or is authorized in the future by the Commission or by the Commission's delegate, including without limitation Canadian and Australian law enforcement agencies (67 FR 45738–01 (July 10, 2002)). When exercising its delegated authority, the OIA Director will require assurances of confidentiality from the relevant foreign law enforcement agency. The OIA Director's authority under these delegations may be redelegated.

By direction of the Commission.

Donald S. Clark,

Secretary.

[FR Doc. E7–3719 Filed 3–1–07; 8:45 am]

BILLING CODE 6750–01–P

GENERAL SERVICES ADMINISTRATION

[FMR Bulletin 2007–B1]

Information Technology and Telecommunications Guidelines for Federal Telework and Other Alternative Workplace Arrangement Programs

AGENCY: General Services Administration.

ACTION: Notice.

SUMMARY: This bulletin establishes guidelines for implementing and operating telework and other alternative workplace arrangement programs through the efficient and effective use of information technology and telecommunications. These policies are designed to assist agencies in the implementation and expansion of Federal alternative workplace arrangement programs.

EFFECTIVE DATE: March 2, 2007.

FOR FURTHER INFORMATION CONTACT: For further clarification of content, contact Stanley C. Langfeld, Director, Regulations Management Division (MPR), General Services Administration, Washington, DC 20405; or *stanley.langfeld@gsa.gov*.

Dated: February 21, 2007.

Kevin Messner,

Acting Associate Administrator, Office of Governmentwide Policy.

General Services Administration

[FMR Bulletin 2007–B1]

Real Property

TO: Heads of Federal Agencies

SUBJECT: Information Technology and Telecommunications Guidelines for Federal Telework and Other Alternative Workplace Arrangement Programs

1. *Purpose:* This bulletin establishes guidelines for implementing and operating telework and other alternative workplace arrangement (AWA) programs through the efficient and effective use of information technology and telecommunications.

2. *Expiration Date:* This bulletin will remain in effect indefinitely until specifically cancelled.

3. *Definitions:* Following are terms and definitions used in and for the purpose of this bulletin:

a. Agency Worksite—An agency worksite is the post of duty to which an employee would report if not teleworking.

b. Alternative Worksite—An alternative work location used by teleworkers while teleworking.

c. Broadband—Broadband is a term that commonly and loosely refers to high speed data transmission service. When such service is used for connections to the internet, the Federal Communications Commission (FCC) defines two types of connections: (1) high-speed lines that deliver services at speeds exceeding 200 kilobits per second (kbps) in at least one direction, and (2) advanced services lines that deliver services at speeds exceeding 200 kbps in both directions (see FCC News Release entitled ''Federal Communications Commission Releases Data On High-Speed Services for Internet Access, High-Speed Connections to the Internet Increased by 33% in 2005,'' dated July 26, 2006, *http://hraunfoss.fcc.gov/edocs_public/attachmatch/DOC-266593A1.doc%3E*).

d. Dial-up—Dial-up refers to the use of an analog telephone line for accessing the internet and remotely connecting to and from an alternative worksite to an agency Information Technology (IT) system. Dial-up access uses normal telephone lines for data transmission and generally has a lower data transfer rate as compared to other internet services.

e. Docking Station—A docking station is a piece of equipment that is used with a laptop computer to allow for the convenient and quick connection of peripheral and/or telecommunications (internet access, for example) equipment by providing the laptop with additional ports, expansion slots, and bays for various types of peripherals and other connections. Typically, the docking station is continuously located in a given workstation and continuously connected to peripherals and telecommunications access; the laptop is slipped in and out of the docking station, as needed. A docking station also enables use of the laptop to resemble the use and convenience of a desktop computer by enabling the user to operate the laptop with a full size external keyboard, monitor, and/or mouse. Thus, a docking station maintains the flexibility of a laptop while giving it the functionality of a desktop computer.

f. External Information Systems—Information systems or components of information systems that are outside of the accreditation boundary established by the organization and for which the organization typically has no direct control over the application of required security controls or the assessment of security control effectiveness. External information systems include, but are not limited to, personally owned information systems (e.g., computers, cellular telephones, or personal digital assistants); privately-owned computing and communications devices resident in commercial or public facilities (e.g., hotels, convention centers or airports); information systems owned or controlled by non-federal governmental organizations; and federal information systems that are not owned by, operated by, or under the direct control of the organization.

g. One Computer Model—Teleworker use of a single computer, usually a laptop, that is transported to all worksites (typically back and forth between an alternative worksite and the agency worksite). The One Computer Model contrasts with multi-computer situations in which the teleworker has a separate computer for use at each worksite and, typically, each of these computers remains at the worksite and is not transported around.

h. Remote Access Servers (RAS)—Remote access servers provide internet and dialup access to the office local area network (LAN). The RAS authenticates the user through a password or stronger mechanism; it then allows the user to access files, printers, or other resources on the LAN. The chief benefit of a RAS is in providing a conveniently packaged comprehensive solution to offsite access needs. Typically, the servers include support for internet-based voice communications, virtual private networks (defined below), and authentication in a package designed to make it easier for administrators to establish and maintain user privileges.

i. Telework—Telework is work performed by an employee at an alternative worksite, which reduces or eliminates the employee's commute or travel to the agency worksite. Alternative worksites may include the employee's home, telework center, satellite office, field installation, or other location.

j. Virtual Private Network (VPN)—The National Institute of Standards and Technology (NIST) defines VPN as ''a logical network that is established, at the application layer of the Open Systems Interconnection (OSI) model, over an existing physical network and typically does not include every node present on the physical network.'' Further, NIST describes how VPN technology uses the internet as the transport medium

and employs security measures to ensure that the communications are private. Although VPN traffic crosses the internet, VPN protection prevents most unauthorized users from reading and/or modifying the traffic (see NIST Special Publication 800–46, Security for Telecommuting and Broadband Communications, *http://csrc,nist.gov/publications/nistpubs/800-46/sp800-46.pdf*).

4. *Background:*

a. 40 U.S.C. § 587(c)(3) [Public Law 104–208, div. A, title I, § 101(f) [title IV, § 407(a)] (September 30, 1996)), as revised, restated and recodified without substantive change by Public Law 107–217 (August 21, 2002)] authorizes GSA to provide guidance, assistance, and oversight, as needed, regarding planning, establishment and operation of AWA programs.

b. In accordance with Section 359 of Public Law 106–346, effective October 23, 2000, each Executive agency must establish a policy under which eligible employees of the agency may participate in telecommuting to the maximum extent possible without diminished employee performance.

c. Public Law 104–52, Treasury, Postal Service, and General Government Appropriations Act, 1996, title VI, § 620 (November 19, 1995), 31 U.S.C. § 1348 note, provides as follows:

''Notwithstanding any provisions of this or any other Act, during the fiscal year ending September 30, 1996, and hereafter, any department, division, bureau, or office may use funds appropriated by this or any other Act to install telephone lines, and necessary equipment, and to pay monthly charges, in any private residence or private apartment of any employee who has been authorized to work at home in accordance with guidelines issued by the Office of Personnel Management: Provided, That the head of the department, division, bureau, or office certifies that adequate safeguards against private misuse exist, and that the service is necessary for direct support of the agency's mission.''

d. Public Law 107–347, The E-Government Act of 2002 (December 17, 2002), recognized the importance of information security to the economic and national security interests of the United States. Title III of the E-Government Act, referred to therein as the Federal Information Security Management Act of 2002 (FISMA), emphasizes the need for organizations to develop, document, and implement an organization-wide program to provide security for the information systems that support its operations and assets.

e. GSA Federal Management Regulation (FMR) Bulletin 2006–B3—Guidelines for Alternative Workplace Arrangements, effective March 17, 2006, sets forth the parameters for establishing agency AWA programs.

5. Further Information: For further information, contact Stanley C. Langfeld, Director, Regulations Management Division, Office of Real Property Management (MP), at (202) 501–1737; or *stanley.langfeld@gsa.gov*.

Guidelines for IT and Telecommunications for Federal Telework and Other AWA Programs

I. Basic Equipment Recommendations

a. An agency may provide employees with computer equipment, associated peripheral equipment (e.g., printer, copier, scanner, facsimile), telecommunications, and associated technical support for the implementation and expansion of telework in the Federal Government. The agency may provide the level and configuration of these resources that it deems necessary for mission accomplishment. To make this determination, an agency may consider factors such as the teleworker's job requirements, frequency of telework, and other work-related parameters. In addition, the agency is advised to review the 2006 Telework Technology Cost Study, which concluded that the One Computer Model is advantageous from both a value added cost perspective and from a multi-purpose perspective. The 2006 Telework Technology Cost Study is located in the GSA Telework Library at *http://www.gsa.gov/telework.*

b. An agency may establish a policy that provides that teleworkers utilize their respective alternative worksite equipment and associated technical support for continuity of operations (COOP) purposes. In addition to facilitating COOP responsiveness, this dual-purpose use of telework resources can (1) increase the agency's return on investment for the cost of those resources, as well as (2) reduce agency COOP costs. The NIST Special Publication 800–34, Contingency Planing Guide for Information Technology Systems, provides instructions, recommendations, and considerations for government IT contingency planning (see *http://csrc.nist.gov/publications/nistpubs/800-34/sp800-34.pdf*), and NIST Special Publication 800–84, Guide to Test, Training, and Exercise Programs for IT Plans and Capabilities, provides additional recommendations and related information (see *http://csrc.nist.gov/publications/nistpubs/800-84/SP800-84.pdf.*)

c. An agency may provide teleworkers with equipment that is no longer needed for its original purposes, such as when equipment is replaced during a refresh cycle. This strategy can maximize the value of federal IT investments through the 're-use' or 're-purposing' of equipment to help implement or expand an agency telework program. In accordance with 41 CFR 102–36.30 and 102–36.35, even though equipment may no longer be used for its original purpose, employee, or location, the agency must determine if the equipment can serve other agency uses, such as in alternative worksites. The equipment officially does not become excess until the agency determines that the agency has no further use for the equipment, including use in main or alternative worksites.

II. Telecommunications and Internet Services

a. Public Law 104–52, section 620, 31 U.S.C. 1348 note, authorizes agencies to use appropriated funds to install telephone lines and necessary equipment, and to pay monthly charges, in any private residence of an employee who has been authorized to work at home in accordance with the guidelines issued by the Office of Personnel Management. The head of the department, division, bureau, or office must certify that adequate safeguards against private misuse exist, and that the service is necessary for direct support of the agency's mission. This authority includes facsimile machines, internet services, broadband access, e-mail services. Voice over Internet Protocol equipment and services, desktop videoconference equipment and services, and, in general, any other telecommunications equipment and services the agency deems needed by individuals working in any authorized alternative worksite.

b. As describe above, agencies are authorized to provide and/or pay for installation and operation of a dedicated voice line for teleworker use at an alternative worksite. Regardless of whether or not, or the extent to which, an agency provides resources for such a line, a dedicated voice line is recommended so that (1) managers, co-workers, clients, and/or other work-related personnel are not prevented from reaching a teleworkers due to the tying up of a teleworker's phone line by online or other data use activity and (2) teleworker do not put themselves at risk by tying up their personal voice line with business activity. Agencies may carry out this recommendation through the use of landlines and/or cell phones.

c. The authorities described above also authorize agencies to pay equipment costs, usage fees, and service charges for all authorized methods of connectivity (e.g., dial-up, high-speed, wireless, satellite) utilized for official business at alternative worksites.

d. Factors such as teleworker job requirements, telecommunications service availability, and quality and cost of service at the alternative worksite should be used to determine teleworker connectivity. Various types of high-speed telecommunication services are available in many areas and not in others. Speed, performance, reliability, and cost are factors to consider when determining how to meet connectivity requirements. In some instances, for example, in which an analog telephone line is the only available connectivity solution, the resulting dial-up access may be sufficient, depending on the teleworker's job requirements. Agency policies should address the equitable provisioning of these resources. It is recommended that agencies implement more than one type of connectivity because of variations in service availability, teleworker job requirements and modes of operation, and other factors that impact the type of connectivity required.

e. Security and connectivity requirements vary according to whether or not a teleworker's job requires interacting with an agency's centralized IT systems. Teleworkers who do not require interaction with an agency's centralized IT systems may be able to telework successfully using only e-mail and telephone contact with the office, without logging into the agency system. For example, a user who teleworks one or two days per week, and whose job consists

largely of writing and document preparation, may never need to log in to agency systems from an alternative worksite. Provided that they are not sensitive or do not contain personally identifiable information, documents can be e-mailed back and forth between the agency system and the user's e-mail account. In this scenario, e-mailing a document from an alternative worksite to the agency system does not require the teleworker to interact with the system. In general, there are may firewall implementations that use an electronic mail proxy to allow access to the files on a protected system without having to directly access that system. Alternatively, the teleworker may physically transport the documents on portable storage media.

When teleworkers need to access the agency's centralized IT systems, it is necessary, at a minimum, to allow for remote logins from the alternative worksite computer. In this case, strong authentication (at least ''two factor authentication'') is required to minimize the vulnerabilities in providing external access. This solution is sufficient for teleworkers requiring minimal access to internal resources, such as some types of intranet access. NIST provides detailed guidance on this issue in Special Publication 800–63, its document on electronic authentication, and agencies are advised to review and comply with this guidance (see *http://csrc.nist.gov/publications/nistpubs/800-63/SP800-63V1_0_2.pdf*).

Some teleworkers, however, may require more involved access to internal resources. In this case, a more secure solution, such as a VPN, should be used. A VPN can provide a high level of security and convenience for the teleworker. Encryption protects all interaction between the offsite computer and the main office, so that in many ways the user's offsite computer is as secure as one on the main office local network. This approach makes it possible to allow offsite users to operate applications such as scheduling, budget analysis, or other complex systems from the alternative worksite. The tradeoff for a VPN is in cost and complexity of administration. Note also that operating a VPN does not guarantee protection from viruses and e-mail worms. The agency Chief Information Officer (CIO), in conjunction with other agency officials (such as telework and/or human resources management policy providers), should examine job requirements and provide policy, guidance, and appropriate secure system access.

f. Agencies should be aware and take advantage of the potential utility and other benefits of audio teleconference and web conference capabilities for their respective telework programs. These capabilities can be excellent tools to facilitate productivity, agency cost savings (from reduced travel expenses, for example), and other benefits for all employees, in general, and for teleworkers, in particular. Agency telework program planners and implementers should be aware of and utilize the relevant telecommunications products, tools, information, and services that are available in their existing contracts and/or from service providers, such as the GSA Global Account Manager (*http://www.gsa.gov/networkscvs*), or equivalent sources and providers.

III. Security

a. According to an Office of Management and Budget (OMB) memorandum entitled ''Protection of Sensitive Agency Information,'' dated June 23, 2006, which addresses the lack of physical security controls when information is removed from or accessed from outside the agency location, agencies should implement the NIST checklist for protection of remote information (see *http://www.whitehouse.gov/omb/memoranda/fy2006/m06-16.pdf*), and:

(1) Encrypt all data on mobile computers and devices that carry agency data, unless the agency determines that the data are non-sensitive;

(2) Allow remote access only with two-factor authentication where one of the factors is provided by a device separate from the computer gaining access;

(3) Use a ''time-out'' function requiring user re-authentication after thirty (30) minutes of inactivity for remote access and mobile devices; and

(4) Log all computer-readable data extracts from databases holding sensitive information and verify that each such extract has been erased within ninety (90) days or that its use is still required.

b. FISMA delegates to NIST the responsibility to develop detailed information security standards and guidance for federal information systems, with the exception of national security systems. Agency personnel involved in planning, implementing, and/or operating telework programs should consult the Web site of NIST's Computer Security Resource Center (see *http://csrc.nist.gov*) for up-to-date information and guidance on secure computing. Listed below are key documents that can assist in the implementation of secure telework operations.

(1) Security for Telecommuting and Broadband Communications (NIST Special Publication 800–46 (2002)), assists organizations in addressing telework security issues by providing recommendations on securing a variety of applications, protocols, and network architectures (see *http://csrc.nist.gov/publications/nistpubs/800-46/sp800-46.pdf*).

(2) Recommended Security Controls for Federal Information Systems (NIST Special Publication 800–53, Rev. 1 (2006)), provides important guidance on security controls selection and specification, including information on Media Protection, Certification, Accreditation, Security Assessments, Identification and Authentication families, updating security controls, and the use of external information systems (see *http://csrc.nist.gov/publications/nistpubs/index.html#sp800-53-Rev1*).

(3) Information Security Handbook: A Guide for Managers (see *http://csrc.nist.gov/publications/nistpubs/#sp800-100*).

(4) Security Management and guidance (see *http://csrc.nist.gov/focus_areas.html#smag*).

c. Agencies should review and comply with applicable controls and guidance, especially sections on portable devices, remote access, and external IT systems set forth in NIST Special Publication 800–53, Rev. 1, when developing telework program implementation guidelines. Listed below are selected controls and guidance from NIST Special Publication 800–53, Rev. 1:

(1) Access Control for Portable and Mobile Devices (e.g., notebook computers, personal digital assistants, cellular telephones, and other computing and communications devices with network connectivity and the capability of periodically operating in different physical locations):

i. Establish usage restrictions and implementation guidance for organization-controlled portable and mobile devices;

ii. Authorize, monitor, and control device access to organizational information systems;

iii. Require that portable and mobile device access to organizational information systems be in accordance with organizational security policies and procedures. Security policies and procedures include device identification and authentication, implementation of mandatory protective software (e.g., malicious code detection, firewall), configuration management, scanning devices for malicious code, updating virus protection software, scanning for critical software updates and patches, conducting primary operating system (and possibly other resident software) integrity checks, and disabling unnecessary hardware (e.g., wireless, infrared).

(2) Remote Access:

i. Authorize, montior, and control all methods of remote access to the information system. Remote access controls should be applied to all information systems other than public web servers or systems specifically designed for public access;

ii. Restrict access achieved through dial-up connections (e.g., limit dial-up access based upon source of request) or protect against unauthorized connections or subversion of authorized connections (e.g., using VPN technology). NIST Special Publication 800–63 provides guidance on remote electronic authentication;

iii. Employ automated mechanisms to facilitate the monitoring and control of remote access methods;

iv. Use cryptography to protect the confidentiality and integrity of remote access sessions;

v. Control all remote accesses through a limited number of managed access control points; and

vi. Permit remote access for privileged functions only for compelling operational needs and document the rationale for such access in the security plan for the information system.

(3) Use of External Information Systems Control:

i. Establish terms and conditions for authorized individuals to: (A) access the information system from an external information system; and (B) process, store, and/or transmit organization-controlled information using an external information system. Authorized individuals include organizational personnel, contractors, or any other individuals with authorized access to the organizational information system. This control does not apply to the use of external

information systems to access organizational information systems and information that are intended for public access (e.g., individuals accessing federal information through public interfaces to organizational information systems).

ii. Establish terms and conditions for the use of external information systems in accordance with organizational security policies and procedures. The terms and conditions should address, at a minmum: (A) the types of applications that can be accessed on the organizational information system from the external information system; and (B) the maximum Federal Information Processing Standard 199 security category of information that can be processed, stored, and transmitted on the external information system.

iii. Prohibit authorized individuals from using an external information system to access the information system or to process, store, or transmit organization-controlled information except in situations where the organization: (A) Can verify the employment of required security controls on the external system as specified in the organization's information security policy and system security plan; or (B) has approved information system connection or processing agreements with the organizational entity hosting the external information system.

IV. Privacy

Agencies should review the OMB memorandum entitled ''Safeguarding Personally Identifiable Information,'' dated May 22, 2006, and ensure that their respective telework technology infrastructures, practices and procedures are in compliance with that memorandum and the Privacy Act. The OMB memorandum reemphasizes the many responsibilities under law and policy to safeguard sensitive personally identifiable information appropriately. Among other things, the Privacy Act requires each agency to establish:

''Rules of conduct for persons involved in the design, development, operation, or maintenance of any system of records, or in maintaining any record, and instruct each such person with respect to such rules and the requirements of [the Privacy Act], including any other rules and procedures adopted pursuant to [the Privacy Act] and the penalties for noncompliance;'' [and]

''appropriate administrative, technical, and physical safeguards to insure the security and confidentiality of records and to protect against any anticipated threats or hazards to their security or integrity which could result in substantial harm, embarrassment, inconvenience, or unfairness to any individual on whom information is maintained.'' (5 U.S.C. 552a(e)(9)–(10))

V. Training

Teleworkers should receive adequate training on the use of IT systems and applications needed for effective job performance. This should include any specialized training associated with (1) effective use of remote access and other resources needed for working remotely, and (2) security awareness and responsibility. In addition, agencies are encouraged to provide opportunities for teleworkers to practice in a telework situation.

VI. Technical Support

a. Agencies should (1) provide adequate and effective Help Desk support for teleworkers, and (2) require Help Desk personnel to possess the skills, procedures, and resources needed for resolving teleworker issues, such as remote access hardware and software issues.

b. Where feasible and applicable, agencies should provide routine systems maintenance via remote transmission procedures such as transmitting (''pushing'') software and system upgrades out to the teleworker's alternative worksite as opposed to requiring the teleworker to bring a computer to the agency worksite for maintenance.

VII. Additional References and Resources

a. Office of Management and Budget (see *http://www.whitehouse.gov/omb/memoranda/m03-18.pdf*).

b. Government Accountability Office (see *http://www.gao.gov*).

VIII. Commonly Asked Questions

a. May an employee use his or her own personal computer equipment to conduct official business from an alternative worksite? If so, who is responsible for maintaining an employee's personally-owned equipment that is used for official business?

Yes, provided certain conditions are met, agencies may permit employees to use personally-owned equipment to conduct official business. If an agency permits the use of personally owned equipment, the employee must agree to allow the agency to (1) configure that equipment with the proper hardware and software necessary for secure and effective job performance, and (2) access the equipment, as needed, to verify compliance with agency policy and procedures. Additional conditions that must be met are set forth in NIST Special Publication 800–53, Rev. 1, on page 64, as follows:

''The organization prohibits authorized individuals from using an external information system to access the information system or to process, store, or transmit organization-controlled information except in situations where the organization: (i) Can verify the employment of required security controls on the external system as specified in the organization's information security policy and system security plan; or (ii) has approved information system connection or processing agreements with the organizational entity hosting the external information system.''

If the agency allows the use of personally-owned equipment for official business, then the telework agreement should clearly identify the employee's and agency's obligations for appropriate operation, repair, and maintenance of the equipment. While agencies are responsible for Government-owned equipment regardless of location, they are not required to be responsible for employee-owned equipment. At their sole discretion, however, agencies may assume responsibility for employee-owned equipment that is used to conduct official business. For example, agencies may authorize Help Desks or other agency personnel or resources to (1) fix a problem with the employee's personally-owned equipment, (2) help the employee fix the problem, or (3) provide, install, and/or upgrade Government-owned software on employee-owned equipment. If an agency permits the use of personally-owned equipment, the employee must agree to allow the agency to configure that equipment with the proper hardware and software including security, communications and applications.

b. Are there policies for ''limited personal use'' of Government e-mail and internet systems?

Yes. The Office of Management and Budget expects all agencies to establish personal use policies consistent with the recommended guidance developed by the CIO Council in 1999 (see ''Personal Use Policies and 'File Sharing' Technology'' memorandum at: *http://www.whitehouse.gov/omb/memoranda/fy04/m04-26.html*). In addition, NIST Special Publication 800–53, Rev. 1, under the section titled Supervision and Review—Access Control, recommends that agencies supervise and review the activities of users with respect to the enforcement and usage of information system access controls. According to this guidance, agencies should review audit records (e.g., user activity logs) for inappropriate activities in accordance with organizational procedures and investigate unusual information system-related activities.

c. Are there any other Guidelines for Alternative Workplace Arrangements?

Yes. For additional guidance, see FMR Bulletin, 2006–B3, Guidelines for Alternative Workplace Arrangements, Sections I through XV, dated March 17, 2006.

[FR Doc. 07–951 Filed 3–1–07; 8:45 am]

BILLING CODE 6820–RH–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Office of the Secretary

Notice of Meeting: Secretary's Advisory Committee on Genetics, Health, and Society

Pursuant to Public Law 92–463, notice is hereby given of the twelfth meeting of the Secretary's Advisory Committee on Genetics, Health, and Society (SACGHS), U.S. Public Health Service. The meeting will be held from 8 a.m. to approximately 5 p.m. on Monday, March 26, 2007 and 8 a.m. to approximately 5 p.m. on Tuesday, March 27, 2007, at the Marriott Inn and Conference Center, University of Maryland—College Park, 3501 University Boulevard East, Adelphi, MD 20783. The meeting will be open to the public with attendance limited to space available. The meeting also will be Web cast.

The agenda will focus on the oversight of genetic testing, including the role of the private sector in assuring the quality and validity of genetic tests; the impact of gene patents and licensing practices on patient access to genetic technologies, including a progress report on the Committee's study; and the status of Federal genetic information nondiscrimination legislation. The Committee will be briefed on the Secretary's Personalized Health Care Initiative and the work of the American Health Information Community, particularly its Personalized Health Care Working Group. The Committee's report on the Policy Issues Associated with Undertaking a New Large U.S. Population Cohort Project on Genes, Environment and Disease will be released at the meeting. There also will be updates on the Committee's draft report on pharmacogenomics and several Federal initiatives and activities.

Time will be provided each day for public comments. The Committee would welcome hearing from anyone wishing to provide public comment on any issue related to genetics, health and society. Individuals who would like to provide public comment should notify the SACGHS Executive Secretary, Ms. Sarah Carr, by telephone at 301–496–9838 or e-mail at *sc112c@nih.gov*. The SACGHS office is located at 6705 Rockledge Drive, Suite 750, Bethesda, MD 20892. Anyone planning to attend the meeting, who is in need of special assistance, such as sign language interpretation or other reasonable accommodations, is also asked to contact the Executive Secretary.

Under authority of 42 U.S.C. 217a, Section 222 of the Public Health Service Act, as amended, the Department of Health and Human Services established SACGHS to serve as a public forum for deliberations on the broad range of human health and societal issues raised by the development and use of genetic and genomic technologies and, as warranted, to provide advice on these issues. The draft meeting agenda and other information about SACGHS, including information about access to the Web cast, will be available at the following Web site: *http://www4.od.nih.gov/oba/sacghs.htm.*

Dated: February 22, 2007.

Anna Snouffer,

Acting Director, NIH Office of Federal Advisory Committee Policy.

[FR Doc. 07–973 Filed 3–1–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute for Occupational Safety and Health; Designation of a Class of Employees for Addition to the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) gives notice of a decision to designate a class of employees at General Atomics in La Jolla, California, as an addition to the Special Exposure Cohort (SEC) under the Energy Employees Occupational Illness Compensation Program Act of 2000. On February 16, 2007, the Secretary of HHS designated the following class of employees as an addition to the SEC:

Atomic Weapons Employer (AWE) employees who were monitored or should have been monitored for exposure to ionizing radiation while working at the General Atomics facility in La Jolla, California at the following locations: Science Laboratories A, B, and C (Building 2); Experimental Building (Building 9); Maintenance (Building 10); Service Building (Building 11); Buildings 21 and 22; Hot Cell Facility (Building 23); Waste Yard (Buildings 25 and 26); Experimental Area (Buildings 27 and 27–1); LINAC Complex (Building 30); HTGR–TCF (Building 31); Fusion Building (Building 33); Fusion Doublet III (Building 34); SV–A (Building 37); SV–B (Building 39); and SV–D (no building number) for a number of work days aggregating at least 250 work days from January 1, 1960, through December 31, 1969, or in combination with work days within the parameters established for one or more other classes of employees in the Special Exposure Cohort.

This designation will become effective on March 18, 2007, unless Congress provides otherwise prior to the effective date. After this effective date, HHS will publish a notice in the **Federal Register** reporting the addition of this class to the SEC or the result of any provision by Congress regarding the decision by HHS to add the class to the SEC.

FOR FURTHER INFORMATION CONTACT: Larry Elliott, Director, Office of Compensation Analysis and Support, National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 513–533–6800 (this is not a toll-free number). Information requests can also be submitted by e-mail to *OCAS@CDC.GOV.*

Dated: February 23, 2007.

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 07–948 Filed 3–1–07; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute for Occupational Safety and Health; Designation of a Class of Employees for Addition to the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) gives notice of a decision to designate a class of employees at the Monsanto Chemical Company in Dayton, Ohio, as an addition to the Special Exposure Cohort (SEC) under the Energy Employees Occupational Illness Compensation Program Act of 2000. On February 16, 2007, the Secretary of HHS designated the following class of employees as an addition to the SEC:

Atomic Weapons Employer (AWE) employees who were monitored or should have been monitored for exposure to ionizing radiation while working at Monsanto Chemical Company Units I, III, or IV in Dayton, Ohio, for a number of work days aggregating at least 250 work days during the period from January 1, 1943, through December 31, 1949, or in combination with work days within the parameters established for one or more other classes of employees in the Special Exposure Cohort.

This designation will become effective on March 18, 2007, unless Congress provides otherwise prior to the effective date. After this effective date, HHS will publish a notice in the **Federal Register** reporting the addition of this class to the SEC or the result of any provision by Congress regarding the decision by HHS to add the class to the SEC.

FOR FURTHER INFORMATION CONTACT: Larry Elliott, Director, Office of Compensation Analysis and Support, National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 513–533–6800 (this is not a toll-free number). Information requests can also be submitted by e-mail to *OCAS@CDC.GOV.*

Dated: February 23, 2007.

John Howard,

Director, National Institute for Occupational Safety and Health.

[FR Doc. 07–947 Filed 3–1–07; 8:45 am]

BILLING CODE 4160–17–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

National Center for Health Statistics (NCHS), Classifications and Public Health Data Standards Staff, Announces the Following Meeting

Name: ICD–9–CM Coordination and Maintenance (C&M) Committee meeting.

Time and Date: 9 a.m.–5 p.m., March 22–23, 2007.

Place: Centers for Medicare and Medicaid Services (CMS) Auditorium, 7500 Security Boulevard, Baltimore, Maryland.

Status: Open to the public.

Purpose: The C&M meeting is a public forum for the presentation of proposed modifications to the International Classification of Diseases, Ninth-Revision, Clinical Modification.

Matters to be Discussed: Tentative agenda items include:

Migraines and other headache syndromes
Transplant complications
Hormone therapy for breast cancer
Penicillin resistant infections
Central line infections
Fetal medicine
Plateau iris syndrome and pingueculitis
Secondary diabetes mellitus
Erythema multiforme
Malignant pleural effusion
Autoimmune hepatitis
Addenda (diagnosis)
Intraoperative electron radiation therapy
Intraoperative neurophysiologic monitoring
Thoracoscopic procedures
Procedures on vena cava
STARR procedure for males
Oversewing of the atrial appendage
Transjugular biopsy of liver
Total disc replacement
Recalled devices
Motion preserving technologies
Addenda (procedures)
ICD–10 procedure coding system (PCS update)

Contact Person for Additional Information: Amy Blum, Medical Systems Specialist, Classifications and Public Health Data Standards Staff, NCHS, 3311 Toledo Road, Room 2402, Hyattsville, Maryland 20782, e-mail *alb8@cdc.gov*, telephone 301–458–4106 (diagnosis), Mady Hue, Health Insurance Specialist, Division of Acute Care, CMS, 7500 Security Blvd., Baltimore, Maryland 21244, e-mail *marilu.hue@cms.hhs.gov*, telephone 410–786–4510 (procedures).

Notice: Because of increased security requirements, CMS has instituted stringent procedures for entrance into the building by non-government employees. Persons without a government I.D. will need to show an official form of picture I.D., (such as a drivers license), and sign-in at the security desk upon entering the building.

Those who wish to attend a specific ICD–9–CM C&M meeting in the CMS auditorium must submit their name and organization for addition to the meeting visitor list. Those wishing to attend the March 22–23, 2007 meeting must submit their name and organization by March 14, 2007 for inclusion on the visitor list. This visitor list will be maintained at the front desk of the CMS building and used by the guards to admit visitors to the meeting. Those who attended previous ICD–9–CM C&M meetings will no longer be automatically added to the visitor list. You must request inclusion of your name prior to each meeting you attend.

Register to attend the meeting online at: *http://www.cms.hhs.gov/apps/events/*.

Notice: This is a public meeting. However, because of fire code requirements, should the number of attendants meet the capacity of the room, the meeting will be closed.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** notices pertaining to announcements of meetings and other committee management activities, for both CDC and the Agency for Toxic Substances and Disease Registry.

Dated: February 26, 2007.

Elaine L. Baker,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E7–3660 Filed 3–1–07; 8:45 am]

BILLING CODE 4160–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10098 and CMS–10114]

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:* 1–800–MEDICARE Beneficiary Satisfaction Survey; *Use:* The Centers for Medicare & Medicaid Services will use the survey information for performance evaluation of the contractor. The information gathered will also be used to validate the quality of service delivered, and or direct the contractor to performance improvement; *Form Number:* CMS–10098 (OMB#: 0938–0919); *Frequency:* Reporting—Weekly, Monthly and Yearly; *Affected Public:* Individuals or households; *Number of Respondents:* 18,000; *Total Annual Responses:* 18,000; *Total Annual Hours:* 2,250.

2. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* National Provider Identifier (NPI) Application and Update Form and Supporting Regulations in 45 CFR 142.408, 45 CFR 162.406, 45 CFR 162.408; *Use:* The National Provider Identifier (NPI) Application and Update Form is used by health care providers to apply for NPIs and furnish updates to the information they supplied on their initial applications. The form is also used to deactivate their NPIs if necessary. The NPI Application/Update form has been revised to further assist in uniquely identifying health care providers and provide additional guidance on how to accurately complete the form. The form captures additional data elements that will assist with unique identification. It also includes more detailed instructions. *Form Number:* CMS–10114 (OMB#: 0938–0931); *Frequency:* Reporting—On occasion, one-time; *Affected Public:* Business or other for-profit, Not-for-profit institutions, and Federal government; *Number of Respondents:* 325,608; *Total Annual Responses:* 325,608; *Total Annual Hours:* 108,560.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS Web Site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995*, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the

Reports Clearance Office on (410) 786–1326.

Written comments and recommendations for the proposed information collections must be mailed or faxed within 30 days of this notice directly to the OMB desk officer: OMB Human Resources and Housing Branch, *Attention:* Carolyn Lovett, New Executive Office Building, Room 10235, Washington, DC 20503, *Fax Number:* (202) 395–6974.

Dated: February 22, 2007.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E7–3654 Filed 3–1–07; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

Notice of Single-Source Grant Award to Louisiana, Alabama, and Mississippi for a Project Entitled, ''Deficit Reduction Act Hurricane Katrina Healthcare Related Provider Stabilization''

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

ACTION: New Grant Awards.

Funding Amount: $160,000,000.

Period of Performance: February 12, 2007–September 30, 2009.

SUMMARY: The Secretary has authorized a total of $160 million in grant funds available to all three States. Based on each eligible IPPS hospital's and SNF's share of total Medicare inpatient payments in the FEMA designated counties in calendar year 2005 (the latest and most complete year of Medicare billing data available to us), this funding is being allocated for each State in the following proportions: 45 percent to Louisiana ($71,633,492), 38 percent to Mississippi ($60,556,425) and 17 percent to Alabama ($27,810,083).

This grant program is to fund State payments to general, acute care hospitals, and skilled nursing facilities in impacted communities that may face financial pressures because of changing wage rates that are not yet reflected in Medicare PPS payment methodologies.

The grant funds must be used by the States to make payments to all Medicare participating general hospitals, acute care hospitals, and SNFs that are currently paid under a Medicare PPS in the impacted communities. States have some flexibility in determining the methodology to determine the timing and amount of provider payments, but the methodology must reflect each provider's share of total Medicare payments during a specified period of time. Grant funds may not be distributed to hospitals and SNFs that are not in operation. States' payment methodologies should specify the relevant time periods and any other factors that will be considered in distributing available grant funds according to the principles specified above, and are subject to approval by CMS.

Justification for Exception to Competition

The Secretary has invoked his authority to restore health care in impacted communities affected by Hurricane Katrina by offering this unique funding opportunity which will enable States to make payments to assist hospitals and SNFs that are paid under a Medicare PPS, with the financial pressures that may result from changing wage rates in those impacted communities. For the reasons cited above, the Secretary has directed the Centers for Medicare & Medicaid Services to offer a single-source award to the States of Louisiana, Alabama and Mississippi.

FOR FURTHER INFORMATION CONTACT: Wendy J. Taparanskas, PhD., Health Insurance Specialist, Office of the Center Director, Centers for Medicaid and State Operations, Centers for Medicare & Medicaid Services, Mail Stop S2–26–12, 7500 Security Boulevard, Baltimore, MD 21244, (410) 786–5245.

Authority: Section 6201(a)(4) of the Deficit Reduction Act of 2005 (DRA) .

(Catalog of Federal Domestic Assistance Program No. 93.779)

Dated: February 13, 2007.

Leslie V. Norwalk,

Acting Administrator, Centers for Medicare & Medicaid Services.

[FR Doc. E7–3655 Filed 3–1–07; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notice of Determination and Findings; Authority To Incorporate a No-Setoff Commitment

Upon the basis of the following findings pursuant to authority of Title 31 U.S.C. Section 3727 and in accordance with the Presidential delegation of authority dated October 3, 1995, as referenced in the Federal Acquisition Regulation 32.803(d) it is hereby determined that the use of a no-setoff provision is appropriate to facilitate the private financing of a steam production facility at NCI-Frederick.

Findings

1. Despite an essentially static space inventory, the cost of steam under NCI-Frederick's interagency agreement with the Fort Detrick U.S. Army Garrison has increased by 70% from 2003 to 2006. In addition, despite numerous energy saving projects accomplished over the past 9 years, quantities of steam billed by the Army to the NCI have remained 20%–30% above amounts estimated/measured through engineering methods.

2. In response to the escalation in steam related energy costs/quantities, a thorough review of steam production alternatives was conducted. Based on this analysis it was concluded that significant energy and cost savings could be achieved through the construction of a new steam production facility and the subsequent severing of ties to the existing Fort Detrick boiler plant.

3. On behalf of Potomac Edison Company, APS Constellation, L.L.C. has proposed a privately financed Energy Savings Performance Contract (ESPC) to construct the new steam facility. Securing the private financing for this project is dependent upon incorporation of a no-setoff provision in the contract.

4. Inclusion of the no-setoff provision will enable the Contractor to secure financing with an interest rate that is lower than the interest rate that would be obtained in the absence of the no-setoff provision. The Government will benefit directly from a lower interest rate in the form of lower interest payments over the 20-year term of the repayment.

5. Incorporating a no-setoff provision will not increase the risk of the Government since the Basic Ordering Agreement requires that the Contractor guarantee that the energy and energy-related cost savings exceed the payments to the Contractor during the performance period following construction of the project. In the event that the savings fall below the level guaranteed by the Contractor, the Contractor will be responsible for crediting the difference to the Government.

6. In accordance with the guidance set forth in FAR 32.803(d), a review of the proposed contractor's financial status revealed no significant indebtedness to the United States.

Determination

Based on the foregoing, I hereby determine that it is the Government's best interests to approve the use of Alternate 1 to the Clause at FAR 52.232–23 which authorizes incorporation of a no-setoff provision.

Dated: February 22, 2007.

Daniel J. Frasier,

Head of the Contracting Activity, Director, OAMP, OA, OM, National Institutes of Health.

[FR Doc. 07–960 Filed 3–1–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; *telephone:* 301/496–7057; *fax:* 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Model for Study of Glomerular Disorders: Conditionally-Immortalized Mouse Podocyte Cell Line With Tet-on-Regulated Gene Expression

Description of Technology: Podocytes, cells of the visceral epithelium in the kidneys, are a key component of the glomerular filtration barrier. As such, they play a vital role in glomerular disorders, which are a major cause of chronic kidney disease. Examples of these disorders include focal segmental glomerulosclerosis, membranous glomerulonephritis, minimal change disease, and diabetic nephropathy.

The inventors have developed a conditionally-immortalized mouse podocyte cell line with tightly controlled conditional gene expression. The cell line has been conditionally immortalized through the introduction of the H-2Kb-tsA58 transgene, which is a temperature-sensitive mutant of the SV40T antigen. Inducible gene expression is tightly controlled through two introduced transgenes, podocin-rtTA and CMV-tTS, that produce a ''Tet-on'' system wherein gene expression is induced by tetracycline or doxycycline. The combination of the two transgenes for Tet-on gene expression has resulted in much tighter regulation and lower background expression compared to cells carrying the podocin-rtTA transgene alone.

Applications: Model system for study of glomerular disorders; Model system for podocyte cell biology.

Market: Glomerular disorders are a major cause of chronic kidney disease. Approximately 20 to 35 percent of patients requiring renal replacement therapy have a glomerular disorder.

Inventors: Jeffrey B. Kopp (NIDDK) *et al.*

Relevant Publication: T Shigehara, C Zaragoza, C Kitiyakara, H Takahashi, H Lu, M Moeller, LB Holzman, and JB Kopp. Inducible podocyte-specific gene expression in transgenic mice. J Am Soc Nephrol. 2003 Aug;14(8):1998–2003.

Patent Status: HHS Reference No. E–049–2007/0—Research Tool.

Licensing Status: This technology is available as a research tool under a Biological Materials License.

Licensing Contact: Tara L. Kirby, PhD.; 301/435–4426; *tarak@mail.nih.gov.*

Collaborative Research Opportunity: The *NIDDK Kidney Disease Section* is seeking statements of capability or interest from parties interested in collaborative research to further develop, evaluate, or commercialize a model system for the study of glomerular disorders. Please contact Jeffrey B. Kopp, MD, by phone (301/594–3403), fax (301/402–0014) or e-mail (*jbkopp@nih.gov*) for more information.

Latrophilin 3, a Gene Involved in Attention Deficit Hyperactivity Disorder

Description of Technology: Attention Deficit Hyperactivity Disorder (ADHD) is the most common behavioral disorder in childhood, and is estimated to affect three to five percent of people in the United States, both children and adults. Treatment typically involves a combination of behavior modification, educational interventions, and medication. There are a variety of medications available for treatment of ADHD; the most frequently prescribed drugs are stimulants or antidepressants. However, currently there is no way to tell in advance which medication will be most helpful for a particular individual.

The inventors have identified haplotypes of latrophilin 3 (LPHN3) that increase susceptibility for development of ADHD. LPHN3 is a G-protein coupled receptor that is specifically expressed in the brain's mesolimbic system, which is associated with ADHD. The invention describes methods of identifying LPHN3 haplotypes in an individual for determining susceptibility for development of ADHD. Identification of LPHN3 haplotypes in an ADHD-affected individual may also make possible individualized drug treatment plans.

Applications: Identify individuals with enhanced susceptibility for ADHD; Use LPHN3 haplotype information to design individualized treatments.

Inventors: Maximillian Muenke (NHGRI), Mauricio Arcos-Burgos (NHGRI), and F. Xavier Castellanos (NIMH).

Patent Status: U.S. Provisional Application No. 60/850,972 filed 11 Oct 2006 (HHS Reference No. E–312–2006/0-US–01).

Licensing Status: Available for exclusive or nonexclusive licensing.

Licensing Contact: Tara Kirby, PhD.; 301/435–4426; *tarak@mail.nih.gov.*

A Fertility Test To Detect Ovarian Autoimmune Disease Using Human Recombinant MATER Protein

Description of Technology: The inventors have identified MATER, a gene that plays an important role in fertility, and have shown that antibodies against MATER protein are detected at higher frequencies in women experiencing infertility and irregular menstrual periods than in healthy women. The discovery of MATER as an important factor in autoimmune-mediated ovarian dysfunction will facilitate diagnosis and treatment of these disorders. In addition to its critical role in ovarian autoimmunity, the inventors have also discovered that the MATER gene plays an essential role in embryonic development.

The invention discloses the MATER gene, MATER protein and MATER-specific antibodies. Also disclosed are methods and kits for evaluating female infertility through detection of an abnormal autoimmune response, an abnormal MATER gene, or abnormal MATER protein expression.

Applications: Diagnostic test for women suffering from infertility or irregular menstrual periods; Tool for the study of early embryonic development;

Tool for the development of MATER-based contraceptives.

Market: Approximately 10% of women of reproductive age experience infertility, and approximately 5% per year experience menstrual irregularity.

Development Status: Established research test, ready for additional clinical research and commercial development.

Inventors: Lawrence M. Nelson and Zhi-Bin Tong (NICHD).

Publications:

1. Zhi-Bin Tong *et al.* A mouse gene encoding an oocyte antigen associated with autoimmune premature ovarian failure. Endocrinology. 1999 Aug;140(8):3720–3726.

2. Zhi-Bin Tong *et al.* Developmental expression and subcellular localization of mouse MATER, an oocyte-specific protein essential for early development. Endocrinology. 2004 Mar;145(3):1427–1434.

3. Zhi-Bin Tong *et al.* A human homologue of mouse Mater, a maternal effect gene essential for early embryonic development. Hum Reprod. 2002 Apr; 17(4):903–911.

4. Zhi-Bin Tong *et al.* Mater, a maternal effect gene required for early embryonic development in mice. Nat Genet. 2000 Nov;26(3):267–268.

Patent Status:

1. PCT Application No. PCT/US01/10981 filed 04 Apr 2001, which published as WO02/032955 on 25 Apr 2002 (HHS Reference No. E–239–2000/0-PCT–02).

2. U.S. Application No. 10/399,443 filed 16 Apr 2003 (allowed) (HHS Reference No. E–239–2000/0-US–03).

3. U.S. Application No. 11/586,160 filed 24 Oct 2006 (HHS Reference No. E–239–2000/0-US–08).

4. U.S. Application No. 11/586,075 filed 24 Oct 2006 (HHS Reference No. E–239–2000/0-US–09).

5. U.S. Application No. 10/677,943 filed 01 Oct 2003 (allowed) (HHS Reference No. E–239–2000/1-US–02).

6. Foreign counterparts pending in Australia, Canada, Europe, and Japan.

Licensing Availability: Available for exclusive or non-exclusive licensing.

Licensing Contact: Tara L. Kirby, Ph.D.; 301/435–4426; *tarak@mail.nih.gov*.

Dated: February 26, 2007.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E7–3694 Filed 3–1–07; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Government-Owned Inventions; Availability for Licensing

AGENCY: National Institutes of Health, Public Health Service, HHS.

ACTION: Notice.

SUMMARY: The inventions listed below are owned by an agency of the U.S. Government and are available for licensing in the U.S. in accordance with 35 U.S.C. 207 to achieve expeditious commercialization of results of federally-funded research and development. Foreign patent applications are filed on selected inventions to extend market coverage for companies and may also be available for licensing.

ADDRESSES: Licensing information and copies of the U.S. patent applications listed below may be obtained by writing to the indicated licensing contact at the Office of Technology Transfer, National Institutes of Health, 6011 Executive Boulevard, Suite 325, Rockville, Maryland 20852–3804; telephone: 301/496–7057; fax: 301/402–0220. A signed Confidential Disclosure Agreement will be required to receive copies of the patent applications.

Identification and Isolation of the Receptor for Pigment Epithelium-Derived Factor (PEDF)

Description of Technology: This application describes and claims compositions and methods related to PEDF-R, a receptor for pigment epithelium-derived factor (PEDF). PEDF (aka serpin f1 gene product) is a protein, belonging to the serpin superfamily with neurotrophic, gliastatic, neuronotrophic, antiangiogenic, and antitumorigenic properties. However, PEDF lacks the characteristic ability of serpins to inhibit serine protease activity. In particular, the compositions and methods described and claimed in this application are related to the isolation, cloning, expression and characterization of a receptor for PEDF, PEDF-R. The PEDF-R gene (also known as TTS-2.2, iPLA-zeta, ATGL, desnutrin, or PNPLA2) is located on chromosome 11. The sequence of the PEDF-R polypeptide is composed of 504 amino acids, and shares homology with other genes such as for adiponutrin and GS2, contains a patatin-like phospholipase A2 domain and up to four transmembrane regions. PEDF-R exhibits a potent phospholipase A2 activity, binds to PEDF ligands with high affinity, and it localizes to plasma membranes. An extracellular loop region is available for the interactions with extracellular PEDF ligand, which stimulate the phospholipase activity of PEDF-R. The identification of this novel PEDF-R gene in the retina for a phospholipase-linked membrane protein with high affinity for PEDF, suggests a molecular pathway by which ligand/receptor interaction on the cell surface could generate a cellular signal.

Applications:

1. Basic research to further elucidate the role of PEDF and its receptor in signal transduction pathways.

2. Development of drug screening assays to identify agonists and antagonists of PEDF activity.

3. Development of new biological molecules to regulate PEDF signaling such as monoclonal antibodies and chimeric IgG-receptor constructs.

Development Stage: Information on research being conducted in Dr. Becerra's laboratory can be found on the Internet at *http://www.nei.nih.gov/intramural/protein_struct_func.asp.* The ability of the receptor or receptor-targeted molecules and biologics to be used as therapeutics remains the subject of early research and development efforts.

Inventors: S. Patricia Becerra (NEI), Luigi Notari (NEI), Jorge Laborda (CDER/FDA), *et al.*

Publications:

1. The patent application has been published as WO 2005/014645 A2 on 17 Feb 2005.

2. L Notari *et al.* Identification of a lipase-linked cell membrane receptor for pigment epithelium-derived factor. J Biol Chem. 2006 Dec 8; 281(49):38022–38037.

Patent Status:

1. U.S. Patent Application No. 10/566,540 filed 16 Oct 2006, entitled ''PEDF-R Receptor and Uses,'' is pending (HHS Reference No. E–314–2003/2–US–02). The U.S. Application has not been published. Only U.S. Patent protection has been sought for this technology. There are no foreign counterpart patent applications.

2. PCT/US2004/025560 filed 05 Aug 2004 and published as WO 2005/014645 A2 on 17 Feb 2005, now expired (HHS Reference No. E–314–2003/2–PCT–01).

3. U.S. Provisional Application No. 60/579,177 filed 12 Jun 2004, now abandoned (HHS Reference No. E–314–2003/1–US–01).

4. U.S. Provisional Application No. 60/493,713 filed 07 Aug 2003, now abandoned (HHS Reference No. E–314–2003/0–US–01).

Biological Materials Availability: Biological materials related to this technology are not available at this time.

Licensing Availability: This application is available for license on a non-exclusive or exclusive basis.

Licensing Contact: Susan S. Rucker; 301/435–4478; e-mail: *ruckersu@mail.nih.gov*.

Genes Expressed in Prostate Cancer and Methods of Use

Description of Technology: This invention is a novel gene, called New Gene Expressed in Prostate (NGEP). This gene appears to be expressed only in human prostate and prostate cancer. This gene has two known splice variants of significantly different size. The shorter splice variant encodes a cytoplasmic protein, while the longer splice variant encodes a plasma membrane protein, which has been detected on the plasma membrane of human cancer cells.

This patent application contains claims to the polypeptide, NGEP, nucleotides encoding NGEP, antibodies that bind NGEP polypeptides, and methods of using these polypeptides, polynucleotides, and antibodies.

The presence of the protein on the cell surface and the selective expression in prostate and prostate cancer make this a potential target for prostate cancer diagnostics and therapeutics. Potential therapeutics could be gene-based, vaccines, antibodies, or immunoconjugates.

Inventors: Ira Pastan, Tapan Bera, and Byungkook Lee (NCI.)

Publications:

1. S Das et al. NGEP, a prostate-specific plasma membrane protein that promotes the association of LNCaP cells. Cancer Res. 2007 Feb 15; 67(4):1594–1601.

2. TK Bera et al. NGEP, a gene encoding a membrane protein detected only in prostate cancer and normal prostate. Proc Natl Acad Sci USA. 2004 Mar 2; 101(9):3050–3064.

Patent Status:

1. U.S. Provisional Application No. 60/461,399 filed 08 Apr 2003 (HHS Reference No. E–148–2003/0–US–01).

2. PCT Application No. PCT/US04/10588 filed 05 Apr 2004, which published as WO 2004/092213 on 28 Oct 2004 (HHS Reference No. E–148–2003/0–PCT–02).

3. U.S. Patent Application No. 10/552,515 filed 06 Oct 2005 (HHS Reference No. E–148–2003/0–US–03).

Licensing Status: Available for non-exclusive licensing.

Licensing Contact: Jesse S. Kindra, J.D.; 301/435–5559; *kindraj@mail.nih.gov*.

Dated: February 22, 2007.

Steven M. Ferguson,

Director, Division of Technology Development and Transfer, Office of Technology Transfer, National Institutes of Health.

[FR Doc. E7–3695 Filed 3–1–07; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Office of the Director, National Institutes of Health; Notice of Meeting

Pursuant to section 10(a) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Office of AIDS Research Advisory Council.

The meeting will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: Office of AIDS Research Advisory Council.

Date: April 19, 2007.

Time: 9 a.m. to 5 p.m.

Agenda: The meeting will focus on HIV-related Complications including Malignancies, Cardiovascular Disease, and Metabolic Complications. An update will be provided on the OARAC Working Groups for Treatment and Prevention Guidelines.

Place: National Institutes of Health, 5635 Fishers Lane, Rockville, MD 20852.

Contact Person: Christina Brackna, Coordinator, Program Planning and Analysis, Office of Aids Research, Office of the Director, NIH, 5635 Fishers Lane MSC 9310, Suite 4000, Rockville, MD 20852, (301) 402–8655, *cm53v@nih.gov*.

Any member of the public interested in presenting oral comments to the committee may notify the Contact Person listed on this notice at least 10 days in advance of the meeting. Interested individuals and representatives of organizations may submit a letter of intent, a brief description of the organization represented, and a short description of the oral presentation. Only one representative of an organization may be allowed to present oral comments and if accepted by the committee, presentations may be limited to five minutes. Both printed and electronic copies are requested for the record. In addition, any interested person may file written comments with the committee by forwarding their statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

Information is also available on the Institute's Center's home page: *http://www.ni.gov/od/oar/index.htm*, where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.14, Intramural Research Training Award; 93.22, Clinical Research Loan Repayment Program for Individuals from Disadvantaged Backgrounds; 93.232, Loan Repayment Program for Research Generally; 93.39, Academic Research Enhancement Award; 93.936, NIH Acquired Immunodeficiency Syndrome Research Loan Repayment Program; 93.187, Undergraduate Scholarship Program for Individuals from Disadvantaged Backgrounds, National Institutes of Health, HHS)

Dated: February 23, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–961 Filed 3–1–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Notice of Meeting: Secretary's Advisory Committee on Genetics, Health, and Society

Pursuant to Public Law 92–463, notice is hereby given of the twelfth meeting of the Secretary's Advisory Committee on Genetics, Health, and Society (SACGHS), U.S. Public Health Service. The meeting will be held from 8 a.m. to approximately 5 p.m. on Monday, March 26, 2007 and 8 a.m. to approximately 5 p.m. on Tuesday, March 27, 2007, at the Marriott Inn and Conference Center, University of Maryland—College Park, 3501 University Boulevard East, Adelphi, MD 20783. The meeting will be open to the public with attendance limited to space available. The meeting also will be Web cast.

The agenda will focus on the oversight of genetic testing, including the role of the private sector in assuring the quality and validity of genetic tests; the impact of gene patents and licensing practices on patient access to genetic technologies, including a progress report on the Committee's study; and the status of Federal genetic information nondiscrimination legislation. The Committee will be briefed on the Secretary's Personalized Health Care Initiative and the work of the American Health Information Community, particularly its Personalized Health Care Working Group. The Committee's report on the *Policy Issues Associated with Undertaking a New Large U.S. Population Cohort Project on Genes, Environment and Disease* will be

released at the meeting. There also will be updates on the Committee's draft report on pharmacogenomics and several Federal initiatives and activities.

Time will be provided each day for public comments. The Committee would welcome hearing from anyone wishing to provide public comments on any issue related to genetics, health and society. Individuals who would like to provide public comment should notify the SACGHS Executive Secretary, Ms. Sarah Carr, by telephone at 301–496–9838 or e-mail at *sc112c@nih.gov.* The SACGHS office is located at 6705 Rockledge Drive, Suite 750, Bethesda, MD 20892. Anyone planning to attend the meeting, who is in need of special assistance, such as sign language interpretation or other reasonable accommodations, is also asked to contact the Executive Secretary.

Under authority of 42 U.S.C. 217a, Section 222 of the Public Health Service Act, as amended, the Department of Health and Human Services established SACGHS to serve as a public forum for deliberations on the broad range of human health and societal issues raised by the development and use of genetic and genomic technologies and, as warranted, to provide advice on these views. The draft meeting agenda and other information about SACGHS, including information about access to the Web cast, will be available at the following Web site: *http://www4.od.nih.gov/oba/sacghs.htm.*

Dated: February 22, 2007.

Anna Snouffer,

Acting Director, NIH Office of Federal Advisory Committee Policy.

[FR Doc. 07–965 Filed 3–1–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The purpose of this meeting is to evaluate proposals for support through the RAID program by making available to the research community, on a competitive basis, NCI new agent development contract resources for the preclinical development of drugs and biologics. The outcome of the evaluation will be a decision whether NCI should support the request and make available contract resources for support through the RAID program to the research community and NCI new agent development for the preclinical development of drugs and biologics. The research proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the proposed research projects, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel; Rapid Access to Intervention Development.

Date: March 20–21, 2007.

Time: 1 p.m.–5 p.m.

Agenda: To evaluate the Rapid Access to Intervention Development Portfolio.

Place: National Institutes of Health, Executive Plaza North, Conference Room J, 6130 Executive Boulevard, Rockville, MD 20852.

Contact Person: Phyllis G. Bryant, Executive Secretary, Program Analyst, Developmental Therapeutics Program, National Cancer Institute, NIH, 6130 Executive Boulevard, Rm. 8022, Bethesda, MD 20892. (301) 496–8720.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: February 22, 2007

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–968 Filed 3–1–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors for Basic Sciences National Cancer Institute. The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual intramural programs and projects conducted by the National Cancer Institute, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors for Basic Sciences National Cancer Institute.

Date: March 4–5, 2007.

Time: March 4, 2007, 6 p.m. to 10:15 p.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: Double Tree Hotel, 8120 Wisconsin Avenue, Bethesda, MD 20814.

Time: March 5, 2007, 8 a.m. to 10 a.m.

Agenda: To review and evaluate personal qualifications and performance, and competence of individual investigators.

Place: National Institutes of Health, National Cancer Institute, 9000 Rockville Pike, Building 31, Conference Room 6, Bethesda, MD 20892.

Contact Person: Florence E. Farber, PhD, Executive Secretary, Office of the Director, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, Room 2115, Bethesda, MD 20892, 301–496–7628, *ff6p@nih.gov.*

This notice is being published less than 15 days prior to meeting due to scheduling conflicts.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: February 23, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–970 Filed 3–1–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Heart, Lung, and Blood Institute, Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the National Heart, Lung, and Blood Institute Special Emphasis Panel, March 6, 2007, 1 p.m. to March 6, 2007, 3 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 which was published in the **Federal Register** on February 21, 2007, FR 07–761.

The meeting date was changed from March 6, 2007 to March 29, 2007 and the Panel name was changed from Research Demonstration and Dissemination Projects (R18) to Demonstration and Education Research (R18). The meeting is closed to the public.

Dated: February 26, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–958 Filed 3–1–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal property.

Name of Committee: National Institute of Diabetes and Digestive Kidney Diseases Special Emphasis, Panel, Minority Organ and Tissue Donation.

Date: March 26, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Carol J. Goter-Robinson, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 748, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7791, *goterrobinsonc@extra.niddk.nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis, Panel, Research Centers of Excellence in Pediatric Nephrology.

Date: April 2–3, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Courtyard Gaithersburg Washingtonian Center, 204 Boardwalk Place, Gaithersburg, MD 20878.

Contact Person: Robert Wellner, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 706, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, *rw175w@nih.gov*.

Name of Committee: National Institute of Diabetes and Digestive Kidney Diseases Special Emphasis, Panel, The Microcirculation in Intestinal Inflammation.

Date: April 5, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Bethesda Marriott Suites, 6711 Democracy Boulevard, Bethesda, MD 20817.

Contact Person: Carol J. Goter-Robinson, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 748, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–7791, *goterrobinson@extra.niddk.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: February 26, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–955 Filed 3–1–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis, Panel, Metagenomic Studies of the Gut Microbiomes of Obese and Lean Twins.

Date: April 10, 2007.

Time: 10 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Betheda Marriott Suites, 6711 Democracy Blvd., Bethesda, MD 20817.

Contact Person: Paul A. Rushing, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 747, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 5947–8895, *rushingp@extra.niddk.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS)

Dated: February 26, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–956 Filed 3–1–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of a meeting of the Board of Scientific Counselors, NIEHS.

The meeting will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meeting will be closed to the public as indicated below in accordance with the provisions set forth in section 552b(c)(6), Title 5 U.S.C., as amended for the review, discussion, and evaluation of individual grant applications conducted by the National

Institute of Environmental Health Sciences, including consideration of personnel qualifications and performance, and the competence of individual investigators, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Scientific Counselors, NIEHS.

Date: March 25–27, 2007.

Closed: March 25, 2007, 7 p.m. to 9:30 p.m.

Agenda: To review and evaluate programmatic and personnel issues.

Place: Doubletree Guest Suites, 2515 Meridian Parkway, Research Triangle Park, NC 27713.

Open: March 26, 2007, 8 a.m. to 9 a.m.

Agenda: An overview of the organization and research in the Laboratories of Molecular Carcinogenesis and Molecular Toxicology.

Place: Doubletree Guest Suites, 2515 Meridian Parkway, Research Triangle Park, NC 27713.

Open: March 26, 2007, 9 a.m. to 1 p.m.

Agenda: An overview of the organization and research in the Laboratory of Molecular Carcinogenesis.

Place: Doubletree Guest Suites, 2515 Meridian Parkway, Research Triangle Park, NC 27713.

Closed: March 26, 2007, 1 p.m. to 1:30 p.m.

Agenda: To review and evaluate programmatic and personnel issues.

Place: Doubletree Guest Suites, 2515 Meridian Parkway, Research Triangle Park, NC 27713.

Open: March 26, 2007, 1:30 p.m. to 4:25 p.m.

Agenda: An overview of the organization and research in the Laboratories of Molecular Carcinogenesis and Toxicology.

Place: Doubletree Guest Suites, 2515 Meridian Parkway, Research Triangle Park, NC 27713.

Closed: March 26, 2007, 4:25 p.m. to 5 p.m.

Agenda: To review and evaluate programmatic and personnel issues.

Place: Doubletree Guest Suites, 2515 Meridian Parkway, Research Triangle Park, NC 27713.

Open: March 27, 2007, 8:30 a.m. to 1 p.m.

Agenda: An overview of the organization and research in the Laboratories of Molecular Carcinogenesis and Toxicology.

Place: Doubletree Guest Suites, 2515 Meridian Parkway, Research Triangle Park, NC 27713.

Closed: March 27, 2007, 1 p.m. to 4:30 p.m.

Agenda: To review and evaluate programmatic and personnel issues.

Place: Doubletree Guest Suites, 2515 Meridian Parkway, Research Triangle Park, NC 27713.

Contact Person: Perry J Blackshear, PhD, MD, Acting Scientific Director, Division of Intramural Research, National Inst. of Environmental Health Sciences, National Institutes of Health, PO Box 12233, Research Triangle Park, NC 27709, (919) 541–4899, *black009@niehs.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures; 93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

Dated: February 26, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–957 Filed 3–1–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Environmental Health Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Environmental Health Sciences Special Emphasis Panel, Mentored Patient-Oriented Research Career Development Award.

Date: March 19, 2007.

Time: 12 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: NIEHS/National Institutes of Health, Building 4401, East Campus, 79 T.W. Alexander Drive, 3162, Research Triangle Park, NC 27709 (Telephone Conference Call).

Contact Person: Linda K. Bass, Scientific Review Branch, Division of Extramural Research and Training, Nat. Institutes Environmental Health Sciences, P.O. Box 12233, MD EC–30, Research Triangle Park, NC 27709, (919) 541–1307, *malone@niehs.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.93.142, NIEHS Hazardous Waste Worker Health and Safety Training; 93.143, NIEHS Superfund Hazardous Substances—Basic Research and Education; 93.894, Resources and Manpower Development in the Environmental Health Sciences; 93.113, Biological Response to Environmental Health Hazards; 93.114, Applied Toxicological Research and Testing, National Institutes of Health, HHS)

(Catalogue of Federal Domestic Assistance Program Nos. 93.115, Biometry and Risk Estimation—Health Risks from Environmental Exposures;

Dated: February 26, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–959 Filed 3–1–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Child Health and Human Development; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Child Health and Human Development Special Emphasis Panel; Enhancing Carbohydrate Quality in Diabetes Management.

Date: March 19, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate contract proposals.

Place: Ramada Inn Rockville, 1775 Rockville Pike, Rockville, MD 20852.

Contact Person: Hameed Khan, PhD, Scientific Review Administrator, Division of Scientific Review, National Institute of Child Health, and Human Development, NIH, 6100 Executive Blvd., Room 5B01, Bethesda, MD 20892, (301) 435–6902, *khanh@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.864, Population Research; 93.865, Research for Mothers and Children; 93.929, Center for Medical Rehabilitation Research; 93.209, Contraception and Infertility Loan Repayment Program, National Institutes of Health, HHS)

Dated: February 23, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–962 Filed 3–1–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information oncerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel; In Vitro Testing Resources for AIDS Therapeutics Development.

Date: March 16, 2007.

Time: 9 a.m. to 6 p.m.

Agenda: To review and evaluate contract proposals.

Place: Holiday Inn Chevy Chase, 5520 Wisconsin Avenue, Chevy Chase, MD 20815.

Contact Person: Barney Duane Price, PhD, Scientific Review Administrator, Scientific Review Program, DHHS/NIH/NIAID/DEA, Room 3139, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, (301) 451–2592, *pricebd@niaid.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: February 23, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–963 Filed 3–1–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of General medical Sciences; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of General Medical Sciences Special Emphasis Panel; Minority Biomedical Research Support.

Date: March 16, 2007.

Time: 8:30 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Embassy Suites Hotel, 4300 Military Road, NW., Washington, DC 20015.

Contact Person: Helen R. Sunshine, PhD, Chief, Office of Scientific Review, National Institute of General Medical Sciences, National Institutes of Health, Natcher Building, Room 3AN12F, Bethesda, MD 20892. 301–594–2881. *sunshinh@nigms.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.375, Minority Biomedical Research Support; 93.821, Cell Biology and Biophysics Research; 93.859, Pharmacology, Physiology, and Biological Chemistry Research; 93.862, Genetics and Developmental Biology Research; 93.88, Minority Access to Research Careers; 93.96, Special Minority Initiatives, National Institutes of Health, HHS)

Dated: February 22, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–969 Filed 3–1–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute on Drug Abuse; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Pathway to Independence Award.

Date: March 21, 2007.

Time: 1 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6101 Executive Boulevard, Rockville, MD 20852, (Telephone Conference Call).

Contact Person: Gerald L. McLaughlin, PhD, Scientific Review Administrator, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, Room 220, MSC 8401, 6101 Executive Blvd., Bethesda, MD 20892–8401, (301) 402–6626, *gm145a@nih.gov.*

Name of Committee: National Institute on Drug Abuse Special Emphasis Panel, Field-Deployable Tools Review Panel.

Date: March 22, 2007.

Time: 9 a.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: Omni Shoreham Hotel of Washington DC, 2500 Calvert Street, NW., (at Connecticut Avenue), Washington, DC 20008.

Contact Person: Mark Swieter, PhD, Chief, Training and Special Projects Review Branch, Office of Extramural Affairs, National Institute on Drug Abuse, NIH, DHHS, 6101 Executive Boulevard, Suite 220, Bethesda, MD 20892–8401, (301) 435–1389, *ms80x@nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.279, Drug Abuse and Addiction Research Programs, National Institutes of Health, HHS)

Dated: February 23, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–972 Filed 2–22–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Library of Medicine; Notice of Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as

amended (5 U.S.C. Appendix 2), notice is hereby given of meetings of the Board of Regents of the National Library of Medicine.

The meetings will be open to the public as indicated below, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Board of Regents of the National Library of Medicine; Extramural Programs Subcommittee.

Date: May 7, 2007.

Closed: 4 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: National Library of Medicine, Building 38, Conference Room B, 8600 Rockville Pike, Bethesda, MD 20892.

Contact Person: Donald A.B. Lindberg, MD, Director, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD 20894, 301–496–6221, *lindberg@mail.nih.gov.*

Name of Committee: Board of Regents of the National Library of Medicine; Subcommittee on Outreach and Public Information.

Date: May 8, 2007.

Open: 7:30 a.m. to 8:45 a.m.

Agenda: Outreach Activities.

Place: National Library of Medicine, Building 38, Conference Room B, 8600 Rockville Pike, Bethesda, MD 20892.

Contact Person: Donald A.B. Lindberg, MD, Director, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD 20894, 301–496–6221, *lindberg@mail.nih.gov.*

Name of Committee: Board of Regents of the National Library of Medicine.

Date: May 8–9, 2007.

Open: May 8, 2007, 9 a.m. to 4:30 p.m.

Agenda: Program Discussion.

Place: National Library of Medicine, Building 38, Board Room, 2nd Floor, 8600 Rockville Pike, Bethesda, MD 20892.

Closed: May 8, 2007, 4:30 p.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Library of Medicine, Building 38, Board Room, 2nd Floor, 8600 Rockville Pike, Bethesda, MD 20892.

Open: May 9, 2007, 9 a.m. to 12 p.m.

Agenda: Program Discussion.

Place: National Library of Medicine, Building 38, Board Room, 2nd Floor, 8600 Rockville, Pike, Bethesda, MD 20892.

Contact Person: Donald A.B. Lindberg, MD, Director, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD 20894, 301–496– 6221, *lindberg@mail.nih.gov.*

Name of Committee: Board of Regents of the National Library of Medicine Planning Subcommittee.

Date: May 9, 2007.

Open: 7:30 a.m. to 8:45 a.m.

Agenda: Long-Range Planning Discussion.

Place: National Library of Medicine, Building 38, Conference Room B, 8600 Rockville Pike, Bethesda, MD 20892.

Contact Person: Donald A.B. Lindberg, MD, Director, National Library of Medicine, 8600 Rockville Pike, Bethesda, MD 20894, 301–496–6221, *lindberg@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *www.nlm.nih.gov/od/bor/bor.html,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.879, Medical Library Assistance, National Institutes of Health, HHS)

Dated: February 23, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–971 Filed 3–1–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Toxicology Program (NTP); Liaison and Scientific Review Office; Meeting of the NTP Board of Scientific Counselors Technical Reports Review Subcommittee

AGENCY: National Institute of Environmental Health Sciences (NIEHS), National Institutes of Health (NIH).

ACTION: Meeting announcement and request for comments.

SUMMARY: Pursuant to Public Law 92–463, notice is hereby given of a meeting of the NTP Board of Scientific Counselors Technical Reports Review Subcommittee (TRR Subcommittee). The primary agenda topic is the peer review of the findings and conclusions presented in eight draft NTP Technical Reports of rodent toxicology and carcinogenicity studies in rats and mice conducted by the NTP (see Preliminary Agenda below). The TRR Subcommittee meeting is open to the public with time scheduled for oral public comment. The NTP also invites written comments on any draft technical report discussed at the meeting (see Request for Comments, below). The TRR Subcommittee deliberations on the draft technical reports will be reported to the NTP Board of Scientific Counselors (BSC) at a future date.

DATES: The TRR Subcommittee meeting will be held on May 16 and 17, 2007. All individuals who plan to attend are encouraged to register online by May 9, 2007, at the NTP Web site (*http://ntp.niehs.nih.gov/* select ''Calendar of Upcoming Events''). Written comments on the draft reports should be received by May 2, 2007. Persons needing special assistance, such as sign language interpretation or other reasonable accommodation in order to attend, should contact 919–541–2475 (voice), 919–541–4644 TTY (text telephone), through the Federal TTY Relay System at 800–877–8339, or by e-mail to *niehsoeeo@niehs.nih.gov.* Requests should be made at least 7 days in advance of the event.

ADDRESSES: The TRR Subcommittee meeting will be held in the Rodbell Auditorium, Rall Building at the NIEHS, 111 T. W. Alexander Drive, Research Triangle Park, NC 27709. Public comments and any other correspondence should be submitted to Dr. Barbara Shane, Executive Secretary for the NTP Board (NTP Liaison and Scientific Review Office, NIEHS, P.O. Box 12233, MD A3–01, Research Triangle Park, NC 27709; telephone: 919–541–4253, fax: 919–541–0295; or e-mail: *shane@niehs.nih.gov*).

SUPPLEMENTARY INFORMATION:

Background

The primary agenda topic is the peer review of the findings and conclusions of eight draft NTP Technical Reports of rodent toxicology and carcinogenicity studies conducted by the NTP (see Preliminary Agenda below) in rats and mice.

Attendance and Registration

The meeting is scheduled for May 16–17, 2007, from 8:30 a.m. to adjournment and is open to the public with attendance limited only by the space available. Individuals who plan to

attend are encouraged to register online at the NTP Web site by May 9, 2007, at *http://ntp.niehs.nih.gov/* select ''Advisory Boards and Committees'' to facilitate access to the NIEHS campus. Please note that a photo ID is required to access the NIEHS campus. The NTP is making plans to videocast the meeting through the Internet at *http://www.niehs.nih.gov/external/video.htm.*

Availability of Meeting Materials

A copy of the preliminary agenda, committee roster, and any additional information, when available, will be posted on the NTP Web site (*http://ntp.niehs.nih.gov/* select ''Calendar of Upcoming Events'') or may be requested in hardcopy from the Executive Secretary (see **ADDRESSES** above). Draft NTP Technical Reports will be posted on the NTP Web site (*http://ntp.niehs.nih.gov/* select ''Calendar of Upcoming Events'') after April 2, 2007. Following the meeting, summary minutes will be prepared and made available on the NTP Web site.

Request for Comments

Public input at this meeting is invited and time is set aside for the presentation of public comments on any draft technical report. Each organization is allowed one time slot per agenda topic. At least 7 minutes will be allotted to each speaker, and if time permits, may be extended to 10 minutes at the discretion of the chair. Persons wishing to make an oral presentation are asked to notify Dr. Barbara Shane via online registration, phone, or e-mail (see **ADDRESSES** above) by May 2, 2007, and if possible, to send a copy of the statement or talking points at that time. Written comments on the draft reports are also welcome and should also be received by May 2, 2007, to enable review by the TRR Subcommittee and NTP staff prior to the meeting. Written statements can supplement and may expand the oral presentation. If registering on-site and reading from written text, please bring 40 copies of the statement for distribution to the TRR Subcommittee and NTP staff and to supplement the record. Written comments received in response to this notice will be posted on the NTP Web site. Persons submitting written comments should include their name, affiliation, mailing address, phone, fax, e-mail, and sponsoring organization (if any) with the document. Registration for oral comments will also be available on-site, although time allowed for presentation by on-site registrants may be less than that for pre-registered speakers and will be determined by the number of persons who register at the meeting.

Background Information on the NTP Board of Scientific Counselors

The NTP Board of Scientific Counselors (BSC) is a technical advisory body comprised of scientists from the public and private sectors who provide primary scientific oversight to the overall program and its centers. Specifically, the BSC advises the NTP on matters of scientific program content, both present and future, and conducts periodic review of the program for the purposes of determining and advising on the scientific merit of its activities and their overall scientific quality. The TRR Subcommittee is a standing subcommittee of the BSC. BSC members are selected from recognized authorities knowledgeable in fields such as toxicology, pharmacology, pathology, biochemistry, epidemiology, risk assessment, carcinogenesis, mutagenesis, molecular biology, behavioral toxicology and neurotoxicology, immunotoxicology, reproductive toxicology or teratology, and biostatistics. Its members are invited to serve overlapping terms of up to four years. BSC and TRR Subcommittee meetings are held annually or biannually.

Dated: February 22, 2007.

Samuel H. Wilson,

Deputy Director, National Institute of Environmental Health Sciences and National, Toxicology Program.

Preliminary Agenda—National Toxicology Program (NTP) Board of Scientific Counselors Technical Reports Review

Subcommittee Meeting—May 16–17, 2007

Rodbell Auditorium, Rall Building, National Institute of Environmental Health Sciences—111 TW Alexander Drive, Research Triangle Park, NC 27709

NTP Technical Reports (TR) Scheduled for Review

- TR 550: Cresols (CASNR 1319–77–3)
  - Used as solvents, disinfectants, preservatives, and in the production of fragrances, antioxidants, dyes, pesticides, and resins
- TR 542: Cumene (CASNR 98–82–8)
  - Used as a solvent and in the production of phenol, acetone and α-methylstyrene
- TR 547: Ethinyl Estradiol (CASNR 57–63–6)—Multigenerational Study
  - Synthetic steroidal estrogen; used as a component of oral contraceptives
- TR 548: Ethinyl Estradiol (CASNR 57–63–6)—2-year bioassay
  - Synthetic steroidal estrogen; used as a component of oral contraceptives
- TR 541: Formamide (CASNR 75–12–7)
  - Used as a solvent, water softener, in water soluble inks and as an intermediate in organic syntheses
- TR 551 Isoeugenol (CASNR 97–54–1)
  - Used as a food flavoring agent, fragrance, in the manufacture of vanillin, and to sedate fish; found naturally in cloves, tobacco and many other plants; prepared synthetically by heating eugenol
- TR 552: Propargyl Alcohol CASNR 107–19–7)
  - Used as a chemical intermediate, corrosion inhibitor, solvent stabilizer, and polymer modifier
- TR 546: Sodium Dichromate Dihydrate (CASNR 7789–12–0)
  - Inorganic compound containing hexavalent chromium. Used as a corrosion inhibitor, in the production of pigments, in electroplating, leather tanning, wood preservation, and textile manufacturing. Found as a contaminant in drinking water supplies

[FR Doc. E7–3701 Filed 3–1–07; 8:45 am]

BILLING CODE 4140–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: Center for Scientific Review Special Emphasis Panel; ZRG1 DIG F (03) Digestive Sciences Clinical Trial Application.

Date: March 9, 2007.

Time: 10 a.m. to 11:30 a.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Rass M. Shayiq, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 2182, MSC 7818, Bethesda, MD 20892, (301) 435–2359, *shayiqr@csr.nih.gov*.

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Children's Psychopathology and School Readiness.

Date: March 14, 2007.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Anna L. Riley, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3114, MSC 7759, Bethesda, MD 20892, (301) 435–2889, *rileyann@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Innate and Adaptive Cellular Immunity in AIDS.

Date: March 20, 2007.

Time: 11 a.m. to 2 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Mary Clare Walker, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5208, MSC 7852, Bethesda, MD 20892, (301) 435–1165, *walkermc@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Neurotechnology/Engineering SEP.

Date: March 21, 2007.

Time: 8 a.m to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Holiday Inn Georgetown, 2101 Wisconsin Avenue, NW., Washington, DC 20007.

Contact Person: Robert C. Elliott, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3130, MSC 7850, Bethesda, MD 20892, (301) 435–3009, *elliotro@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Tools for Zebrafish Research.

Date: March 23, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The River Inn, 924 25th Street, Columbia Suite, Washington, DC 20036.

Contact Person: Neelakanta Ravindranath, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5140, MSC 7843, Bethesda, MD 20892, (301) 435–1034, *ravindrn@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Drug Discovery.

Date: March 26, 2007.

Time: 8:30 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: The Watergate, 2650 Virginia Avenue, NW., Washington, DC 20037.

Contact Person: Mary Custer, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 4180, MSC 7850, Bethesda, MD 20892, (301) 435–1164, *custerm@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Reproductive Biology—Small Business Review.

Date: March 28, 2007.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: Krish Krishnan, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 6164, MSC 7892, Bethesda, MD 20892, (301) 435–1041, *krishnak@csr.nih.gov.*

Name of Committee: Center for Scientific Review Special Emphasis Panel; Death and Development.

Date: March 28, 2007.

Time: 2 p.m. to 4 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 (Telephone Conference Call).

Contact Person: James Harwood, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5168, MSC 7840, Bethesda, MD 20892, (301) 435–1256, *harwoodj@.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel, Delirium and Dementia.

Date: March 29, 2007.

Time: 10 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: James Harwood, PhD, Scientific Review Administrator, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 5168, MSC 7840, Bethesda, MD 20892, (301) 435–1256, *harwoodj@csr.nih.gov*.

Name of Committee: Center for Scientific Review Special Emphasis Panel; Mind-Body Interactions

Date: April 4, 2007.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: The Mayflower, 1127 Connecticut Avenue, Washington, DC 20036.

Contact Person: Michael Micklin, PhD, Chief, RPHB IRG, Center for Scientific Review, National Institutes of Health, 6701 Rockledge Drive, Room 3136, MSC 7759, Bethesda, MD 20892, (301) 435–1258, *micklinm@csr.nih.gov*.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research, 93.306, 93.333, 93.337, 93.393–93.396, 93.837–93.844, 93.846–93.878, 93.892, 93.893, National Institutes of Health, HHS)

Dated: February 22, 2007.

Anna Snouffer,

Acting Director, Officer of Federal Advisory Committee Policy.

[FR Doc. 07–964 Filed 3–1–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, March 12, 2007, 7 a.m. to March 13, 2007, 11:59 a.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD, 20892 which was published in the **Federal Register** on February 14, 2007, 72 FR 7055–7057.

The meeting title has been changed to ''Substance Abuse Effects and Characteristics''. The meeting is closed to the public.

Dated: February 22, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–966 Filed 3–1–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

Center for Scientific Review; Amended Notice of Meeting

Notice is hereby given of a change in the meeting of the Center for Scientific Review Special Emphasis Panel, March 12, 2007, 2 p.m. to March 12, 2007, 4:30 p.m., National Institutes of Health, 6701 Rockledge Drive, Bethesda, MD 20892 which was published in the **Federal Register** on February 14, 2007, 72 FR 7055–7057.

The meeting will be held March 26, 2007, from 12 p.m. to 3 p.m. The meeting location remains the same. The meeting is closed to the public.

Dated: February 22, 2007.

Anna Snouffer,

Acting Director, Office of Federal Advisory Committee Policy.

[FR Doc. 07–967 Filed 3–1–07; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

[USCG–2006–26377]

Collection of Information Under Review by Office of Management and Budget: OMB Control Number: 1625–0056

AGENCY: Coast Guard, DHS.

ACTION: Request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this request for comments announces that the Coast Guard is forwarding an Information Collection Request (ICR), abstracted below, to the Office of Information and Regulatory Affairs (OIRA) of the Office of Management and Budget (OMB) to request an extension of their approval of the following collection of information. The ICR is 1625–0056, Labeling Requirements in 33 CFR parts 181 and 183 and 46 CFR 25.10–3. Our ICR describes the information we seek to collect from the public. Review and comments by OIRA ensure we only impose paperwork burdens commensurate with our performance of duties.

DATES: Please submit comments on or before April 2, 2007.

ADDRESSES: To make sure that your comments and related material do not reach the docket [USCG–2006–26377] or OIRA more than once, please submit them by only one of the following means:

(1)(a) By mail to the Docket Management Facility, U.S. Department of Transportation (DOT), room PL–401, 400 Seventh Street, SW., Washington, DC 20590–0001. (b) By mail to OIRA, 725 17th Street, NW., Washington, DC 20503, to the attention of the Desk Officer for the Coast Guard.

(2)(a) By delivery to room PL–401 at the address given in paragraph (1)(a) above, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. The telephone number is (202) 366–9329. (b) By delivery to OIRA, at the address given in paragraph (1)(b) above, to the attention of the Desk Officer for the Coast Guard.

(3) By fax to (a) the Facility at (202) 493–2298 or by contacting (b) OIRA at (202) 395–6566. To ensure your comments are received in time, mark the fax to the attention of Mr. Nathan Lesser, Desk officer for the Coast Guard.

(4)(a) Electronically through the Web site for the Docket Management System (DMS) at *http://dms.dot.gov.* (b) By e-mail to *nlesser@omb.eop.gov.*

The Docket Management Facility maintains the public docket for this notice. Comments and material received from the public, as well as documents mentioned in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also find this docket on the Internet at *http://dms.dot.gov.*

Copies of the complete ICR are available through this docket on the Internet at *http://dms.dot.gov,* and also from Commandant (CG–611), U.S. Coast Guard Headquarters, room 10–1236 (Attn: Mr. Arthur Requina), 2100 2nd Street, SW., Washington, DC 20593–0001. The telephone number is (202) 475–3523.

FOR FURTHER INFORMATION CONTACT: Mr. Arthur Requina, Office of Information Management, telephone (202) 475–3523 or fax (202) 475–3929, for questions on these documents; or Ms. Renee V. Wright, Program Manager, Docket Operations, (202) 493–0402, for questions on the docket.

SUPPLEMENTARY INFORMATION: The Coast Guard invites comments on the proposed collection of information to determine whether the collection is necessary for the proper performance of the functions of the Department. In particular, the Coast Guard would appreciate comments addressing: (1) The practical utility of the collections; (2) the accuracy of the estimated burden of the collections; (3) ways to enhance the quality, utility, and clarity of the information that is the subject of the collections; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or other forms of information technology.

Comments to DMS or OIRA must contain the OMB Control Number of the ICR addressed. Comments to DMS must contain the docket number of this request, [USCG 2006–26377]. For your comments to OIRA to be considered, it is best if OIRA receives them on or before the April 2, 2007.

Public participation and request for comments: We encourage you to respond to this request by submitting comments and related materials. We will post all comments received, without change, to *http://dms.dot.gov;* they will include any personal information you have provided. We have an agreement with DOT to use their Docket Management Facility. Please see the paragraph on DOT's ''Privacy Act Policy'' below.

Submitting comments: If you submit a comment, please include your name and address, identify the docket number for this request for comment [USCG–2006–26377], indicate the specific section of this document or the ICR to which each comment applies, and give the reason for each comment. You may submit your comments and material by electronic means, mail, fax, or delivery to the Docket Management Facility at the address under **ADDRESSES**, but please submit them by only one means. If you submit them by mail or delivery, submit them in an unbound format, no larger than 8½ by 11 inches, suitable for copying and electronic filing. If you submit them by mail and would like to know that they reached the Facility, please enclose a stamped, self-addressed postcard or envelope.

The Coast Guard and OIRA will consider all comments and material received during the comment period. We may change the documents supporting this collection of information or even the underlying requirements in view of them.

Viewing comments and documents: To view comments, as well as documents mentioned in this notice as being available in the docket, go to *http://dms.dot.gov* at any time and conduct a simple search using the docket number. You may also visit the Docket Management Facility in room PL–401 on the Plaza level of the Nassif Building, 400 Seventh Street, SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone can search the electronic form of all comments received in dockets by the name of the individual submitting the comment (or signing the comment, if submitted on behalf of an association, business, labor union, etc.). You may review the Privacy Act Statement of DOT in the **Federal Register** published on April 11, 2000 (65 FR 19477), or you may visit *http://dms.dot.gov.*

Previous Request for Comments

This request provides a 30-day comment period required by OIRA. The Coast Guard has already published the 60-day notice (71 FR 69579, December 1, 2006) required by 44 U.S.C.

3506(c)(2). That notice elicited no comments.

Information Collection Request

Title: Labeling Requirements in 33 CFR parts 181 and 183 and 46 CFR 25.10–3.

OMB Control Number: 1625–0056.

Type of Request: Extension of a currently approved collection.

Affected Public: Manufacturers of recreational boats and associated equipment.

Forms: None.

Abstract: Title 46 U.S.C. 4310 gives the Coast Guard the authority to require manufacturers of recreational boats and certain items of associated equipment to comply with Coast Guard regulations. Parts 181 and 183 of 33 CFR, and 46 CFR 25.10–3 contain the regulations and safety standards authorized by the statutes which apply to manufacturers of recreational boats, uninspected commercial vessels and associated equipment. The regulations and safety standards contain information collections, which require boat and associated equipment manufacturers, importers and the boating public to apply for serial numbers and to display various labels evidencing compliance.

Burden Estimate: The estimated burden has increased from 385,408 hours to 395,107 hours a year.

Dated: February 23, 2007.

R.T. Hewitt,

Rear Admiral, U.S. Coast Guard, Assistant Commandant for Command, Control, Communications, Computers & Information Technology.

[FR Doc. E7–3644 Filed 3–1–07; 8:45 am]

BILLING CODE 4910–15–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1678–DR]

Oklahoma; Amendment No. 2 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Oklahoma (FEMA–1678–DR), dated February 1, 2007, and related determinations.

EFFECTIVE DATE: February 21, 2007.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Oklahoma is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 1, 2007:

Alfalfa, Canadian, Comanche, Dewey, Garvin, Grant, Greer, Jackson, Jefferson, Kay, Lincoln, Osage, Pontotoc, Pottawatomie, Rogers, Tillman, Tulsa, Washington, Washita, and Woods Counties for Public Assistance.

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

[FR Doc. E7–3651 Filed 3–1–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOMELAND SECURITY

Federal Emergency Management Agency

[FEMA–1677–DR]

Oklahoma; Amendment No. 1 to Notice of a Major Disaster Declaration

AGENCY: Federal Emergency Management Agency, DHS.

ACTION: Notice.

SUMMARY: This notice amends the notice of a major disaster declaration for the State of Oklahoma (FEMA–1677–DR), dated February 1, 2007, and related determinations.

EFFECTIVE DATE: February 21, 2007.

FOR FURTHER INFORMATION CONTACT: Magda Ruiz, Recovery Division, Federal Emergency Management Agency, Washington, DC 20472, (202) 646–2705.

SUPPLEMENTARY INFORMATION: The notice of a major disaster declaration for the State of Oklahoma is hereby amended to include the following areas among those areas determined to have been adversely affected by the catastrophe declared a major disaster by the President in his declaration of February 1, 2007:

Beaver, Cimarron, and Texas Counties for Public Assistance Categories C, Roads and Bridges; D, Water Control Facilities; E, Buildings and Equipment; and G, Parks, Recreational Facilities, and Other (already designated for Categories A, Debris Removal; B, Emergency Protective Measures; and F, Utilities, under the Public Assistance program, including direct Federal assistance, if warranted.)

(The following Catalog of Federal Domestic Assistance Numbers (CFDA) are to be used for reporting and drawing funds: 97.030, Community Disaster Loans; 97.031, Cora Brown Fund Program; 97.032, Crisis Counseling; 97.033, Disaster Legal Services Program; 97.034, Disaster Unemployment Assistance (DUA); 97.046, Fire Management Assistance; 97.048, Individuals and Households Housing; 97.049, Individuals and Households Disaster Housing Operations; 97.050 Individuals and Households Program-Other Needs, 97.036, Public Assistance Grants; 97.039, Hazard Mitigation Grant Program.)

R. David Paulison,

Under Secretary for Federal Emergency Management and Director of FEMA.

[FR Doc. E7–3652 Filed 3–1–07; 8:45 am]

BILLING CODE 9110–10–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5123–N–02]

Notice of Proposed Information Collection for Public Comment: Information on the Current Status of Homebuyers Assisted Through the HOME and American Dream Downpayment Initiative (ADDI) Programs

AGENCY: Office of Policy Development and Research, HUD.

ACTION: Notice.

SUMMARY: The proposed information collection requirement described below will be submitted to the Office of Management and Budget (OMB) for review, as required by the Paperwork Reduction Act. The Department is soliciting public comments on the subject proposal.

DATES: *Comments Due Date:* May 1, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this proposal. Comments should refer to the proposal by name and/or OMB Control Number and should be sent to: Reports Liaison Officer, Office of Policy Development and Research, Department of Housing and Urban Development,

451 7th Street, SW., Room 8234, Washington, DC 204107–5000.

FOR FURTHER INFORMATION CONTACT: Harold R. Holzman, (202) 708–0614, extension 5709 for copies of the proposed forms and other available documents. (This is not a toll-free number.)

SUPPLEMENTARY INFORMATION: The Department will submit the proposed information collection to OMB for review, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35, as amended). This Notice is soliciting comments from members of the public and affected agencies concerning the proposed collection of information to: (1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information; (3) Enhance the quality, utility, and clarity of the information to be collected; and (4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated collection techniques or other forms of information technology (e.g., permitting electronic submission of responses).

This Notice also lists the following information:

Title of Proposal: Information on the Current Status of Homebuyers Assisted through the HOME and American Dream Downpayment Initiative (ADDI) Programs.

Description of the need for the information and proposed use: This request is for the clearance of a survey on a sample of homebuyers assisted through the HOME and ADDI programs during calendar years 2000 through 2005. The purpose of the survey is to provide a statistically reliable estimate of the incidence of payment delinquency and foreclosure experienced by these homebuyers in response to a request from Congress for this information. The survey will select a sample of city, county, and state governmental organizations that participate in the HOME and ADDI programs (''Participating Jurisdictions'' or ''PJ'') in each year from 2000 to 2005 to provide information on up to 50 homebuyers assisted in that year. The information will supplement information routinely reported to HUD on the homebuyers characteristics and will indicate whether the PJ has had any indication that the homebuyer has experienced payment delinquency and/or foreclosure. A total of 33 PJs will be sampled for each of these years to provide information on up to 50 assisted homebuyers. Since PJs may be selected for more than one year, a total of 129 PJs are to be sampled out of a total of 423 PJs eligible for the survey.

OMB Approval Number: Pending.

Agency Form Numbers: None.

Members of Affected Public: City, County and State governmental organizations receiving funding through the HOME and ADDI programs.

Estimation of the total number of hours needed to prepare the information collection including number of respondents, frequency of response, and hours of response: 129 Participating Jurisdictions will be surveyed and asked to provide information on a total of 6,539 homebuyers assisted through the HOME and ADDI programs. Average time to complete the survey will be 12.0 hours (720 minutes) per respondent. Respondents will only be contacted once. Total burden hours are 1,548.

Status of the proposed information collection: Pending OMB approval.

Authority: Section 3506 of the Paperwork Reduction Act of 1995, 44 U.S.C. Chapter 35, as amended.

Dated: February 23, 2007.

Darlene F. Williams,

Assistant Secretary for Policy Development and Research.

[FR Doc. 07–975 Filed 3–1–07; 8:45 am]

BILLING CODE 4210–67–M

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5125–N–09]

Federal Property Suitable as Facilities to Assist the Homeless

AGENCY: Office of the Assistant Secretary for Community Planning and Development, HUD.

ACTION: Notice.

SUMMARY: This Notice identifies unutilized, underutilized, excess, and surplus Federal property reviewed by HUD for suitability for possible use to assist the homeless.

FOR FURTHER INFORMATION CONTACT: Kathy Ezzell, room 7266, Department of Housing and Urban Development, 451 Seventh Street, SW., Washington, DC 20410; telephone (202) 708–1234; TTY number for the hearing- and speech-impaired (202) 708–2565 (these telephone numbers are not toll-free), or call the toll-free Title V information line at 1–800–927–7588.

SUPPLEMENTARY INFORMATION: In accordance with 24 CFR part 581 and section 501 of the Stewart B. McKinney Homeless Assistance Act (42 U.S.C. 11411), as amended, HUD is publishing this Notice to identify Federal buildings and other real property that HUD has reviewed for suitability for use to assist the homeless. The properties were reviewed using information provided to HUD by Federal landholding agencies regarding unutilized and underutilized buildings and real property controlled by such agencies or by GSA regarding its inventory of excess or surplus Federal property. This Notice is also published in order to comply with the December 12, 1988 Court Order in *National Coalition for the Homeless* v. *Veterans Administration,* No. 88–2503–OG (D.D.C.).

Properties reviewed are listed in this Notice according to the following categories: Suitable/available, suitable/unavailable, suitable/to be excess, and unsuitable. The properties listed in the three suitable categories have been reviewed by the landholding agencies, and each agency has transmitted to HUD: (1) Its intention to make the property available for use to assist the homeless, (2) its intention to declare the property excess to the agency's needs, or (3) a statement of the reasons that the property cannot be declared excess or made available for use as facilities to assist the homeless.

Properties listed as suitable/available will be available exclusively for homeless use for a period of 60 days from the date of this Notice. Where property is described as for ''off-site use only'' recipients of the property will be required to relocate the building to their own site at their own expense. Homeless assistance providers interested in any such property should send a written expression of interest to HHS, addressed to John Hicks, Division of Property Management, Program Support Center, HHS, room 5B–17, 5600 Fishers Lane, Rockville, MD 20857; (301) 443–2265. (This is not a toll-free number.) HHS will mail to the interested provider an application packet, which will include instructions for completing the application. In order to maximize the opportunity to utilize a suitable property, providers should submit their written expressions of interest as soon as possible. For complete details concerning the processing of applications, the reader is encouraged to refer to the interim rule governing this program, 24 CFR part 581.

For properties listed as suitable/to be excess, that property may, if subsequently accepted as excess by GSA, be made available for use by the homeless in accordance with applicable

law, subject to screening for other Federal use. At the appropriate time, HUD will publish the property in a Notice showing it as either suitable/available or suitable/unavailable.

For properties listed as suitable/unavailable, the landholding agency has decided that the property cannot be declared excess or made available for use to assist the homeless, and the property will not be available.

Properties listed as unsuitable will not be made available for any other purpose for 20 days from the date of this Notice. Homeless assistance providers interested in a review by HUD of the determination of unsuitability should call the toll free information line at 1–800–927–7588 for detailed instructions or write a letter to Mark Johnston at the address listed at the beginning of this Notice. Included in the request for review should be the property address (including zip code), the date of publication in the **Federal Register**, the landholding agency, and the property number.

For more information regarding particular properties identified in this Notice (*i.e.*, acreage, floor plan, existing sanitary facilities, exact street address), providers should contact the appropriate landholding agencies at the following addresses: *Coast Guard:* Commandant, U.S. Coast Guard, Attn: Teresa Sheinberg, 2100 Second St., SW., Rm 6109, Washington, DC 20593–0001; (202) 267–6142; *Energy:* Mr. John Watson, Department of Energy, Office of Engineering & Construction Management, ME–90, 1000 Independence Ave., SW., Washington, DC 20585: (202) 586–0072; GSA: Mr. John E.B. Smith, Deputy Assistant Commissioner, General Services Administration, Office of Property Disposal, 18th and F Streets, NW., Washington, DC 20405; (202) 501–0084; *Interior:* Ms. Linda Tribby, Acquisition & Property Management, Department of the Interior, 1849 C Street, NW., MS5512, Washington, DC 20240; (202) 513–0747; *Navy:* Mr. Warren Meekins, Associate Director, Department of the Navy, Real Estate Services, Naval Facilities Engineering Command, Washington Navy Yard, 1322 Patterson Ave., SE., Suite 1000, Washington, DC 20374–5065; (202) 685–9305; *VA:* Mr. George L. Szwarcman, Acting Director, Real Property Service (183C), Department of Veterans Affairs, 811 Vermont Avenue, NW., Room 555, Washington, DC 20420; (202) 565–5398; (These are not toll-free numbers).

Dated: February 23, 2007.

Mark R. Johnston,

Deputy Assistant Secretary for Special Needs.

Title V, Federal Surplus Property Program Federal Register Report for 03/02/2007

02/23/2007

Suitable/Available Properties

Building

Alaska

Tract 02–112
Legends of the Mountain, NW Fifth Ave.
Seward AK 99664
Landholding Agency: Interior
Property Number: 61200620001
Status: Unutilized
Comments: 6982 sq. ft., most recent use—restaurant/bar, off-site use only

Tract 02–114
Harbor Dinner Club
220 Fifth Ave., Seward AK 99664
Landholding Agency: Interior
Property Number: 61200620002
Status: Unutilized
Comments: 5604 sq. ft., presence of asbestos/lead paint, most recent use—restaurant/bar, off-site use only

Tract 02–115
Old Solly's
Washington St., Seward AK 99664
Landholding Agency: Interior
Property Number: 61200620003
Status: Unutilized
Comments: 7392 sq. ft., presence of asbestos/lead paint, most recent use—gift shop/offices/bar/apts., off-site use only

Suitable/Available Properties

Building

California

Trailers 288, 289, 290, 293
Stanford Linear Accelerator Center
Menlo Park Co: San Mateo CA 94025
Landholding Agency: Energy
Property Number: 41200630006
Status: Excess
Comments: various sq. ft., presence of asbestos, most recent use—office, need significant repair, off-site use only

Colorado

Bldg. 2
VAMC
2121 North Avenue
Grand Junction Co: Mesa CO 81501
Landholding Agency: VA
Property Number: 97200430001
Status: Unutilized
Comments: 3298 sq. ft., needs major rehab, presence of asbestos/lead paint

Bldg. 3
VAMC
2121 North Avenue
Grand Junction Co: Mesa CO 81501
Landholding Agency: VA
Property Number: 97200430002
Status: Unutilized
Comments: 7275 sq. ft., needs major rehab, presence of asbestos/lead paint

Suitable/Available Properties

Building

Idaho

Federal Building
205 North 4th Street, Coeur d'Alene ID 83814
Landholding Agency: GSA
Property Number: 54200710009
Status: Excess
GSA Number: 9–G–ID–559
Comments: 24,490 sq. ft., presence of asbestos/lead paint, currently leased for up to 2 years

Illinois

Bldg. 912
Naval Station
Great Lakes IL 60088
Landholding Agency: Navy
Property Number: 77200640030
Status: Excess
Comments: 12,000 sq. ft., tailor shop, needs major repairs, presence of asbestos/lead paint, off-site use only

Indiana

Bldg. 105, VAMC
East 38th Street
Marion Co: Grant IN 46952
Landholding Agency: VA
Property Number: 97199230006
Status: Excess
Comments: 310 sq. ft., 1 story stone structure, no sanitary or heating facilities, Natl Register of Historic Places

Suitable/Available Properties

Building

Indiana

Bldg. 140, VAMC
East 38th Street
Marion Co: Grant IN 46952
Landholding Agency: VA
Property Number: 97199230007
Status: Excess
Comments: 60 sq. ft., concrete block bldg., most recent use—trash house

Bldg. 7
VA Northern Indiana Health Care System
Marion Campus, 1700 East 38th Street
Marion Co: Grant IN 46953
Landholding Agency: VA
Property Number: 97199810001
Status: Underutilized
Comments: 16,864 sq. ft., presence of asbestos, most recent use—psychiatric ward, National Register of Historic Places

Bldg. 10
VA Northern Indiana Health Care System
Marion Campus, 1700 East 38th Street
Marion Co: Grant IN 46953
Landholding Agency: VA
Property Number: 97199810002
Status: Underutilized
Comments: 16,361 sq. ft., presence of asbestos, most recent use—psychiatric ward, National Register of Historic Places

Suitable/Available Properties

Building

Indiana

Bldg. 11
VA Northern Indiana Health Care System
Marion Campus, 1700 East 38th Street
Marion Co: Grant IN 46953

Landholding Agency: VA
Property Number: 97199810003
Status: Underutilized
Comments: 16,361 sq. ft., presence of asbestos, most recent use—psychiatric ward, National Register of Historic Places

Bldg. 18
VA Northern Indiana Health Care System
Marion Campus, 1700 East 38th Street
Marion Co: Grant IN 46953
Landholding Agency: VA
Property Number: 97199810004
Status: Underutilized
Comments: 13,802 sq. ft., presence of asbestos, most recent use—psychiatric ward, National Register of Historic Places

Bldg. 25
VA Northern Indiana Health Care System
Marion Campus, 1700 East 38th Street
Marion Co: Grant IN 46953
Landholding Agency: VA
Property Number: 97199810005
Status: Unutilized
Comments: 32,892 sq. ft., presence of asbestos, most recent use—psychiatric ward, National Register of Historic Places

Suitable/Available Properties

Building

Indiana

Bldg. 1
N. Indiana Health Care System
Marion Co: Grant IN 46952
Landholding Agency: VA
Property Number: 97200310001
Status: Unutilized
Comments: 20,287 sq. ft., needs extensive repairs, presence of asbestos, most recent use—patient ward

Bldg. 3
N. Indiana Health Care System
Marion Co: Grant IN 46952
Landholding Agency: VA
Property Number: 97200310002
Status: Unutilized
Comments: 20,550 sq. ft., needs extensive repairs, presence of asbestos, most recent use—patient ward

Bldg. 4
N. Indiana Health Care System
Marion Co: Grant IN 46952
Landholding Agency: VA
Property Number: 97200310003
Status: Unutilized
Comments: 20,550 sq. ft., needs extensive repairs, presence of asbestos, most recent use—patient ward

Bldg. 13
N. Indiana Health Care System
Marion Co: Grant IN 46952
Landholding Agency: VA
Property Number: 97200310004
Status: Unutilized
Comments: 8971 sq. ft., needs extensive repairs, presence of asbestos, most recent use—office

Suitable/Available Properties

Building

Indiana

Bldg. 19
N. Indiana Health Care System
Marion Co: Grant IN 46952
Landholding Agency: VA
Property Number: 97200310005
Status: Unutilized
Comments: 12,237 sq. ft., needs extensive repairs, presence of asbestos, most recent use—office

Bldg. 20
N. Indiana Health Care System
Marion Co: Grant IN 46952
Landholding Agency: VA
Property Number: 97200310006
Status: Unutilized
Comments: 14,039 sq. ft., needs extensive repairs, presence of asbestos, most recent use—office/storage

Bldg. 42
N. Indiana Health Care System
Marion Co: Grant IN 46952
Landholding Agency: VA
Property Number: 97200310007
Status: Unutilized
Comments: 5025 sq. ft., needs extensive repairs, presence of asbestos, most recent use—office

Bldg. 60
N. Indiana Health Care System
Marion Co: Grant IN 46952
Landholding Agency: VA
Property Number: 97200310008
Status: Unutilized
Comments: 18,126 sq. ft., needs extensive repairs, presence of asbestos, most recent use—office

Suitable/Available Properties

Building

Indiana

Bldg. 122
N. Indiana Health Care System
Marion Co: Grant IN 46952
Landholding Agency: VA
Property Number: 97200310009
Status: Unutilized
Comments: 37,135 sq. ft., needs extensive repairs, presence of asbestos, most recent use—dining hall/kitchen

New York

Bldg. 3
VA Medical Center
Batavia Co: Genesee NY 14020
Landholding Agency: VA
Property Number: 97200520001
Status: Unutilized
Comments: 5840 sq. ft., needs rehab, presence of asbestos, most recent use—offices, eligible for Natl Register of Historic Places

Ohio

Bldg. 402
VA Medical Center
Dayton Co: Montgomery OH 45428
Landholding Agency: VA
Property Number: 97199920004
Status: Unutilized
Comments: 4 floors, potential utilities, needs major rehab, presence of asbestos/lead paint, historic property

Suitable/Available Properties

Building

Oklahoma

Bldg.
Foss Reservoir Master Conservancy
Clinton Co: Custer OK 73601
Landholding Agency: Interior
Property Number: 61200640002
Status: Excess
Directions:
635 North 6th Street
Comments: 1200 sq. ft., most recent use—storage/office, not ADA accessible

Texas

Water Tower
Lake Meredith Natl Rec Area
Fritch Co: Hutchinson TX 79036
Landholding Agency: Interior
Property Number: 61200510002
Status: Unutilized
Comments: off-site use only

Washington

Bldg. 87
Yakima Project
1917 Marsh Road
Yakima WA 98901
Landholding Agency: Interior
Property Number: 61200630013
Status: Excess
Comments: 1032 sq. ft., presence of asbestos/lead paint, most recent use—office, off-site use only

Suitable/Available Properties

Building

Washington

Bldg. 88
Yakima Project
1917 Marsh Project
Yakima WA 98901
Landholding Agency: Interior
Property Number: 61200630014
Status: Excess
Comments: 1032 sq. ft., presence of asbestos/lead paint, most recent use—office, off-site use only

Bldg. 127
Yakima Project
1917 Marsh Road
Yakima WA 98901
Landholding Agency: Interior
Property Number: 61200630015
Status: Excess
Comments: 1152 sq. ft., most recent use—office, off-site use only

Bldg. 133
Yakima Project
1917 Marsh Road
Yakima WA 98901
Landholding Agency: Interior
Property Number: 61200630016
Status: Excess
Comments: 1680 sq. ft., most recent use—office, off-site use only

Suitable/Available Properties

Building

Wisconsin

Bldg. 8
VA Medical Center
County Highway E
Tomah Co: Monroe WI 54660
Landholding Agency: VA
Property Number: 97199010056
Status: Underutilized
Comments: 2200 sq. ft., 2-story wood frame, possible asbestos, potential utilities, structural deficiencies, needs rehab.

Land

Alabama

VA Medical Center
VAMC
Tuskegee Co: Macon AL 36083
Landholding Agency: VA
Property Number: 97199010053
Status: Underutilized
Comments: 40 acres, buffer to VA Medical Center, potential utilities, undeveloped.

Arizona

2.0 acres
Tract No. DB–2–77
I–19 off ramp
Tucson AZ
Landholding Agency: Interior
Property Number: 61200630006
Status: Excess
Comments: 2.0 acres, Del Bac Substation Site

Suitable/Available Properties

Land

California

Land
4150 Clement Street
San Francisco Co: San Francisco CA 94121
Landholding Agency: VA
Property Number: 97199240001
Status: Underutilized
Comments: 4 acres; landslide area.

Illinois

FAA Radar Communications
Link Repeater Site
11000 E Road
Momence IL 60954
Landholding Agency: GSA
Property Number: 54200710010
Status: Excess
GSA Number: 1–U–IL–0695
Comments: 3 acres, access to property via easement through adjacent landowner property

Iowa

40.66 acres
VA Medical Center
1515 West Pleasant St., Knoxville Co: Marion IA 50138
Landholding Agency: VA
Property Number: 97199740002
Status: Unutilized
Comments: golf course, easement requirements

Suitable/Available Properties

Land

New York

Youngstown Test Annex
Porter Center Road, Porter NY 14174–0189
Landholding Agency: GSA
Property Number: 54200620004
Status: Surplus
GSA Number: 1–D–NY–0879–1A
Comments: 98.62 overgrown acres with 6 deteriorated buildings, abuts an industrial waste treatment facility

Land

Texas

Olin E. Teague Veterans Center
1901 South 1st Street
Temple Co: Bell TX 76504
Landholding Agency: VA
Property Number: 97199010079
Status: Underutilized
Comments: 13 acres, portion formerly landfill, portion near flammable materials, railroad crosses property, potential utilities.

Wisconsin

VA Medical Center
County Highway E
Tomah Co: Monroe WI 54660
Landholding Agency: VA
Property Number: 97199010054
Status: Underutilized
Comments: 12.4 acres, serves as buffer between center and private property, no utilities.

Summary for Suitable/Available Properties = Total number of Properties 44

Suitable/Unavailable Properties

Building

California

Social Security Building
505 North Court Street
Visalia Co: Tulare CA 93291
Landholding Agency: GSA
Property Number: 54200610010
Status: Surplus
GSA Number: 9–G–CA–1643
Comments: 11,727 sq. ft., possible lead paint, most recent use—office

Colorado

Federal Building
1520 E. Willamette St., Colorado Springs Co: El Paso CO 80909
Landholding Agency: GSA
Property Number: 54200640004
Status: Excess
GSA Number: 7–G–CO–0660
Comments: 50,363 sq. ft., needs major rehab., available in approx. 24 months, legal constraints

Idaho

Bldg. CFA–613
Central Facilities Area
Idaho National Engineering Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41199630001
Status: Unutilized
Comments: 1219 sq. ft., most recent use—sleeping quarters, presence of asbestos, off-site use only

Suitable/Unavailable Properties

Building

Indiana

Former SSA
327 W. Marion Street, Elkhart IN 46516
Landholding Agency: GSA
Property Number: 54200630015
Status: Surplus
GSA Number: 1–GR–IN–05962A
Comments: 6636 sq. ft., most recent use—office

Iowa

Federal Bldg./P.O./Courthouse
8 South 6th Street
Council Bluffs Co: Pottawattamie IA 51501
Landholding Agency: GSA
Property Number: 54200640001
Status: Excess
GSA Number: 7–G–IA–0468–1
Comments: 67,298 sq. ft., to be vacant 12/31/08, needs rehab—estimated cost $2 million

Minnesota

Memorial Army Rsv. Ctr.
1804 3rd Avenue
International Falls Co: Koochiching MN 56649
Landholding Agency: GSA
Property Number: 54200620002
Status: Excess
GSA Number: 1–D–MN–586
Comments: 8992 sq. ft., presence of asbestos/lead paint, most recent use—admin./storage.

Suitable /Unavailable Properties

Building

Montana

Border Patrol Station
906 Oilfield Avenue
Shelby Co: Toole MT 59474
Landholding Agency: GSA
Property Number: 54200620010
Status: Excess
GSA Number: 7–Z–MT–0617
Comments: bldg/1944 sq. ft.; garage/650 sq. ft.; shed/175 sq. ft.; potential asbestos/lead paint/radon

VA MT Healthcare
210 S. Winchester
Miles City Co: Custer MT 59301
Landholding Agency: VA
Property Number: 97200030001
Status: Underutilized
Comments: 18 buildings, total sq. ft. = 123,851, presence of asbestos, most recent use—clinic/office/food production

Nevada

Young Fed Bldg/Courthouse
300 Booth Street, Reno NV 89502
Landholding Agency: GSA
Property Number: 54200620014
Status: Surplus
GSA Number: 9–G–NV–529–2
Comments: 85,637 sq. ft. available, presence of asbestos/lead paint, seismic issues

Suitable/Unavailable Properties

Building

New Mexico

Federal Building
517 Gold Avenue, SW
Albuquerque Co: Bernalillo NM 87102
Landholding Agency: GSA
Property Number: 54200540005
Status: Excess
GSA Number: 7–G–NM–0588
Comments: 273,027 sq. ft., 8 floors + basement, top two floors structurally unsafe to occupy, 3 additional floors do not meet local code requirements for occupancy, presence of asbestos/lead paint

Federal Building
1100 New York Ave.
Alamogordo Co: Otero NM 88310
Landholding Agency: GSA
Property Number: 54200630001
Status: Surplus
GSA Number: 7–G–NM–0569
Comments: 12,690 sq. ft., subject to Historic preservation covenants, occupied until 9/30/08

Dwelling #25
Ranger Lane
Cuba Co: Sandoval NM 87013
Landholding Agency: GSA
Property Number: 54200630018
Status: Surplus
GSA Number: 7–A–NM–0590
Comments: 1120 sq. ft., potential hantavirus contamination, off-site use only

Suitable/Unavailable Properties

Building

New Mexico

Infra #30203
Fenton Hill Site, Mora NM 87535
Landholding Agency: GSA
Property Number: 54200630019
Status: Surplus
GSA Number: 7–A–NM–0591
Comments: 194 sq. ft., potential hantavirus contamination, off-site use only

New York

Social Sec. Admin. Bldg.
517 N. Barry St., Olean NY 10278–0004
Landholding Agency: GSA
Property Number: 54200230009
Status: Excess
GSA Number: 1–G–NY–0895
Comments: 9174 sq. ft., poor condition, most recent use—office

Fleet Mgmt. Center
5—32nd Street
Brooklyn NY 11232
Landholding Agency: GSA
Property Number: 54200620015
Status: Surplus
GSA Number: 1–G–NY–0872B
Comments: 12,693 sq. ft., most recent use—motor pool, heavy industrial

Suitable/Unavailable Properties

Building

New York

8 Family Apt. Bldgs.
Watervliet Arsenal Housing
325 Duanesburg Road
Rotterdam Co: Schenectady NY
Landholding Agency: GSA
Property Number: 54200630011
Status: Excess
GSA Number: 1–D–NY–0877
Comments: 8 multi family apt. bldgs. w/ garages and 1 maintenance shop, presence of asbestos/lead paint

2 Residential Bldgs.
Watervliet Arsenal Housing
1138, 1134, 1132 North Westcott Rd.
Rotterdam Co: Schenectady NY
Landholding Agency: GSA
Property Number: 54200630012
Status: Excess
GSA Number: 1–D–NY–877
Comments: 2 residential bldgs. (one duplex/ one single), each unit has one garage, shared driveway

North Dakota

Residence #1
Hwy 30/Canadian Border
St. John Co: Rolette ND 58369
Landholding Agency: GSA
Property Number: 54200620005
Status: Excess
GSA Number: 7–G–ND–0504
Comments: 1300 sq. ft., possible asbestos/ lead paint, off-site use only

Suitable/Unavailable Properties

Building

North Dakota

Residence #2
Hwy 30/Canadian Border
St. John Co: Rolette ND 58369
Landholding Agency: GSA
Property Number: 54200620006
Status: Excess
GSA Number: 7–G–ND–0505
Comments: 1300 sq. ft., possible asbestos/ lead paint, off-site use only

Residence #2
Hwy 281/Canadian Border
Dunseith Co: Rolette ND 58329
Landholding Agency: GSA
Property Number: 54200620008
Status: Excess
GSA Number: 7–G–ND–0507
Comments: 1490 sq. ft., attached garage, possible asbestos/lead paint, off-site use only

Residence #3
Hwy 281/Canadian Border
Dunseith Co: Rolette ND 58329
Landholding Agency: GSA
Property Number: 54200620009
Status: Excess
GSA Number: 7–G–ND–0506
Comments: 1490 sq. ft., attached garage, possible asbestos/lead paint, off-site use only

Suitable/Unavailable Properties

Building

North Dakota

Residence #1
Hwy 42/Canadian Border
Ambrose Co: Divide ND 58833
Landholding Agency: GSA
Property Number: 54200620012
Status: Excess
GSA Number: 7–G–ND–0510
Comments: 2010 sq. ft., possible lead paint, most recent use—residential/office/storage, off site use only

Residence #2
Hwy 42/Canadian Border
Ambrose Co: Divide ND 58833
Landholding Agency: GSA
Property Number: 54200620013
Status: Excess
GSA Number: 7–G–ND–0509
Comments: 2010 sq. ft., possible lead paint, most recent use—residential/office/storage, off site use only

Sherwood Garage
Hwy 28
Sherwood Co: Renville ND 58782
Landholding Agency: GSA
Property Number: 54200630002
Status: Surplus
GSA Number: 7–G–ND–0512
Comments: 565 sq. ft., off-site use only

Suitable/Unavailable Properties

Building

North Dakota

Noonan Garage
Hwy 40
Noonan Co: Divide ND 58765
Landholding Agency: GSA
Property Number: 54200630003
Status: Surplus
GSA Number: 7–G–ND–0511
Comments: 520 sq. ft., presence of asbestos, off-site use only

Westhope Garage
Hwy 83
Westhope Co: Bottineau ND 58793
Landholding Agency: GSA
Property Number: 54200630004
Status: Surplus
GSA Number: 7–G–ND–0513
Comments: 515 sq. ft., off-site use only

Ohio

Bldg. 116
VA Medical Center
Dayton Co: Montgomery OH 45428
Landholding Agency: VA
Property Number: 97199920002
Status: Unutilized
Comments: 3 floors, potential utilities, needs major rehab, presence of asbestos/lead paint, historic property

Suitable/Unavailable Properties

Building

Oklahoma

Warehouse 2E
2800 S. Eastern Ave., Oklahoma City OK 73129
Landholding Agency: GSA
Property Number: 54200630005
Status: Surplus
GSA Number: 7–G–OK–0572
Comments: 5618 sq. ft., presence of asbestos/ lead paint, most recent use—warehouse, off-site use only

Texas

Bldgs. 5, 6, 7
Federal Center
501 West Felix Street
Ft. Worth Co: Tarrant TX 76115
Landholding Agency: GSA
Property Number: 54200640002
Status: Excess
GSA Number: 7–G–TX–0767–3
Comments: 3 warehouses with concrete foundation, off-site use only

Virginia

142.67 acres/7 Bldgs.
Pepermeir Hill Road
U.S. Geological Survey
Corbin VA 22446
Landholding Agency: GSA
Property Number: 54200630020
Status: Excess
GSA Number: 4–I–VA–0748
Comments: various sq. ft., most recent use—research/development/calibration lab/test measuring circuit

Suitable/Unavailable Properties

Building

Wisconsin

Bldg. 2
VA Medical Center
5000 West National Ave.
Milwaukee WI 53295
Landholding Agency: VA
Property Number: 97199830002

Status: Underutilized
Comments: 133,730 sq. ft., needs rehab, presence of asbestos/lead paint, most recent use—storage

Land

California

Former Outer Marker Facility
215 W. 118th Street
Los Angeles CA 90061
Landholding Agency: GSA
Property Number: 54200630014
Status: Unutilized
GSA Number: 9–U–CA–1614
Comments: 5200 sq. ft./paved

Iowa

38 acres
VA Medical Center
1515 West Pleasant St.
Knoxville Co: Marion IA 50138
Landholding Agency: VA
Property Number: 97199740001
Status: Unutilized
Comments: golf course

Suitable/Unavailable Properties

Land

Kentucky

Tract S–2
3301 Leestown Road
Lexington Co: Fayette KY 40511
Landholding Agency: GSA
Property Number: 54200630016
Status: Excess
GSA Number: 4–J–KY–0622
Comments: 40.2 acres/hayfield, potential of sinkholes, potential contamination from adjacent site

Louisiana

Vacant Land
Former Barksdale AFB Radio Beacon, Bossier City LA
Landholding Agency: GSA
Property Number: 54200640003
Status: Excess
GSA Number: 7–GR–LA–04382
Comments: 11.59 acres, floodplain

Michigan

IOM Site
Chesterfield Road
Chesterfield Co: Macomb MI
Landholding Agency: GSA
Property Number: 54200340008
Status: Excess
GSA Number: 1–D–MI–0603F
Comments: approx. 17.4 acres w/concrete block bldg. in poor condition, most recent use—radio antenna field, narrow right-of-way

Suitable/Unavailable Properties

Land

Michigan

Lots 2–6
Lawndale Park Addition
Ludington Co: Mason MI 49431
Landholding Agency: GSA
Property Number: 54200540007
Status: Excess
GSA Number: 1–G–MI–537–2
Comments: 0.81 acre—undeveloped

VA Medical Center
5500 Armstrong Road
Battle Creek Co: Calhoun MI 49016
Landholding Agency: VA
Property Number: 97199010015
Status: Underutilized
Comments: 20 acres, used as exercise trails and storage areas, potential utilities

New Mexico

Portion/Medical Center
2820 Ridgecrest
Albuquerque Co: Bernalillo NM 87103
Landholding Agency: GSA
Property Number: 54200620003
Status: Unutilized
GSA Number: 7–GR–NM–04212A
Comments: 7.4 acres—vacant land

Suitable/Unavailable Properties

Land

New York

VA Medical Center
Fort Hill Avenue
Canandaigua Co: Ontario NY 14424
Landholding Agency: VA
Property Number: 97199010017
Status: Underutilized
Comments: 27.5 acres, used for school ballfield and parking, existing utilities easements, portion leased

Pennsylvania

18.8 acres
Tract 19
Curwensville Lake Project
Clearfield PA
Landholding Agency: GSA
Property Number: 54200630007
Status: Excess
GSA Number: 4–D–PA–0801
Comments: heavily wooded/undeveloped/limited access

VA Medical Center
New Castle Road
Butler Co: Butler PA 16001
Landholding Agency: VA
Property Number: 97199010016
Status: Underutilized
Comments: Approx. 9.29 acres, used for patient recreation, potential utilities

Suitable/Unavailable Properties

Land

Pennsylvania

Land No. 645
VA. Medical Center
Highland Drive
Pittsburgh Co: Allegheny PA 15206
Landholding Agency: VA
Property Number: 97199010080
Status: Unutilized
Directions: Between Campania and Wiltsie Streets
Comments: 90.3 acres, heavily wooded, property includes dump area and numerous site storm drain outfalls

Land—34.16 acres
VA Medical Center
1400 Black Horse Hill Road
Coatesville Co: Chester PA 19320
Landholding Agency: VA
Property Number: 97199340001
Status: Underutilized
Comments: 34.16 acres, open field, most recent use—recreation/buffer

Tennessee

Army Rsv Training Area
6510 Bonny Oaks Dr.
Chattanooga Co: Hamilton TN 37416
Landholding Agency: GSA
Property Number: 54200630006
Status: Surplus
GSA Number: 4–D–TN–05946A
Comments: 80+ acres, contains 5.6 acre retention pond, easements present, may flood periodically

Suitable/Unavailable Properties

Land

Vermont

Former FAA Middle Marker
Richardson Road
Berlin Corners VT 50053
Landholding Agency: GSA
Property Number: 54200630021
Status: Excess
GSA Number: 1–U–VT–0477
Comments: 0.06 acres and 0.4 in easement, extremely small w/electrical closet
Summary for Suitable/Unavailable Properties = Total number of Properties 46

Unsuitable Properties

Building

Alabama

Bldg. 7
VA Medical Center
Tuskegee Co: Macon AL 36083
Landholding Agency: VA
Property Number: 97199730001
Status: Underutilized
Reason: Secured Area

Bldg. 8
VA Medical Center
Tuskegee Co: Macon AL 36083
Landholding Agency: VA
Property Number: 97199730002
Status: Underutilized
Reason: Secured Area

Unsuitable Properties

Building

Alaska

ACS Storage Annex
132–140 E Manor Dr.
Anchorage AK 99501
Landholding Agency: GSA
Property Number: 54200710008
Status: Excess
GSA Number: 9–I–AK–806
Reasons: Extensive deterioration Within 2000 ft. of flammable or explosive material

California

Bldgs. MO3, MO14, MO17
Sandia National Lab
Livermore Co: Alameda CA 94550
Landholding Agency: Energy
Property Number: 41200220001
Status: Excess
Reasons: Extensive deterioration

Bldgs. 9163, 962, 9621
Sandia National Lab
Livermore Co: Alameda CA 94551
Landholding Agency: Energy
Property Number: 41200420001
Status: Unutilized
Reasons: Secured Area

Unsuitable Properties

Building

California

Bldgs. C920, C921, C922
Sandia Natl Laboratories
Livermore Co: Alameda CA 94551
Landholding Agency: Energy
Property Number: 41200540001
Status: Unutilized
Reasons: Extensive deterioration Secured Area

Bldg. 175
Livermore National Lab
Livermore CA
Landholding Agency: Energy
Property Number: 41200630001
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 377
Livermore National Lab
Livermore CA
Landholding Agency: Energy
Property Number: 41200630002
Status: Excess
Reasons: Secured Area Within 2000 ft. of flammable or explosive material

Trailer 1403
Livermore National Lab
Livermore CA
Landholding Agency: Energy
Property Number: 41200630003
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material Secured Area

Unsuitable Properties

Building

California

Trailer 3703
Livermore National Lab
Livermore CA
Landholding Agency: Energy
Property Number: 41200630004
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material Secured Area

Bldg. 3520
National Laboratory
Livermore CA
Landholding Agency: Energy
Property Number: 41200710003
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material Secured Area

Bldgs. 4182, 4184, 4187
National Laboratory
Livermore CA
Landholding Agency: Energy
Property Number: 41200710004
Status: Excess
Reasons: Secured Area Within 2000 ft. of flammable or explosive material

Bldg. 5974
National Laboratory
Livermore CA
Landholding Agency: Energy
Property Number: 41200710005
Status: Excess
Reasons: Within 2000 ft. of flammable or explosive material Secured Area

Unsuitable Properties

Building

California

Bldg. 2533
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200520005
Status: Excess
Reasons: Extensive deterioration Secured Area

Bldg. 13111
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200520006
Status: Excess
Reasons: Extensive deterioration Secured Area

Bldgs. 53325, 53326
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200520007
Status: Excess
Reasons: Secured Area Extensive deterioration

Unsuitable Properties

Building

California

5 Bldgs.
Marine Corps Base 53421, 53424 thru 53427
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200520008
Status: Excess
Reasons: Extensive deterioration Secured Area

Bldgs. 61311, 61313, 61314
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200520009
Status: Excess
Reasons: Secured Area Extensive deterioration

Bldgs. 61320–61324, 61326
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200520010
Status: Excess
Reasons: Secured Area Extensive deterioration

Unsuitable Properties

Building

California

Bldgs. 62711 thru 62717
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200520011
Status: Excess
Reasons: Extensive deterioration Secured Area

Bldgs. 4
Naval Submarine Base
Point Loma CA
Landholding Agency: Navy
Property Number: 77200520014
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. 8915, 8931
Naval Weapons Station
Seal Beach CA 90740
Landholding Agency: Navy
Property Number: 77200530004
Status: Excess
Reasons: Extensive deterioration

Bldgs. 11, 112
Naval Weapons Station
Seal Beach CA 90740
Landholding Agency: Navy
Property Number: 77200530005
Status: Unutilized
Reasons: Extensive deterioration

Unsuitable Properties

Building

California

Bldg. 805
Naval Weapons Station
Seal Beach CA 90740
Landholding Agency: Navy
Property Number: 77200530006
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. 810 thru 823
Naval Weapons Station
Seal Beach CA 90740
Landholding Agency: Navy
Property Number: 77200530007
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. 851, 859, 864
Naval Weapons Station
Seal Beach CA 90740
Landholding Agency: Navy
Property Number: 77200530008
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 1146
Naval Base
Port Hueneme Co: Ventura CA 93042
Landholding Agency: Navy
Property Number: 77200530009
Status: Unutilized
Reasons: Extensive deterioration

Unsuitable Properties

Building

California

Bldgs. 1370, 1371, 1372
Naval Base
Port Hueneme Co: Ventura CA 93042
Landholding Agency: Navy
Property Number: 77200530011
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 115
Naval Base
San Diego CA
Landholding Agency: Navy
Property Number: 77200530012
Status: Excess
Reasons: Extensive deterioration

Bldg. 1674
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200530027
Status: Excess
Reasons: Extensive deterioration Secured Area

Bldgs. 2636, 2651, 2658
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200530028
Status: Excess
Reasons: Extensive deterioration Secured Area

Unsuitable Properties

Building

California

4 Bldgs.
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200530029
Status: Excess
Directions: 26053, 26054, 26056, 26059
Reasons: Extensive deterioration Secured Area

Bldgs. 53333, 53334
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200530030
Status: Excess
Reasons: Extensive deterioration Secured Area

Bldgs. 53507, 53569
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200530031
Status: Excess
Reasons: Secured Area Extensive deterioration

Unsuitable Properties

Building

California

Bldg. 170111
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200530032
Status: Excess
Reasons: Extensive deterioration Secured Area

Bldg. PM4–3
Naval Base
Oxnard Co: Ventura CA 93042
Landholding Agency: Navy
Property Number: 77200530033
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 1781
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200540001
Status: Excess
Reasons:
Secured Area
Extensive deterioration

Bldgs. 398, 399, 404
Naval Base Point Loma
San Diego CA
Landholding Agency: Navy
Property Number: 77200540003
Status: Unutilized
Reasons: Extensive deterioration

Unsuitable Properties

Building

California

Bldgs. 388, 389, 390, 391
Naval Base Point Loma
San Diego CA
Landholding Agency: Navy
Property Number: 77200540004
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 16
Naval Submarine Base
San Diego CA
Landholding Agency: Navy
Property Number: 77200540017
Status: Unutilized
Reasons: Secured Area Extensive deterioration
Within 2000 ft. of flammable or explosive material

Bldg. 325
Naval Base
Port Hueneme Co: Ventura CA 93043
Landholding Agency: Navy
Property Number: 77200610001
Status: Unutilized
Reasons:
Within airport runway clear zone
Secured Area Extensive deterioration

Bldgs. 1647, 1648
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200610010
Status: Excess
Reasons: Extensive deterioration

Unsuitable Properties

Building

California

Bldg. 1713
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200610011
Status: Excess
Reasons: Extensive deterioration

Bldg. 16171
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200610012
Status: Excess
Reasons: Extensive deterioration

Bldg. 2100576
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200610013
Status: Excess
Reasons: Extensive deterioration

Bldg. 220189
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200610014
Status: Excess
Reasons: Extensive deterioration

Unsuitable Properties

Building

California

Bldg. 2295
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200610015
Status: Excess
Reasons: Extensive deterioration

Bldgs. 22115, 22116, 22117
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200610016
Status: Excess
Reasons: Extensive deterioration

Bldg. 143
Naval Air Station
Lemoore CA
Landholding Agency: Navy
Property Number: 77200610017
Status: Excess
Reasons: Extensive deterioration

Bldgs. 213, 243, 273
Naval Air Station
Lemoore CA
Landholding Agency: Navy
Property Number: 77200610018
Status: Excess
Reasons: Extensive deterioration

Unsuitable Properties

Building

California

Bldg. 303
Naval Air Station
Lemoore CA
Landholding Agency: Navy
Property Number: 77200610019
Status: Excess
Reasons: Extensive deterioration

Bldg. 471
Naval Air Station
Lemoore CA
Landholding Agency: Navy
Property Number: 77200610020
Status: Excess
Reasons: Extensive deterioration

Bldgs. 979, 928, 930
Naval Air Station
Lemoore CA
Landholding Agency: Navy
Property Number: 77200610021
Status: Excess
Reasons: Extensive deterioration

Bldgs. 999, 1000
Naval Air Station
Lemoore CA
Landholding Agency: Navy
Property Number: 77200610022
Status: Excess
Reasons: Extensive deterioration

Unsuitable Properties

Building

California

Bldgs. 305, 353
Naval Base Point Loma
San Diego CA
Landholding Agency: Navy
Property Number: 77200610023
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. 358, 359, 360, 361
Naval Base Point Loma
San Diego CA

Landholding Agency: Navy
Property Number: 77200610024
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 581
Naval Base Point Loma
San Diego CA
Landholding Agency: Navy
Property Number: 77200610026
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. A25, A27
Naval Base Point Loma
San Diego CA
Landholding Agency: Navy
Property Number: 77200610027
Status: Unutilized
Reasons: Extensive deterioration

Unsuitable Properties

Building

California

Bldgs. 31926, 31927, 31928
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200610058
Status: Excess
Reasons: Extensive deterioration

Bldg. 41326
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200610059
Status: Excess
Reasons: Extensive deterioration

Bldg. 41816
Marine Corps Base
Camp Pendleton CA 92055
Landholding Agency: Navy
Property Number: 77200610060
Status: Excess
Reasons: Extensive deterioration

Bldgs. 1468, 1469
Naval Base
Port Hueneme Co: Ventura CA 93043
Landholding Agency: Navy
Property Number: 77200630002
Status: Unutilized
Reasons: Secured Area

Unsuitable Properties

Building

California

Bldg. 30869
Naval Air Weapons Station
China Lake CA 93555
Landholding Agency: Navy
Property Number: 77200630005
Status: Excess
Reasons: Extensive deterioration Secured Area

Bldgs. 2–8, 3–10
Naval Base
Port Mugu Co: Ventura CA 93043
Landholding Agency: Navy
Property Number: 77200630009
Status: Unutilized
Reasons: Extensive deterioration Secured Area

Bldgs. 6–11, 6–12, 6–819
Naval Base
Port Mugu Co: Ventura CA 93043
Landholding Agency: Navy
Property Number: 77200630010
Status: Unutilized
Reasons: Extensive deterioration Secured Area

Bldg. 85
Naval Base
Port Mugu Co: Ventura CA 93043
Landholding Agency: Navy
Property Number: 77200630011
Status: Unutilized
Reasons: Extensive deterioration Secured Area

Unsuitable Properties

Building

California

Bldgs. 120, 123
Naval Base
Port Mugu Co: Ventura CA 93043
Landholding Agency: Navy
Property Number: 77200630012
Status: Unutilized
Reasons: Extensive deterioration Secured Area

Bldg. 724
Naval Base
Port Mugu Co: Ventura CA 93043
Landholding Agency: Navy
Property Number: 77200630013
Status: Unutilized
Reasons: Extensive deterioration Secured Area

Bldg. 764
Naval Base
Port Mugu Co: Ventura CA 93043
Landholding Agency: Navy
Property Number: 77200630014
Status: Unutilized
Reasons: Secured Area

Bldg. 115
Naval Base
Port Hueneme Co: Ventura CA 93042
Landholding Agency: Navy
Property Number: 77200630015
Status: Unutilized
Reasons: Extensive deterioration Secured Area

Unsuitable Properties

Building

California

Bldg. 323
Naval Base
Port Hueneme Co: Ventura CA 93042
Landholding Agency: Navy
Property Number: 77200630016
Status: Unutilized
Reasons: Secured Area Extensive deterioration

Bldg. 488
Naval Base
Port Hueneme Co: Ventura CA 93042
Landholding Agency: Navy
Property Number: 77200630017
Status: Unutilized
Reasons: Extensive deterioration Secured Area

Bldg. 842
Naval Base
Port Hueneme Co: Ventura CA 93042
Landholding Agency: Navy
Property Number: 77200630018
Status: Unutilized
Reasons: Extensive deterioration Secured Area

Bldg. 927
Naval Base
Port Hueneme Co: Ventura CA 93042
Landholding Agency: Navy
Property Number: 77200630019
Status: Unutilized
Reasons: Extensive deterioration Secured Area

Unsuitable Properties

Building

California

Bldg. 1150
Naval Base
Port Hueneme Co: Ventura CA 93042
Landholding Agency: Navy
Property Number: 77200630020
Status: Unutilized
Reasons: Extensive deterioration Secured Area

Bldg. 1361
Naval Base
Port Hueneme Co: Ventura CA 93042
Landholding Agency: Navy
Property Number: 77200630021
Status: Unutilized
Reasons: Extensive deterioration Secured Area

Bldg. PH546
Naval Base
Port Hueneme Co: Ventura CA 93043
Landholding Agency: Navy
Property Number: 77200640027
Status: Unutilized
Reasons: Extensive deterioration Secured Area

Unsuitable Properties

Building

Connecticut

Bldgs. 25 and 26
Prospect Hill Road
Windsor Co: Hartford CT 06095
Landholding Agency: Energy
Property Number: 41199440003
Status: Excess
Reasons: Secured Area

9 Bldgs.
Knolls Atomic Power Lab, Windsor Site
Windsor Co: Hartford CT 06095
Landholding Agency: Energy
Property Number: 41199540004
Status: Excess
Reasons: Secured Area

Bldg. 8, Windsor Site
Knolls Atomic Power Lab
Windsor Co: Hartford CT 06095
Landholding Agency: Energy
Property Number: 41199830006
Status: Unutilized
Reasons: Extensive deterioration

Unsuitable Properties

Building

District of Columbia

Bldg. 396
Naval Support Facility
Anacostia Annex DC 20373
Landholding Agency: Navy
Property Number: 77200630008

Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material Secured Area

Florida

Bldg. U–150
Naval Air Station
Key West Co: Monroe FL 33040
Landholding Agency: Navy
Property Number: 77200520044
Status: Excess
Reasons: Secured Area Extensive deterioration

Bldgs. V1221 A
Naval Air Station
Sigsbee Park
Key West Co: Monroe FL 33040
Landholding Agency: Navy
Property Number: 77200530013
Status: Unutilized
Reasons: Secured Area Extensive deterioration

Unsuitable Properties

Building

Florida

Bldg. 969
Naval Air Station
Jacksonville Co: Duval FL 32212
Landholding Agency: Navy
Property Number: 77200540014
Status: Unutilized
Reasons: Secured Area

Bldgs. 1759, 1760
Naval Air Station
Jacksonville Co: Duval FL
Landholding Agency: Navy
Property Number: 77200540015
Status: Unutilized
Reasons: Secured Area

Bldg. 1917
Naval Air Station
Jacksonville Co: Duval FL 32212
Landholding Agency: Navy
Property Number: 77200540016
Status: Unutilized
Reasons: Secured Area

Bldgs. 1, 2
Naval Station
Mayport Co: Duval FL 32228
Landholding Agency: Navy
Property Number: 77200540018
Status: Excess
Reasons: Extensive deterioration, Floodway, Secured Area

Unsuitable Properties

Building

Florida

Bldg. 24
Naval Station
Mayport Co: Duval FL 32228
Landholding Agency: Navy
Property Number: 77200540019
Status: Excess
Reasons: Floodway, Extensive deterioration, Secured Area

Bldg. 66
Naval Station
Mayport Co: Duval FL 32228
Landholding Agency: Navy
Property Number: 77200540020
Status: Excess
Reasons: Floodway, Secured Area, Extensive deterioration

Bldg. 216
Naval Station
Mayport Co: Duval FL 32228
Landholding Agency: Navy
Property Number: 77200540021
Status: Excess Floodway
Reasons: Extensive deterioration, Secured Area, Floodway

Unsuitable Properties

Building

Florida

Bldgs. 437, 450
Naval Station
Mayport Co: Duval FL 32228
Landholding Agency: Navy
Property Number: 77200540022
Status: Excess
Reasons: Floodway, Secured Area, Extensive deterioration

Bldgs. 1234, 1235
Naval Station
Mayport Co: Duval FL 32228
Landholding Agency: Navy
Property Number: 77200540023
Status: Excess
Reasons: Extensive deterioration, Secured Area, Floodway

Bldg. 212
Naval Station
Mayport Co: Duval FL 32228
Landholding Agency: Navy
Property Number: 77200620011
Status: Unutilized
Reasons: Floodway, Secured Area, Extensive deterioration

Unsuitable Properties

Building

Florida

Bldg. 508
Naval Station
Mayport FL 32228
Landholding Agency: Navy
Property Number: 77200620035
Status: Unutilized
Reasons: Secured Area, Floodway

Bldg. 834
Naval Air Station
Pensacola Co: Escambia FL 32508
Landholding Agency: Navy
Property Number: 77200630022
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 2658
Naval Air Station
Pensacola Co: Escambia FL 32508
Landholding Agency: Navy
Property Number: 77200630023
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 3483
Naval Air Station
Pensacola Co: Escambia FL 32508
Landholding Agency: Navy
Property Number: 77200630024
Status: Unutilized
Reasons: Extensive deterioration

Unsuitable Properties

Building

Florida

Bldg. 6144
Naval Air Station
Pensacola Co: Escambia FL 32508
Landholding Agency: Navy
Property Number: 77200630025
Status: Unutilized
Reasons: Extensive deterioration

Bldg. F11
Naval Air Station
Key West FL 33040
Landholding Agency: Navy
Property Number: 77200630026
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldgs. A225, A409
Naval Air Station
Key West FL 33040
Landholding Agency: Navy
Property Number: 77200630027
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. A515
Naval Air Station
Key West FL 33040
Landholding Agency: Navy
Property Number: 77200630028
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Unsuitable Properties

Building

Florida

Bldg. A635
Naval Air Station
Key West FL 33040
Landholding Agency: Navy
Property Number: 77200630029
Status: Unutilized
Reasons: Secured Are, Extensive deterioration

Bldgs. A993, A994
Naval Air Station
Key West FL 33040
Landholding Agency: Navy
Property Number: 77200630030
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. A1068
Naval Air Station
Key West FL 33040
Landholding Agency: Navy
Property Number: 77200630031
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldg. A4021
Naval Air Station
Key West FL 33040
Landholding Agency: Navy
Property Number: 77200630032
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Unsuitable Properties

Building

Florida

Bldg. 4080
Naval Air Station
Key West FL 33040
Landholding Agency: Navy
Property Number: 77200630033
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Georgia

Bldgs. 90259, 90260
Bowmans Island
Cumming Co: Forsyth GA 30041
Landholding Agency: Interior
Property Number: 61200640008
Status: Excess
Reasons: Extensive deterioration

Bldg. 5101
Naval Submarine Base
Kings Bay Co: Camden GA 31547
Landholding Agency: Navy
Property Number: 77200520004
Status: Unutilized
Reasons: Extensive deterioration, Secured Area, Floodway

Unsuitable Properties

Building

Georgia

Bldg. 0038
Naval Submarine Base
Kings Bay GA 31547
Landholding Agency: Navy
Property Number: 77200620036
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Guam

Bldg. B–32
Naval Forces
Marianas GU
Landholding Agency: Navy
Property Number: 77200520023
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. 76, 77, 79
Naval Forces
Marianas GU
Landholding Agency: Navy
Property Number: 77200520024
Status: Unutilized
Reasons: Extensive deterioration

4 Bldgs.
Naval Forces 261, 262, 263, 269
Marianas GU
Landholding Agency: Navy
Property Number: 77200520025
Status: Unutilized
Reasons: Extensive deterioration

Unsuitable Properties

Building

Guam

Bldg. 404NM
Naval Forces
Marianas GU
Landholding Agency: Navy
Property Number: 77200520026
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. 3150, 3268
Naval Forces
Marianas GU
Landholding Agency: Navy
Property Number: 77200520030
Status: Unutilized
Reasons: Extensive deterioration

Bldgs. 5409, 5412, 5413
Naval Forces
Marianas GU
Landholding Agency: Navy
Property Number: 77200520031
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 5500
Naval Forces
Marianas GU
Landholding Agency: Navy
Property Number: 77200520032
Status: Unutilized
Reasons: Extensive deterioration

Unsuitable Properties

Building

Guam

73 Bldgs.
Naval Computer Station
Marianas GU
Landholding Agency: Navy
Property Number: 77200520045
Status: Excess
Directions: A700–A716, A725, A728, A735, A741–A784, A803–A805, A811–A813, A829–A831
Reasons: Extensive deterioration, Secured Area

Bldgs. 2006, 2009
Naval Ship Repair Facility
Marianas GU
Landholding Agency: Navy
Property Number: 77200520048
Status: Excess
Reasons: Extensive deterioration, Secured Area

Bldgs. 2014, 2916
Naval Ship Repair Facility
Marianas GU
Landholding Agency: Navy
Property Number: 77200520049
Status: Excess
Reasons: Extensive deterioration, Secured Area

Unsuitable Properties

Building

Guam

Bldgs. 277, 308
Naval Forces Marianas
Santa Rita Co: Apra Harbor GU
Landholding Agency: Navy
Property Number: 77200610028
Status: Excess
Reasons: Secured Area

Bldgs. 1686, 1689, 1690
Naval Forces Marianas
Santa Rita Co: Apra Harbor GU
Landholding Agency: Navy
Property Number: 77200610029
Status: Excess
Reasons: Secured Area

Bldgs. 1714, 1767, 1768
Naval Forces Marianas
Santa Rita Co: Apra Harbor GU
Landholding Agency: Navy
Property Number: 77200610030
Status: Excess
Reasons: Secured Area

Bldgs. 1771, 1772, 1773
Naval Forces Marianas
Santa Rita Co: Apra Harbor GU
Landholding Agency: Navy
Property Number: 77200610031
Status: Excess
Reasons: Secured Area

Unsuitable Properties

Building

Guam

Bldgs. 1791, 1792
Naval Forces Marianas
Santa Rita Co: Apra Harbor GU
Landholding Agency: Navy
Property Number: 77200610032
Status: Excess
Reasons: Secured Area

Bldgs. 3000, 3001
Naval Forces Marianas
Santa Rita Co: Apra Harbor GU
Landholding Agency: Navy
Property Number: 77200610033
Status: Excess
Reasons: Secured Area

Bldgs. 3002, 3004, 3005
Naval Forces Marianas
Santa Rita Co: Apra Harbor GU
Landholding Agency: Navy
Property Number: 77200610034
Status: Excess
Reasons: Secured Area

Bldgs. 3006, 3007
Naval Forces Marianas
Santa Rita Co: Apra Harbor GU
Landholding Agency: Navy
Property Number: 77200610035
Status: Excess
Reasons: Secured Area

Unsuitable Properties

Building

Guam

Steam Plant
Naval Forces Marianas
Santa Rita Co: Apra Harbor GU
Landholding Agency: Navy
Property Number: 77200610036
Status: Excess
Reasons: Secured Area

Bldgs. 403, 404
Marianas Support Activity
Santa Rita Co: Naval Magazine GU
Landholding Agency: Navy
Property Number: 77200620013
Status: Unutilized
Reasons: Secured Area

Bldgs. 464, 729
Marianas Support Activity
Santa Rita Co: Naval Magazine GU
Landholding Agency: Navy
Property Number: 77200620014
Status: Unutilized
Reasons: Secured Area

Bldgs. 836, 837
Marianas Support Activity
Santa Rita Co: Naval Magazine GU
Landholding Agency: Navy

Property Number: 77200620015
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Unsuitable Properties

Building

Guam

Bldg. 11XC7
Marianas Support Activity
Santa Rita Co: Naval Magazine GU
Landholding Agency: Navy
Property Number: 77200620016
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldgs. 23YC1, 23YC2, 23YC3
Marianas Support Activity
Santa Rita Co: Naval Magazine GU
Landholding Agency: Navy
Property Number: 77200620017
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldgs. 23YC4, 23YC5
Marianas Support Activity
Santa Rita Co: Naval Magazine GU
Landholding Agency: Navy
Property Number: 77200620018
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldgs. 24YC7, 24YC8
Marianas Support Activity
Santa Rita Co: Naval Magazine GU
Landholding Agency: Navy
Property Number: 77200620019
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Unsuitable Properties

Building

Guam

Bldgs. 26YC3, 26YC5
Marianas Support Activity
Santa Rita Co: Naval Magazine GU
Landholding Agency: Navy
Property Number: 77200620020
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Old Bus Stop
Marianas Support Activity
Santa Rita Co: Naval Magazine GU
Landholding Agency: Navy
Property Number: 77200620021
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

2 Guard Houses
Marianas Support Activity
Santa Rita Co: Naval Magazine GU
Landholding Agency: Navy
Property Number: 77200620022
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

9 Magazines
Marianas Support Activity
Santa Rita Co: Naval Magazine GU
Landholding Agency: Navy
Property Number: 77200620023
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Unsuitable Properties

Building

Guam

Bldgs. 151, 152, 153
Naval Forces Marianas
Santa Rita Co: Apra Harbor GU
Landholding Agency: Navy
Property Number: 77200630001
Status: Unutilized
Reasons: Extensive deterioration

Hawaii

Bldg. 346
Naval Station
Pearl Harbor HI 96860
Landholding Agency: Navy
Property Number: 77200610002
Status: Excess
Reasons: Extensive deterioration

Idaho

Bldg. CPP–691
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41199610003
Status: Unutilized
Reasons: Secured Area

Bldg. TRA–669
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41199610013
Status: Unutilized
Reasons: Secured Area

Unsuitable Properties

Building

Idaho

Bldg. TRA–673
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41199610018
Status: Unutilized
Reasons: Secured Area

Bldg. PBF–620
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41199610019
Status: Unutilized
Reasons: Secured Area

Bldg. PBF–619
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41199610022
Status: Unutilized
Reasons: Secured Area

Bldg. TRA–641
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41199610034
Status: Unutilized
Reasons: Secured Area

Unsuitable Properties

Building

Idaho

Bldg. CF–606
Idaho National Engineering Laboratory
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41199610037
Status: Unutilized
Reasons: Secured Area

Bldgs. CPP638, CPP642
Idaho Natl. Eng. Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200410014
Status: Excess
Reasons: Secured Area

Bldg. CPP 743
Idaho Natl. Eng. lab
Scoville Co: Butte ID 83–415
Landholding Agency: Energy
Property Number: 41200410020
Status: Excess
Reasons: Secured Area

Bldgs. CPP1647, 1653
Idaho Natl. Eng. Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200410022
Status: Excess
Reasons: Secured Area

Unsuitable Properties

Building

Idaho

Bldg. CPP1677
Idaho Natl Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200410023
Status: Excess
Reasons: Secured Area

Bldg. 694
Idaho Natl Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200410034
Status: Excess
Reasons: Secured Area

Bldgs. CPP1604–CPP1608
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430071
Status: Excess
Reasons: Secured Area

Bldgs. CPP1617–CPP1619
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430072
Status: Excess
Reasons: Secured Area

Unsuitable Properties

Building

Idaho

6 Bldgs.
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430073

Status: Excess
Directions: CPP1631, CPP1634, CPP1635, CPP1636, CPP1637, CPP1638
Reasons: Secured Area

5 Bldgs.
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430074
Status: Excess
Directions: CPP1642, CPP1643, CPP1644, CPP1646, CPP1649
Reasons: Secured Area

3 Bldgs.
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430075
Status: Excess
Directions: CPP1650, CPP1651, CPP1656
Reasons: Secured Area

Unsuitable Properties

Building

Idaho

5 Bldgs.
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430076
Status: Excess
Directions: CPP1662, CPP1663, CPP1671, CPP1673, CPP1674
Reasons: Secured Area

5 Bldgs.
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430077
Status: Excess
Directions: CPP1678, CPP1682, CPP1683, CPP1684, CPP1686
Reasons: Secured Area

5 Bldgs.
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430078
Status: Excess
Directions: CPP1713, CPP1749, CPP1750, CPP1767, CPP1769
Reasons: Secured Area

Unsuitable Properties

Building

Idaho

5 Bldgs.
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430079
Status: Excess
Directions: CPP1770, CPP1771, CPP1772, CPP1774, CPP1776
Reasons: Secured Area

4 Bldgs.
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430081
Status: Excess
Directions: CPP1789, CPP1790, CPP1792, CPP1794
Reasons: Secured Area

Bldgs. CPP2701, CPP2706
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430082
Status: Excess
Reasons: Secured Area

Unsuitable Properties

Building

Idaho

3 Bldgs.
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430089
Status: Excess
Directions: TRA603, TRA604, TRA610
Reasons: Secured Area

Bldg. TAN611
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430090
Status: Excess
Reasons: Secured Area

5 Bldgs.
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430091
Status: Excess
Directions: TRA626, TRA635, TRA642, TRA648, TRA654
Reasons: Secured Area

Bldg. TAN655
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430092
Status: Excess
Reasons: Secured Area

Unsuitable Properties

Building

Idaho

3 Bldgs.
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430093
Status: Excess
Directions: TRA657, TRA661, TRA668
Reasons: Secured Area

Bldg. TAN711
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430094
Status: Excess
Reasons: Secured Area

6 Bldgs.
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430095
Status: Excess
Directions: CPP602–CPP606, CPP609
Reasons: Secured Area

Unsuitable Properties

Building

Idaho

5 Bldgs.
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430096
Status: Excess
Directions: CPP611–CPP614, CPP616
Reasons: Secured Area

4 Bldgs.
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430097
Status: Excess
Directions: CPP621, CPP626, CPP630, CPP639
Reasons: Secured Area

4 Bldgs.
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430098
Status: Excess
Directions: CPP641, CPP644, CPP645, CPP649
Reasons: Secured Area

Unsuitable Properties

Building

Idaho

Bldgs. CPP651–CPP655
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200430099
Status: Excess
Reasons: Secured Area

Bldgs. CPP659–CPP663
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440001
Status: Excess
Reasons: Secured Area

Bldgs. CPP666, CPP668
Idaho Naitonal Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440002
Status: Excess
Reasons: Secured Area

1 Bldg.
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440004
Status: Excess
Directions: CPP684
Reasons: Secured Area

Unsuitable Properties

Building

Idaho

5 Bldg.
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440005
Status: Excess

Directions: CPP692, CPP694, CPP697–CPP699
Reasons: Secured Area

3 Bldgs.
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440006
Status: Excess
Directions: CPP701, CPP701A, CPP708
Reasons: Secured Area

Bldgs. 711, 719A
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440007
Status: Excess
Reasons: Secured Area

Unsuitable Properties

Building

Idaho

4 Bldgs.
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440008
Status: Excess
Directions: CPP724–CPP726, CPP728
Reasons: Secured Area

Bldg. CPP729/741
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440012
Status: Excess
Reasons: Secured Area

Bldgs. CPP733, CPP736
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440013
Status: Excess
Reasons: Secured Area

Bldgs. CPP740, CPP742
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440014
Status: Excess
Reasons: Secured Area

Unsuitable Properties

Building

Idaho

Bldgs. CPP746, CPP748
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440015
Status: Excess
Reasons: Secured Area

3 Bldgs.
Idaho National Eng Lab
CPP750, CPP751, CPP752
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440016
Status: Excess
Reasons: Secured Area

3 Bldgs.
Idaho National Eng Lab
CPP753, CPP753A, CPP754
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440017
Status: Excess
Reasons: Secured Area

Bldgs. CPP760, CPP763
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440018
Status: Excess
Reasons: Secured Area

Unsuitable Properties

Building

Idaho

Bldgs. CPP764, CPP765
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440019
Status: Excess
Reasons: Secured Area

Bldgs. CPP767, CPP768
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440020
Status: Excess
Reasons: Secured Area

Bldgs. CPP791, CPP795
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440021
Status: Excess
Reasons: Secured Area

3 Bldgs.
Idaho National Eng Lab
CPP796, CPP797, CPP799
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440022
Status: Excess
Reasons: Secured Area

Unsuitable Properties

Building

Idaho

Bldgs. CPP701B, CPP719
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440023
Status: Excess
Reasons: Secured Area

Bldgs. CPP720A, CPP720B
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440024
Status: Excess
Reasons: Secured Area

Bldg. CPP1781
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440025
Status: Excess
Reasons: Secured Area

2 Bldgs.
Idaho National Eng Lab
CPP0000VES–UTI–111, VES–UTI–112
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440026
Status: Excess
Reasons: Secured Area

Unsuitable Properties

Building

Idaho

Bldgs. TAN704, TAN733
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440028
Status: Excess
Reasons: Secured Area

Bldgs. TAN1611, TAN1614
Idaho National Eng Lab
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200440029
Status: Excess
Reasons: Secured Area

Bldg. CF633
Idaho Natl Laboratory
Scoville Co: Butte ID 83415
Landholding Agency: Energy
Property Number: 41200520005
Status: Excess
Reasons: Extensive deterioration

Unsuitable Properties

Building

Illinois

Bldg. 42
Naval Station
Great Lakes IL 60088
Landholding Agency: Navy
Property Number: 77200520055
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldgs. 25
Naval Station
Great Lakes IL 60088
Landholding Agency: Navy
Property Number: 77200530001
Status: Excess
Reasons: Extensive deterioration

Bldg. 42
Naval Station
Great Lakes IL 60088
Landholding Agency: Navy
Property Number: 77200530014
Status: Excess
Reasons: Extensive deterioration, Secured Area

Bldg. 2C
Naval Station
Great Lakes IL 60088–2900
Landholding Agency: Navy
Property Number: 77200540005
Status: Excess
Reasons: Secured Area

Unsuitable Properties

Building

Illinois

Bldg. 3312
Naval Station
Great Lakes IL 60085
Landholding Agency: Navy
Property Number: 77200640028

Status: Excess
Reasons: Secured Area

Bldg. 220
Naval Station
Great Lakes IL 60085
Landholding Agency: Navy
Property Number: 77200640029
Status: Excess
Reasons: Secured Area

Indiana

Bldgs. 1871, 2636
Naval Support Activity
Crane Co: Martin IN 47522
Landholding Agency: Navy
Property Number: 77200530015
Status: Unutilized
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material, Extensive deterioration

Bldg. 1820
Naval Support Activity
Crane Co: Martin IN 47522
Landholding Agency: Navy
Property Number: 77200540028
Status: Unutilized
Reasons: Extensive deterioration

Unsuitable Properties

Building

Indiana

Bldg. 2694
Naval Support Activity
Crane Co: Martin IN 47522
Landholding Agency: Navy
Property Number: 77200540029
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 2796
Naval Support Activity
Crane Co: Martin IN 47522
Landholding Agency: Navy
Property Number: 77200620001
Status: Unutilized
Reasons: Extensive deterioration, Secured Area, Within 2000 ft. of flammable or explosive material

Bldg. 21, VA Medical Center
East 38th Street
Marion Co: Grant IN 46952
Landholding Agency: VA
Property Number: 97199230001
Status: Excess
Reasons: Extensive deterioration

Bldg. 22, VA Medical Center
East 38th Street
Marion Co: Grant IN 46952
Landholding Agency: VA
Property Number: 97199230002
Status: Excess
Reasons: Extensive deterioration

Unsuitable Properties

Building

Indiana

Bldg. 62, VA Medical Center
East 38th Street
Marion Co: Grant IN 46952
Landholding Agency: VA
Property Number: 97199230003
Status: Excess
Reasons: Extensive deterioration

Maryland

Bldg. 84NS
Naval Support Activity
Annapolis Co: Anne Arundel MD 21402
Landholding Agency: Navy
Property Number: 77200610038
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material Floodway

Bldg. 2075
Naval Surface Warfare
Indian Head MD
Landholding Agency: Navy
Property Number: 77200630043
Status: Excess
Reasons: Extensive deterioration

Unsuitable Properties

Building

Massachusetts

Westview Street Wells
Lexington MA 02173
Landholding Agency: VA
Property Number: 97199920001
Status: Unutilized
Reasons: Extensive deterioration

Unsuitable Properties

Building

Michigan

Admin. Bldg.
Station Saginaw River
Essexville Co: Bay MI 48732
Landholding Agency: Coast Guard
Property Number: 88200510001
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Mississippi

Bldg. 9
Construction Battalion Center
Gulfport MS
Landholding Agency: Navy
Property Number: 77200610039
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Unsuitable Properties

Building

Mississippi

Bldgs. 22, 27, 41
Construction Battalion Center
Gulfport MS
Landholding Agency: Navy
Property Number: 77200610040
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldgs. 108, 181, 183
Construction Battalion Center
Gulfport MS
Landholding Agency: Navy
Property Number: 77200610041
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 201
Construction Battalion Center
Gulfport MS
Landholding Agency: Navy
Property Number: 77200610042
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldgs. 270, 270A–1, 270A–2
Construction Battalion Center
Gulfport MS
Landholding Agency: Navy
Property Number: 77200610043
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Unsuitable Properties

Building

Mississippi

Bldgs. 375, 420
Construction Battalion Center
Gulfport MS
Landholding Agency: Navy
Property Number: 77200610044
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 6, Boiler Plant
Biloxi VA Medical Center
Gulfport Co: Harrison MS 39531
Landholding Agency: VA
Property Number: 97199410001
Status: Unutilized
Reasons: Floodway

Bldg. 67
Biloxi VA Medical Center
Gulfport Co: Harrison MS 39531
Landholding Agency: VA
Property Number: 97199410008
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 68
Biloxi VA Medical Center
Gulfport Co: Harrison MS 39531
Landholding Agency: VA
Property Number: 97199410009
Status: Unutilized
Reasons: Extensive deterioration

Unsuitable Properties

Building

Missouri

Bldg. 3
VA Medical Center
Jefferson Barracks Division
St. Louis MO 63125
Landholding Agency: VA
Property Number: 97200340001
Status: Underutilized
Reasons: Secured Area

Bldg. 4
VA Medical Center
Jefferson Barracks Division
St. Louis MO
Landholding Agency: VA
Property Number: 97200340002
Status: Underutilized
Reasons: Secured Area

Bldg. 27
VA Medical Center
Jefferson Barracks Division
St. Louis MO 63125
Landholding Agency: VA
Property Number: 97200340003
Status: Underutilized
Reasons: Secured Area

Bldg. 28
VA Medical Center
Jefferson Barracks Division
St. Louis MO 63125
Landholding Agency: VA

Property Number: 97200340004
Status: Underutilized
Reasons: Secured Area

Unsuitable Properties

Building

Missouri

Bldg. 29
VA Medical Center
Jefferson Barracks Division
St. Louis MO 63125
Landholding Agency: VA
Property Number: 97200340005
Status: Underutilized
Reasons: Secured Area

Bldg. 50
VA Medical Center
Jefferson Barracks Division
St. Louis MO 63125
Landholding Agency: VA
Property Number: 97200340006
Status: Underutilized
Reasons: Secured Area

Nevada

28 Facilities
Nevada Test Site
Mercury Co: Nye NV 89023
Landholding Agency: Energy
Property Number: 41200310018
Status: Excess
Reasons: Secured Area, Other—contamination

Unsuitable Properties

Building

Nevada

31 Bldgs./Facilities
Nellis AFB
Tonopah Test Range
Tonopah Co: Nye NV 89049
Landholding Agency: Energy
Property Number: 41200330003
Status: Unutilized
Reasons: Secured Area

42 Bldgs.
Nellis Air Force Base
Tonopah Co: Nye NV 89049
Landholding Agency: Energy
Property Number: 41200410029
Status: Unutilized
Directions: 49–01, NM104, NM105, 03–35A–H, 03–35J–N, 03–36A–C, 03–36E–H, 03–36J–N, 03–36R, 03–37, 15036, 03–44A–D, 03–46, 03–47, 03–49, 03–88, 03–89, 03–90
Reasons: Secured Area

241 Bldgs.
Tonopah Test Range
Tonopah Co: Nye NV 89049
Landholding Agency: Energy
Property Number: 41200440036
Status: Excess
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Unsuitable Properties

Building

Nevada

10 Bldgs.
Nevada Test Site
Mercury Co: Nye NV 89023
Landholding Agency: Energy
Property Number: 41200610003
Status: Excess
Reasons: Secured Area

3 Bldgs.
Nevada Test Site 23–790, 06–CP50, 26–2107
Mercury Co: Nye NV 89023
Landholding Agency: Navy
Property Number: 77200510025
Status: Excess
Reasons: Secured Area, Other—contamination

New Jersey

NIKE Site PH58
Paulsboro Road
Woolwich Township NJ 08085
Landholding Agency: GSA
Property Number: 54200630017
Status: Excess
GSA Number: 1–G–NJ–0538
Reasons: Extensive deterioration, Within 2000 ft. of flammable or explosive material

Unsuitable Properties

Building

New Mexico

Bldgs. 9252, 9268
Kirtland Air Force Base
Albuquerque Co: Bernalillo NM 87185
Landholding Agency: Energy
Property Number: 41199430002
Status: Unutilized
Reasons: Extensive deterioration

Tech Area II
Kirtland Air Force Base
Albuquerque Co: Bernalillo NM 87105
Landholding Agency: Energy
Property Number: 41199630004
Status: Unutilized
Reasons: Extensive deterioration, Secured Area Within 2000 ft. of flammable or explosive material

Bldg. 26, TA–33
Los Alamos National Laboratory
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41199810004
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldg. 2, TA–21
Los Alamos National Laboratory
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41199810008
Status: Underutilized
Reasons: Secured Area

Unsuitable Properties

Building

New Mexico

Bldg. 5, TA–21
Los Alamos National Laboratory
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41199810011
Status: Unutilized
Reasons: Secured Area

Bldg. 116, TA–21
Los Alamos National Laboratory
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41199810013
Status: Unutilized
Reasons: Secured Area

Bldg. 286, TA–21
Los Alamos National Laboratory
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41199810016
Status: Unutilized
Reasons: Secured Area

Bldg. 516, TA–16
Los Alamos National Laboratory
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41199810021
Status: Unutilized
Reasons: Extensive deterioration, Secured Area, Within 2000 ft. of flammable or explosive material

Unsuitable Properties

Building

New Mexico

Bldg. 517, TA–16
Los Alamos National Laboratory
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41199810022
Status: Unutilized
Reasons: Extensive deterioration, Secured Area, Within 2000 ft. of flammable or explosive material

Bldg. 31
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41199930003
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldg. 38, TA–14
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41199940004
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldg. 9, TA–15
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41199940006
Status: Unutilized
Reasons: Secured Area

Unsuitable Properties

Building

New Mexico

Bldg. 141, TA–15
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41199940008
Status: Unutilized
Reasons: Secured Area

Bldg. 44, TA–15
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41199940009
Status: Unutilized
Reasons: Secured Area

Bldg. 2, TA–18
Los Alamos National Lab
Los Alamos NM 87545

Landholding Agency: Energy
Property Number: 41199940010
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldg. 5, TA–18
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41199940011
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Unsuitable Properties

Building

New Mexico

Bldg. 186, TA–18
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41199940012
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldg. 188, TA–18
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41199940013
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldg. 44, TA–36
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41199940015
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldg. 45, TA–36
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41199940016
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Unsuitable Properties

Building

New Mexico

Bldg. 258, TA–46
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41199940019
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

TA–3, Bldg. 208
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200010010
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

TA–14, Bldg. 5
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200010019
Status: Unutilized
Reasons: Secured Area

TA–21, Bldg. 150
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200010020
Status: Unutilized
Reasons: Secured Area

Unsuitable Properties

Building

New Mexico

Bldg. 149, TA–21
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200010024
Status: Unutilized
Reasons: Secured Area

Bldg. 312, TA–21
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200010025
Status: Unutilized
Reasons: Secured Area

Bldg. 313, TA–21
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200010026
Status: Unutilized
Reasons: Secured Area

Bldg. 314, TA–21
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200010027
Status: Unutilized
Reasons: Secured Area

Unsuitable Properties

Building

New Mexico

Bldg. 315, TA–21
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200010028
Status: Unutilized
Reasons: Secured Area

Bldg. 1, TA–8
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200010029
Status: Unutilized
Reasons: Secured Area

Bldg. 2, TA–8
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200010030
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldg. 3, TA–8
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200020001
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Unsuitable Properties

Building

New Mexico

Bldg. 51, TA–9
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200020002
Status: Unutilized
Reasons: Secured Area

Bldg. 30, TA–14
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200020003
Status: Unutilized
Reasons: Secured Area

Bldg. 16, TA–3
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200020009
Status: Unutilized
Reasons: Secured Area

Bldg. 48, TA–55
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200020017
Status: Unutilized
Reasons: Secured Area

Unsuitable Properties

Building

New Mexico

Bldg. 125, TA–55
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200020018
Status: Unutilized
Reasons: Secured Area

Bldg. 162, TA–55
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200020019
Status: Unutilized
Reasons: Secured Area

Bldg. 22, TA–33
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200020022
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldg. 23, TA–49
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200020023
Status: Unutilized
Reasons: Secured Area

Unsuitable Properties

Building

New Mexico

Bldg. 37, TA–53

Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200020024
Status: Unutilized
Reasons: Secured Area

Bldg. 121, TA–49
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200020025
Status: Unutilized
Reasons: Secured Area

Bldg. B117
Kirtland Operations
Albuquerque Co: Bernalillo NM 87117
Landholding Agency: Energy
Property Number: 41200220032
Status: Excess
Reasons: Extensive deterioration

Bldg. B118
Kirtland Operations
Albuquerque Co: Bernalillo NM 87117
Landholding Agency: Energy
Property Number: 41200220033
Status: Excess
Reasons: Extensive deterioration

Unsuitable Properties

Building

New Mexico

Bldg. B119
Kirtland Operations
Albuquerque Co: Bernalillo NM 87117
Landholding Agency: Energy
Property Number: 41200220034
Status: Excess
Reasons: Extensive deterioration

Bldg. 2, TA–11
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200240004
Status: Unutilized
Reasons: Secured Area

Bldg. 4, TA–41
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200240005
Status: Unutilized
Reasons: Secured Area

Bldg. 116, TA–21
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200310003
Status: Unutilized
Reasons: Secured Area

Unsuitable Properties

Building

New Mexico

Bldgs. 1, 2, 3, 4, 5, TA–28
Los Alamos National Lab
Los Alamos NM 87545
Landholding Agency: Energy
Property Number: 41200310004
Status: Unutilized
Reasons: Secured Area

Bldgs. 447, 1483
Los Alamos Natl Laboratory
Los Alamos NM
Landholding Agency: Energy
Property Number: 41200410002
Status: Excess
Reasons: Extensive deterioration, Secured Area

Bldg. 99650
Sandia National Laboratory
Albuquerque Co: Bernalillo NM 87185
Landholding Agency: Energy
Property Number: 41200510004
Status: Unutilized
Reasons: Secured Area

Unsuitable Properties

Building

New York

Building 1
Scotia Navy Depot
Scotia NY 12302
Landholding Agency: GSA
Property Number: 54200710013
Status: Excess
GSA Number: 1–N–NY–0926–1A
Reasons: Within 2000 ft. of flammable or explosive material

North Carolina

Bldg. 82
Marine Corps Air Station
Cherry Point Co: Craven NC 28533
Landholding Agency: Navy
Property Number: 77200510009
Status: Underutilized
Reasons: Secured Area

Bldg. 4314
Marine Corps Air Station
Cherry Point Co: Craven NC 28533
Landholding Agency: Navy
Property Number: 77200510010
Status: Underutilized
Reasons: Secured Area

Bldg. 124
Marine Corps Air Station
Cherry Point Co: Craven NC 28533
Landholding Agency: Navy
Property Number: 77200510023
Status: Underutilized
Reasons: Secured Area

Unsuitable Properties

Building

North Carolina

Bldgs. 73, 95, 1018
Marine Corps Air Station
Cherry Point NC
Landholding Agency: Navy
Property Number: 77200620003
Status: Unutilized
Reasons: Secured Area

Bldg. 499
Marine Corps Air Station
Cherry Point NC
Landholding Agency: Navy
Property Number: 77200620038
Status: Unutilized
Reasons: Secured Area

Bldgs. 3177, 3885
Marine Corps Air Station
Cherry Point NC
Landholding Agency: Navy
Property Number: 77200620039
Status: Unutilized
Reasons: Secured Area

Bldg. 4473
Marine Corps Air Station
Cherry Point NC
Landholding Agency: Navy
Property Number: 77200620040
Status: Unutilized
Reasons: Secured Area

Unsuitable Properties

Building

North Carolina

Bldg. 4523
Marine Corps Air Station
Cherry Point NC
Landholding Agency: Navy
Property Number: 77200620041
Status: Unutilized
Reasons: Secured Area
RPFN 0S1
Group Cape Hatteras
Buxton Co: Dare NC 27902
Landholding Agency: Coast Guard
Property Number: 88200540001
Status: Unutilized
Reasons: Secured Area Extensive deterioration

RPFN 053
Sector N.C.
Atlantic Beach Co: Carteret NC 28512
Landholding Agency: Coast Guard
Property Number: 88200540002
Status: Unutilized
Reasons: Secured Area Extensive deterioration

Equip. Bldg.
Coast Guard Station 11101 Station St.
Emerald Isle NC
Landholding Agency: Coast Guard
Property Number: 88200630001
Status: Unutilized
Reasons: Secured Area

Unsuitable Properties

Building

North Carolina

Bldg. 9
VA Medical Center 1100 Tunnel Road
Asheville Co: Buncombe NC 28805
Landholding Agency: VA
Property Number: 97199010008
Status: Unutilized
Reasons: Extensive deterioration

Ohio

Bldg. 105
VA Medical Center
Dayton Co: Montgomery OH 45428
Landholding Agency: VA
Property Number: 97199920005
Status: Unutilized
Reasons: Extensive deterioration

Pennsylvania

Z-Bldg.
Bettis Atomic Power Lab
West Mifflin Co: Allegheny PA 15122–0109
Landholding Agency: Energy
Property Number: 41199720002
Status: Excess
Reasons: Extensive deterioration

Unsuitable Properties

Building

South Carolina

Bldg. 701–6G

Jackson Barricade
Jackson SC
Landholding Agency: Energy
Property Number: 41200420010
Status: Unutilized
Reasons: Secured Area

Bldg. 211–000F
Nuclear Materials Processing Facility
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200420011
Status: Excess
Reasons: Secured Area

Bldg. 221–001F
Nuclear Materials Processing Facility
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200420015
Status: Excess
Reasons: Secured Area

Bldg. 190–K
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200420030
Status: Unutilized
Reasons: Secured Area

Unsuitable Properties

Building

South Carolina

Bldg. 190–P
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200420031
Status: Unutilized
Reasons: Secured Area

Bldg. 710–015N
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430002
Status: Excess
Reasons: Secured Area

Bldg. 713–000N
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430003
Status: Excess
Reasons: Secured Area

Bldgs. 80–9G, 10G
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430006
Status: Excess
Reasons: Secured Area

Unsuitable Properties

Building

South Carolina

Bldgs. 105–P, 105–R
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430007
Status: Excess
Reasons: Secured Area

Bldg. 183–003L
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430009
Status: Excess
Reasons: Secured Area

Bldg. 191–000L
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430012
Status: Excess
Reasons: Secured Area

Bldg. 221–016F
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430014
Status: Excess
Reasons: Secured Area

Unsuitable Properties

Building

South Carolina

Bldgs. 221–053F, 054F
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430016
Status: Excess
Reasons: Secured Area

Bldgs. 252–003F, 005F
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430017
Status: Excess
Reasons: Secured Area

Bldg. 315–M
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430030
Status: Excess
Reasons: Secured Area

Bldg. 716–002A
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430040
Status: Excess
Reasons: Secured Area

Unsuitable Properties

Building

South Carolina

Bldgs. 221–21F, 22F
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430042
Status: Excess
Reasons: Secured Area

Bldg. 221–033F
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430043
Status: Excess
Reasons: Secured Area

Bldg. 254–007F
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430044
Status: Excess
Reasons: Secured Area

Bldg. 281–001F
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430045
Status: Excess
Reasons: Secured Area

Unsuitable Properties

Building

South Carolina

Bldg. 281–004F
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430046
Status: Excess
Reasons: Secured Area

Bldg. 281–006F
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430047
Status: Excess
Reasons: Secured Area

Bldg. 703–045A
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430050
Status: Excess
Reasons: Secured Area

Bldg. 703–071A
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430051
Status: Excess
Reasons: Secured Area

Unsuitable Properties

Building

South Carolina

Bldg. 716–A
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430055
Status: Excess
Reasons: Secured Area

Bldg. 754–008A
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430058
Status: Excess
Reasons: Secured Area

Bldg. 186–R
Savannah River Site
Aiken SC
Landholding Agency: Energy
Property Number: 41200430063
Status: Unutilized
Reasons: Secured Area

Bldg. 230–H
Savannah River Site
Aiken SC
Landholding Agency: Energy
Property Number: 41200430065
Status: Unutilized
Reasons: Secured Area

Unsuitable Properties

Building

South Carolina

4 Bldgs.
Savannah River Site #281–2F, 281–5F, 285–F, 285–5F
Aiken SC
Landholding Agency: Energy
Property Number: 41200430066
Status: Unutilized
Reasons: Secured Area

Bldg. 701–000M
Savannah River Site
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200430084
Status: Unutilized
Reasons: Secured Area

Bldg. 608–000P
Savannah River Site
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200440031
Status: Excess
Reasons: Secured Area

Bldg. 690–000N
Savannah River Site
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200440032
Status: Underutilized
Reasons: Secured Area

Unsuitable Properties

Building

South Carolina

Facility 701–5G
Savannah River Site
New Ellenton SC
Landholding Agency: Energy
Property Number: 41200530003
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 105–013P
Savannah River Operations
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200620007
Status: Unutilized
Reasons: Secured Area

Bldg. 714–000A
Savannah River Site
Aiken SC
Landholding Agency: Energy
Property Number: 41200620014
Status: Underutilized
Reasons: Secured Area

Bldgs. 711–000P, 711–001P
Savannah River Site
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200620015
Status: Excess
Reasons: Secured Area

Unsuitable Properties

Building

South Carolina

Bldg. 777–018A
Savannah River Site
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200620022
Status: Excess
Reasons: Secured Area

Bldgs. 108–1P, 108–2P
Savannah River Site
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200630007
Status: Unutilized
Reasons: Secured Area

Bldgs. 108–1P, 108–2P
Savannah River Site
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200640001
Status: Excess
Reasons: Secured Area

Bldg. 701–001P
Savannah River Site
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200640002
Status: Unutilized
Reasons: Secured Area

Unsuitable Properties

Building

South Carolina

Bldgs. 105–1P, 105–6P
Savannah River Site
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200640003
Status: Unutilized
Reasons: Secured Area

Bldgs. 151–1P, 151–2P
Savannah River site
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200640004
Status: Unutilized
Reasons: Secured Area

Bldg. 191–P
Savannah River Site
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200640005
Status: Unutilized
Reasons: Secured Area

Bldg. 710–P
Savannah River Site
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200640006
Status: Unutilized
Reasons: Secured Area

Unsuitable Properties

Building

South Carolina

Bldg. 614–63G
Savannah River Site
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200710006
Status: Unutilized
Reasons: Secured Area

Bldgs. 701–2G, –905–117G
Savannah River Site
Aiken SC 29802
Landholding Agency: Energy
Property Number: 41200710007
Status: Unutilized
Reasons: Secured Area

Bldgs. 1000 thru 1021
Naval Weapons Station
Goose Creek Co: Berkeley SC 29445
Landholding Agency: Navy
Property Number: 77200440018
Status: Unutilized
Reasons: Secured Area

Bldg. 102
Marine Corps Recruit Depot
Parris Island Co: Beaufort SC 29905
Landholding Agency: Navy
Property Number: 77200530017
Status: Unutilized
Reasons: Extensive deterioration, Secured Area, Floodway

Unsuitable Properties

Building

South Carolina

21 Bldgs.
Naval Weapons Station
Goose Creek Co: Berkely SC 29445
Landholding Agency: Navy
Property Number: 77200620034
Status: Unutilized
Directions: 4, 167C, 174, 180, 350, 383, 400, 410, 769, 790, 823, 824, 904, 930, 930A, 953, 953A, 971, 975, 2305, 3526
Reasons: Secured Area Within 2000 ft. of flammable or explosive material

Bldg. 1148
Naval Weapons Station
Goose Creek Co: Berkeley SC 29445
Landholding Agency: Navy
Property Number: 77200630044
Status: Excess
Reasons: Extensive deterioration

Tennessee

Bldg. 3004
Oak Ridge National Lab
Oak Ridge Co: Roane TN 37831
Landholding Agency: Energy
Property Number: 41199710002
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Unsuitable Properties

Building

Tennessee

Bldgs. 9714–3, 9714–4, 9983–AY Y–12 Pistol Range
Oak Ridge Co: Anderson TN 37831
Landholding Agency: Energy
Property Number: 41199720004
Status: Unutilized
Reasons: Secured Area

5 Bldgs. K–724, K–725, K–1031, K–1131, K–1410
East Tennessee Technology Park
Oak Ridge Co: Roane TN 37831
Landholding Agency: Energy
Property Number: 41199730001
Status: Unutilized
Reasons: Extensive deterioration

Bldg. 9418–1
Y–12 Plant
Oak Ridge Co: Anderson TN 37831
Landholding Agency: Energy
Property Number: 41199810026
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

16 Bldgs.
Oak Ridge Reservation
Oak Ridge Co: Anderson TN 37831
Landholding Agency: Energy
Property Number: 41200620006
Status: Excess
Directions: Freels/Solway Bend Areas
Reasons: Extensive deterioration

Unsuitable Properties

Building

Tennessee

17 Buildings
Naval Support Activity Mid-South
Millington TN 38054
Landholding Agency: Navy
Property Number: 77200520012
Status: Excess
Directions: 892–893, 1704, 1487, 2020, 2035, 2044–2045, 2071, 2074, 2079–2082, 2094, 2096, 2063
Reasons: Secured Area

Bldgs. 2, 3, 5
Naval/Marine Corps Rsv Ctr
Knoxville Co: Knox TN 37920
Landholding Agency: Navy
Property Number: 77200530018
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Texas

Zone 12, Bldg. 12–20
Pantex Plant
Amarillo Co: Carson TX 79120
Landholding Agency: Energy
Property Number: 41200220053
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material Secured Area

Unsuitable Properties

Building

Texas

Bldgs. 12–017E, 12–019E
Pantex Plant
Amarillo Co: Carson TX 79120
Landholding Agency: Energy
Property Number: 41200320010
Status: Unutilized
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

4 Bldgs.
NNSA Pantex Plant
Amarillo Co: Carson TX 79120
Landholding Agency: Energy
Property Number: 41200540002
Status: Unutilized
Directions: 12–009, 12–009A, 12–R–009A, 12–R–009B
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 12–011A
NNSA Pantex Plant
Amarillo Co: Carson TX 79120
Landholding Agency: Energy
Property Number: 41200540003
Status: Unutilized
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Unsuitable Properties

Building

Texas

Bldg. 12–097
NNSA Pantex Plant
Amarillo Co: Carson TX 79120
Landholding Agency: Energy
Property Number: 41200540004
Status: Unutilized
Reasons: Secured Area Within 2000 ft. of flammable or explosive material

Bldgs. 11–54, 11–54A
Zone 11
Pantex Plant
Amarillo Co: Carson TX 79120
Landholding Agency: Energy
Property Number: 41200630008
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 12–002B
Zone 12
Pantex Plant
Amarillo Co: Carson TX 79120
Landholding Agency: Energy
Property Number: 41200630009
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Unsuitable Properties

Building

Texas

4 Bldgs.
12–003, 12–R–003, 12–003L
Zone 12, Pantex Plant
Amarillo Co: Carson TX 79120
Landholding Agency: Energy
Property Number: 41200630010
Status: Unutilized
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Bldg. 12–014
Zone 12
Pantex Plant
Amarillo Co: Carson TX 79120
Landholding Agency: Energy
Property Number: 41200630011
Status: Unutilized
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Bldg. 12–24E
Zone 12
Pantex Plant
Amarillo Co: Carson TX 79120
Landholding Agency: Energy
Property Number: 41200630012
Status: Unutilized
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Unsuitable Properties

Building

Texas

Bldg. 11–029, Zone 11
Pantex Plant
Amarillo Co: Carson TX 79120
Landholding Agency: Energy
Property Number: 41200640007
Status: Unutilized
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Bldg. 1732
Naval Air Station
Corpus Christi Co: Nueces TX
Landholding Agency: Navy
Property Number: 77200540007
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldg. 243
Naval Air Station Joint Reserve Base
Ft. Worth Co: Tarrant TX 76127
Landholding Agency: Navy
Property Number: 77200640035
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 1430
Naval Air Station Joint Reserve Base
Ft. Worth Co: Tarrant TX 76127
Landholding Agency: Navy
Property Number: 77200640036
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Unsuitable Properties

Building

Texas

Bldg. 1500
Naval Air Station Joint Reserve Base
Ft. Worth Co: Tarrant TX 76127
Landholding Agency: Navy
Property Number: 77200640037
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldg. 4151
Naval Air Station Joint Reserve Base
Ft. Worth Co: Tarrant TX 76127
Landholding Agency: Navy
Property Number: 77200640038
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Virginia

Bldg. U63
Naval Amphibious Base
Little Creek Co: Norfolk VA 23521
Landholding Agency: Navy
Property Number: 77200610007
Status: Excess
Reasons: Extensive deterioration

Bldg. 3660
Naval Amphibious Base
Little Creek Co: Norfolk VA 23521
Landholding Agency: Navy
Property Number: 77200610008
Status: Excess
Reasons: Extensive deterioration

Unsuitable Properties

Building

Virginia

Bldg. 3830
Naval Amphibious Base
Little Creek Co: Norfolk VA 23521
Landholding Agency: Navy
Property Number: 77200610009
Status: Excess
Reasons: Extensive deterioration

Bldgs. 500, 501
Naval Weapon Station
Yorktown VA 23691
Landholding Agency: Navy

Property Number: 77200640012
Status: Excess
Reasons: Extensive deterioration

Bldg. 628
Naval Weapon Station
Yorktown VA 23691
Landholding Agency: Navy
Property Number: 77200640013
Status: Excess
Reasons: Extensive deterioration

Training Bldg.
USCG Integrated Support Ctr
Portsmouth Co: Norfolk VA 43703
Landholding Agency: Coast Guard
Property Number: 88200530001
Status: Excess
Reasons: Secured Area

Unsuitable Properties

Building

Virginia

Bldg. 011
Integrated Support Center
Portsmouth Co: Norfolk VA 43703
Landholding Agency: Coast Guard
Property Number: 88200620002
Status: Excess
Reasons: Secured Area

Washington

79 Structures
Hanford Site 100, 300, 400
Richland Co: Benton WA 99352
Landholding Agency: Energy
Property Number: 41200620010
Status: Excess
Directions: Infrastructure Facilities
Reasons: Secured Area

87 Structures
Hanford Site 100, 300, 400
Richland Co: Benton WA 99351
Landholding Agency: Energy
Property Number: 41200620011
Status: Excess
Directions: Mobile Offices
Reasons: Secured Area

Unsuitable Properties

Building

Washington

139 Structures
Hanford Site 100, 300, 400
Richland Co: Benton WA 99352
Landholding Agency: Energy
Property Number: 41200620012
Status: Excess
Directions: Offices Facilities
Reasons: Secured Area

122 Structures
Hanford Site 100, 300, 400
Richland Co: Benton WA 99352
Landholding Agency: Energy
Property Number: 41200620013
Status: Excess
Directions: Process Facilities
Reasons: Secured Area

Bldgs. 128, 129
Yakima Project
Yakima WA 98901
Landholding Agency: Interior
Property Number: 61200630018
Status: Excess
Reasons: Extensive deterioration

Bldgs. 0304, 0305
22416 Road F NE
Soap Lake Co: Grant WA 98851
Landholding Agency: Interior
Property Number: 61200640003
Status: Excess
Reasons: Extensive deterioration

Unsuitable Properties

Building

Washington

Bldgs. 0801, 0804
Frontage Road
West Quincy Co: Grant WA 98848
Landholding Agency: Interior
Property Number: 61200640004
Status: Excess
Reasons: Extensive deterioration

Bldgs. 1202, 1203
S. Maple
Warden Co: Grant WA 98857
Landholding Agency: Interior
Property Number: 61200640005
Status: Excess
Reasons: Extensive deterioration

Bldgs. 1702, 1707
Highway Heights
Mesa Co: Franklin WA 99343
Landholding Agency: Interior
Property Number: 61200640006
Status: Excess
Reasons: Extensive deterioration

Bldg. 1806
Klamath Road
Mesa Co: Franklin WA 99343
Landholding Agency: Interior
Property Number: 61200640007
Status: Excess
Reasons: Extensive deterioration

Unsuitable Properties

Building

Washington

Bldg. 529
Puget Sound Naval Shipyard
Bremerton WA 98314–5000
Landholding Agency: Navy
Property Number: 77200040020
Status: Excess
Reasons: Secured Area

Bldg. 8
Naval Reserve Center
Spokane WA 99205
Landholding Agency: Navy
Property Number: 77200430025
Status: Excess
Reasons: Secured Area, Extensive deterioration

Bldgs. 10, 11
Naval Reserve Center
Spokane WA 99205
Landholding Agency: Navy
Property Number: 77200430026
Status: Excess
Reasons: Extensive deterioration, Secured Area

Bldgs. 2656–2658
Naval Air Station
Lake Hancock
Coupeville Co: Island WA 98239
Landholding Agency: Navy
Property Number: 77200430027
Status: Unutilized
Reasons: Secured Area

Unsuitable Properties

Building

Washington

Bldgs. 2652, 2705
Naval Air Station
Whidbey
Oak Harbor WA 98277
Landholding Agency: Navy
Property Number: 77200440010
Status: Unutilized
Reasons: Secured Area

Bldgs. 79, 884
NAS Whidbey Island
Seaplane Base
Oak Harbor WA 98277
Landholding Agency: Navy
Property Number: 77200440011
Status: Unutilized
Reasons: Secured Area

Bldg. 121
NAS Whidbey Island
Ault Field
Oak Harbor WA 98277
Landholding Agency: Navy
Property Number: 77200440012
Status: Unutilized
Reasons: Secured Area

Bldg. 419
NAS Whidbey Island
Ault Field
Oak Harbor WA 98277
Landholding Agency: Navy
Property Number: 77200440013
Status: Unutilized
Reasons: Secured Area

Unsuitable Properties

Building

Washington

Bldgs. 2609, 2610
NAS Whidbey Island
Ault Field
Oak Harbor WA 98277
Landholding Agency: Navy
Property Number: 77200440014
Status: Unutilized
Reasons: Secured Area

Bldg. 2753
NAS Whidbey Island
Ault Field
Oak Harbor WA 98277
Landholding Agency: Navy
Property Number: 77200440015
Status: Unutilized
Reasons: Secured Area

Bldg. 108
Naval Magazine
Port Hadlock Co: Jefferson WA 98339–9723
Landholding Agency: Navy
Property Number: 77200510015
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldg. 351
Puget Sound Naval Shipyard
Bremerton WA 98314
Landholding Agency: Navy
Property Number: 77200530026
Status: Unutilized
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Unsuitable Properties

Building

Washington

Bldg. 1032
Naval Base
Bangor Tower Site
Silverdale WA 98315
Landholding Agency: Navy
Property Number: 77200630045
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Bldg. 71
Naval Magazine
Port Hadlock Co: Jefferson WA 98339–9723
Landholding Agency: Navy
Property Number: 77200640007
Status: Unutilized
Reasons: Secured Area, Extensive deterioration

Bldgs. 82, 83
Naval Magazine
Port Hadlock Co: Jefferson WA 98339–9723
Landholding Agency: Navy
Property Number: 77200640008
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Unsuitable Properties

Building

Washington

Bldgs. 168, 188
Naval Magazine
Port Hadlock Co: Jefferson WA 98339–9723
Landholding Agency: Navy
Property Number: 77200640009
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldg. 729
Naval Magazine
Port Hadlock Co: Jefferson WA 98339–9723
Landholding Agency: Navy
Property Number: 77200640010
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldgs. 910, 921
Naval Magazine
Port Hadlock Co: Jefferson WA 98339–9723
Landholding Agency: Navy
Property Number: 77200640011
Status: Unutilized
Reasons: Extensive deterioration, Secured Area

Bldgs. 407, 447
Naval Base
Bremerton Co: Kitsap WA 98310
Landholding Agency: Navy
Property Number: 77200640014
Status: Excess
Reasons: Secured Area

Unsuitable Properties

Building

Washington

Bldg. 867
Naval Base
Bremerton Co: Kitsap WA 98310
Landholding Agency: Navy
Property Number: 77200640015
Status: Excess
Reasons: Secured Area

Bldgs. 937, 975
Naval Base
Bremerton Co: Kitsap WA 98310
Landholding Agency: Navy
Property Number: 77200640016
Status: Excess
Reasons: Secured Area

Bldg. 1449
Naval Base
Silverdale Co: Kitsap WA 98315
Landholding Agency: Navy
Property Number: 77200640017
Status: Unutilized
Reasons: Secured Area

Bldg. 1670
Naval Base
Silverdale Co: Kitsap WA 98315
Landholding Agency: Navy
Property Number: 77200640018
Status: Unutilized
Reasons: Secured Area

Unsuitable Properties

Building

Washington

Bldgs. 2007, 2801
Naval Base
Silverdale Co: Kitsap WA 98315
Landholding Agency: Navy
Property Number: 77200640019
Status: Unutilized
Reasons: Secured Area

Bldgs. 6021, 6095
Naval Base
Silverdale Co: Kitsap WA 98315
Landholding Agency: Navy
Property Number: 77200640020
Status: Unutilized
Reasons: Secured Area

Bldgs. 6606, 6661
Naval Base
Silverdale Co: Kitsap WA 98315
Landholding Agency: Navy
Property Number: 77200640021
Status: Unutilized
Reasons: Secured Area

Bldgs. 726, 727, 734
Naval Undersea Warfare
Keyport Co: Kitsap WA 98345
Landholding Agency: Navy
Property Number: 77200640022
Status: Unutilized
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Unsuitable Properties

Building

Washington

Bldgs. 901, 911
Naval Undersea Warfare
Keyport Co: Kitsap WA 98345
Landholding Agency: Navy
Property Number: 77200640023
Status: Unutilized
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Bldgs. 925, 938
Naval Undersea Warfare
Keyport Co: Kitsap WA 98345
Landholding Agency: Navy
Property Number: 77200640024
Status: Unutilized
Reasons: Secured Area, Within 2000 ft. of flammable or explosive material

Bldg. 1020
Naval Undersea Warfare
Keyport Co: Kitsap WA 98345
Landholding Agency: Navy
Property Number: 77200640025
Status: Unutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Unsuitable Properties

Building

Wisconsin

Station Building
Coast Guard Station
Sheboygan WI
Landholding Agency: Coast Guard
Property Number: 88200610001
Status: Underutilized
Reasons: Secured Area

Bldg. OV1
USCG Station
Bayfield WI 54814
Landholding Agency: Coast Guard
Property Number: 88200620001
Status: Excess
Reasons: Secured Area

Wyoming

Caretakers Residence
Anchor Dam
Thermopolis WY
Landholding Agency: Interior
Property Number: 61200640009
Status: Excess
Reasons: Extensive deterioration

Storage Bldg.

Anchor Dam

Thermopolis WY
Landholding Agency: Interior
Property Number: 61200640010
Status: Excess
Reasons: Extensive deterioration

Unsuitable Properties

Land

Arizona

58 acres
VA Medical Center
500 Highway 89 North
Prescott Co: Yavapai AZ 86313
Landholding Agency: VA
Property Number: 97190630001
Status: Unutilized
Reasons: Floodway

20 acres
VA Medical Center
500 Highway 89 North
Prescott Co: Yavapai AZ 86313
Landholding Agency: VA
Property Number: 97190630002
Status: Underutilized
Reasons: Floodway

California

Trailer Space
Naval Base
San Diego CA
Landholding Agency: Navy
Property Number: 77200520013
Status: Unutilized
Reasons: Secured Area

Parcels 1, 2, 3, 4
Naval Base
Port Hueneme Co: Ventura CA 93043
Landholding Agency: Navy
Property Number: 77200630003
Status: Underutilized
Reasons: Secured Area

Unsuitable Properties

Land

California

Parcels 11, 12, 13, 14, 15
Naval Base
Port Hueneme Co: Ventura CA 93043
Landholding Agency: Navy
Property Number: 77200630004
Status: Underutilized
Reasons: Secured Area

Colorado

0.21 acre
Section 20
Bayfield Co: La Plata CO 81122
Landholding Agency: Interior
Property Number: 61200640001
Status: Excess
Reasons: Other—not accessible

Florida

Wildlife Sanctuary, VAMC
10,000 Bay Pines Blvd.
Bay Pines Co: Pinellas FL 33504
Landholding Agency: VA
Property Number: 97199230004
Status: Underutilized
Reasons: Other—Inaccessible

Unsuitable Properties

Land

Minnesota

3.85 acres (Area #2)
VA Medical Center
4801 8th Street
St. Cloud Co: Stearns MN 56303
Landholding Agency: VA
Property Number: 97199740004
Status: Unutilized
Reasons: Other—landlocked

7.48 acres (Area #1)
VA Medical Center
4801 8th Street
St. Cloud Co: Stearns MN 56303
Landholding Agency: VA
Property Number: 97199740005
Status: Underutilized
Reasons: Secured Area

Montana

Sewage Lagoons/40 acres
VA Center
Ft. Harrison MT 59639
Landholding Agency: VA
Property Number: 97200340007
Status: Excess
Reasons: Floodway

Unsuitable Properties

Land

New York

Tract 1
VA Medical Center
Bath Co: Steuben NY 14810
Landholding Agency: VA
Property Number: 97199010011
Status: Unutilized
Directions: Exit 38 off New York State Route 17.
Reasons: Secured Area

Tract 2
VA Medical Center
Bath Co: Steuben NY 14810
Landholding Agency: VA
Property Number: 97199010012
Status: Underutilized
Directions: Exit 38 off New York State Route 17.
Reasons: Secured Area

Tract 3
VA Medical Center
Bath Co: Steuben NY 14810
Landholding Agency: VA
Property Number: 97199010013
Status: Underutilized
Directions: Exit 38 off New York State Route 17.
Reasons: Secured Area

Unsuitable Properties

Land

New York

Tract 4
VA Medical Center
Bath Co: Steuben NY 14810
Landholding Agency: VA
Property Number: 97199010014
Status: Unutilized
Directions: Exit 38 off New York State Route 17.
Reasons: Secured Area

Washington

405 sq. ft./Land
Naval Base Kitsap
Bangor WA
Landholding Agency: Navy
Property Number: 77200520060
Status: Unutilized
Reasons: Secured Area

230 sq. ft. land
Naval Magazine
Indian Island WA
Landholding Agency: Navy
Property Number: 77200620037
Status: Underutilized
Reasons: Within 2000 ft. of flammable or explosive material, Secured Area

Summary for Unsuitable Properties
Total number of Properties 1416

[FR Doc. E7–3525 Filed 3–1–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

[AZ–100–07–1610–DQ–241E]

Notice of Availability of a Final Environmental Impact Statement (FEIS) for the Proposed Resource Management Plans for the Arizona Strip Field Office, the Vermilion Cliffs National Monument, and the BLM Portion of the Grand Canyon-Parashant National Monument and a Proposed General Management Plan for the NPS Portion of the Grand Canyon-Parashant National Monument (Proposed Plan/FEIS)

AGENCY: Bureau of Land Management, Interior. National Park Service, Interior.

ACTION: Notice of availability.

FOR FURTHER INFORMATION CONTACT: Planning Team, Arizona Strip District BLM, 345 East Riverside Drive, St. George, UT 84790

SUPPLEMENTARY INFORMATION: The Grand Canyon-Parashant National Monument (Parashant) was established by Presidential Proclamation on January 11, 2000. The Parashant is cooperatively managed by the Bureau of Land Management (BLM) and the National Park Service (NPS). It encompasses 1,048,325 acres in Mohave County, Arizona, of which 808,747 acres are administered by the BLM and 208,453 acres are administered by the NPS. The Vermilion Cliffs National Monument (Vermilion) was established by Presidential Proclamation on November 9, 2000. The Vermilion covers 293,689 acres in Coconino County, Arizona, and is administered solely by the BLM. The remainder of the BLM-administered lands on the Arizona Strip encompasses approximately 1,981,000 acres located in Mohave and Coconino Counties, Arizona, north of the Grand Canyon, and is almost entirely between the two National Monuments.

This Proposed Plan/FEIS has been developed in accordance with the National Environmental Policy Act of 1969 (NEPA), and the Federal Land Policy and Management Act of 1976, and the National Park Service (NPS) Organic Act of 1915, as amended and supplemented. It was prepared by the BLM and NPS in consultation with cooperating agencies, taking into account public comments received throughout the planning process. Four action alternatives, as well as the No-Action alternative, were developed and considered for the Proposed Plan/FEIS. Both the BLM and NPS selected the preferred alternative (as modified) from the Draft Plan/Draft Environmental Impact Statement (DEIS) as the

Proposed Plan. The Proposed Plan/FEIS was developed with broad public participation through a five-year collaborative planning process. Issues identified during public scoping addressed in the Proposed Plan/FEIS include: (1) Access and Transportation—How will transportation and access be managed? (2) Wilderness—How will wilderness characteristics be protected? (3) Protection of Resources—How will National Monument objects, cultural and natural resources be protected? (4) Livestock Grazing—How will livestock grazing be addressed, particularly on the National Monuments? (5) Recreation—How will people's recreational activities be managed?

The Proposed Plan for BLM-administered lands identifies 13 potential Areas of Critical Environmental Concern (ACEC). Nine of these ACECs are carried forward from the Arizona Strip RMP (1992); four are new ACECs. The following types of resource use limitations would generally apply to these ACECs: (1) Motorized travel would be permitted only on existing (temporary) or designated open routes; (2) closed to vegetative product sales in all ACECs and collection of vegetative materials in ACECs designated for the protection of special status plants; (3) seasonal limitations on livestock grazing in ACECs designated for protection of special status animals; and (4) new mineral material disposal sites would not be authorized.

The Proposed Plan implements NPS management policies and ratifies the current management direction for the NPS lands of the Parashant. It provides for protection, inventory, monitoring, and restoration of natural and cultural resources, as well as primitive, dispersed recreational experiences characteristic of this very remote National Monument.

Copies of the Proposed Plan/FEIS have been sent to affected Federal, State, and local government agencies and to interested parties. Copies are available for public inspection at 345 East Riverside Drive, St. George, Utah 84790. Interested persons may also review the Proposed Plan/FEIS on the Internet at *http://www.blm.gov/az/LUP/strip/reports.htm.* Comments on the Draft Plan/DEIS received from the public and internal BLM and NPS and cooperating agency review comments were incorporated into the proposed plan. Public comments resulted in clarifying text or in minor corrections, but did not significantly change the Proposed Plan decisions.

BLM's planning process provides an opportunity for administrative review of the State Director's proposed decision by filing a protest on land use plan decisions with the BLM Director; the NPS does not have a formal process for protests. In accordance with 43 CFR 1610.5–2, any person who participated in the planning process and believes they will be adversely affected may protest the proposed resource management plans. The protest may raise only those issues which were submitted for the record during the planning process. All protests must be in writing and must be sent to the following address via regular mail or other delivery service. Protests must be postmarked no later than 30 days after the Environmental Protection Agency's (EPA) Notice of Availability is published in the **Federal Register**. The exact date will be published in local media and on our Web site, *http://www.blm.gov/nhp/spotlight/state_info/planning.htm.* Extensions will not be granted.

Protest letters on BLM land use planning decisions must be sent to:

If via U.S. Postal Service: Director, Bureau of Land Management, Attention: Brenda Williams (WO–210), P.O. Box 66538, Washington, DC 20035.

If via Overnight Express Mail: Director, Bureau of Land Management, Attention: Brenda Williams (WO–210), 1620 L Street NW., Suite 1075, Washington, DC 20236.

E-mail and faxed protests will not be accepted as valid, unless the protesting party also provides the original letter by regular mail or other delivery service postmarked by the close of the protest period. Under these conditions, the BLM will consider the e-mail or faxed protest as an advance copy and it will receive full consideration. If you wish to provide us with such advance notification, please direct faxed protests to the attention of Brenda Hudgens-Williams, Protest Coordinator, at 202–452–5112, and e-mails to *bhudgens@blm.gov.*

Before including your address, phone number, email address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so. All submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety.

At a minimum, protest letters must include:

1. The name, mailing address, telephone number, and interest of the person filing the protest.

2. A statement of the issue(s) being protested.

3. A statement of the part(s) of the proposed plans being protested. To the extent possible, this should be done by reference to specific pages, paragraphs, sections, tables, or maps included in the document.

4. A copy of all documents addressing the issue(s) that you submitted during the planning process or a reference to the date the issue(s) were discussed for the record.

5. A concise statement explaining why you believe the proposed plans are wrong. All relevant facts need to be included in this statement of reasons. The facts, reasons, and documentation are important to help us understand your protest, and that you are not merely expressing disagreement with the proposed decision.

The BLM Director will promptly render a decision on the protests. The decision will be in writing and will set forth the reasons for the decision. The protest decision will be sent to the protesting party by certified mail, return receipt requested. The decision of the Director will be the final decision of the Department of the Interior. The State Director will sign the Records of Decision (RODs) for the three BLM resource management plans, once the protests are resolved.

The Proposed Plan/FEIS also contains NPS decisions regarding management of park resources and visitor uses. Unlike the BLM, there is no protest or administrative appeals process related to NPS plans. The NPS encourages you to write the Superintendent, Grand Canyon-Parashant National Monument, to identify specific omissions of significance. Letters must be postmarked no later than 30 days after the EPA's Notice of Availability is published in the **Federal Register**. Comments submitted previously were considered and addressed in this Proposed Plan/FEIS. The NPS will prepare a separate ROD for the NPS portion of this Monument. The Grand Canyon-Parashant National Monument Proposed Plan is the NPS Environmentally Preferred Alternative. The BLM will identify the Environmentally Preferred Alternative in its RODs.

Letters to the Superintendent should include:

1. Your name, mailing address, and telephone number.

2. A statement of the issue(s) of concern.

3. Specific identification of the part(s) of the proposed plan that are of concern. To the extent possible, this should be done by reference to specific pages, paragraphs, sections, tables, or maps included in the document.

4. A copy of any documents addressing the issue(s) that you may have submitted during the planning process or a reference to the date the issue(s) were discussed for the record.

5. A concise statement explaining why you believe the proposed plan is in error. All relevant facts need to be included in this statement of reasons. The facts, reasons, and documentation are important to help us understand your specific concerns, rather than an expression of general disagreement with the proposed decision.

Letters to the Superintendent should be addressed as follows: Superintendent, National Park Service, Grand Canyon-Parashant National Monument, 345 East Riverside Drive, St. George, UT 84790.

A limited number of individual copies of the FEIS may be obtained from the Arizona Strip BLM or National Park Service, at 345 East Riverside Drive, St. George, UT 84790.

Willie R. Taylor,

Director, Office of Environmental, Policy and Compliance.

[FR Doc. 07–940 Filed 3–1–07; 8:45 am]

BILLING CODE 4310–84–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Endangered Species Recovery Permit Applications

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of permit applications; request for comment.

SUMMARY: We invite the public to comment on the following applications to conduct certain activities with endangered species.

DATES: Comments on these permit applications must be received on or before April 2, 2007.

ADDRESSES: Written data or comments should be submitted to the U.S. Fish and Wildlife Service, Chief, Endangered Species, Ecological Services, 911 NE. 11th Avenue, Portland, Oregon 97232–4181 (telephone: 503–231–2063; fax: 503–231–6243). Please refer to the respective permit number for each application when submitting comments. All comments received, including names and addresses, will become part of the official administrative record and may be made available to the public.

FOR FURTHER INFORMATION CONTACT: Linda Belluomini, Fish and Wildlife Biologist, at the above Portland address (telephone: 503–231–2063; fax: 503–231–6243).

SUPPLEMENTARY INFORMATION: The following applicants have applied for scientific research permits to conduct certain activities with endangered species pursuant to section 10(a)(1)(A) of the Endangered Species Act (16 U.S.C. 1531 *et seq.*). The U.S. Fish and Wildlife Service (we) solicits review and comment from local, State, and Federal agencies, and the public on the following permit requests.

Permit No. TE–140683

Applicant: Susan I. Jarvi, Hilo, Hawaii.

The applicant requests a permit to take (inoculate and collect biological samples) captive nene (*Branta sandvicensis*) in conjunction with vaccination research in Kona, Hilo, and Waikaloa, Hawaii for the purpose of enhancing its survival.

Permit No. TE–145562

Applicant: U.S. Geological Survey, Biological Resources, Moss Landing, California.

The applicant requests a permit to take (capture, locate and monitor nests, band, tag, transmitter, collect biological samples) the Hawaiian petrel (*Pterodroma sandwichensis*) in conjunction with scientific research throughout the species range in the State of Hawaii for the purpose of enhancing its survival.

Permit No. 145851

Applicant: Andrew Engilis, Davis, California.

The applicant requests a permit to take (capture, hold, weigh, measure, band, and collect biological samples) the Hawaiian duck (*Anas wyvilliana,* and take (capture and release) the Hawaiian moorhen (*Gallinula chloropus sandvicensis,* and the Hawaiian coot (*Fulica alai*) in conjunction with scientific research on the islands of Oahu, Kauai, and Hawaii in the State of Hawaii for the purpose of enhancing their survival.

We solicit public review and comment on each of these recovery permit applications. Our practice is to make comments, including names and home addresses of respondents, available for public review during regular business hours. Individual respondents may request that we withhold their home addresses from the record, which we will honor to the extent allowable by law. There also may be circumstances in which we would withhold from the record a respondent's identity, as allowable by law. If you wish us to withhold your name and/or address, you must state this prominently at the beginning of your comment, but you should be aware that we may be required to disclose your name and address pursuant to the Freedom of Information Act. However, we will not consider anonymous comments. We will make all submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, available for public inspection in their entirety. Comments and materials received will be available for public inspection, by appointment, during normal business hours at the above address.

Dated: February 7, 2007.

David J. Wesley,

Acting Regional Director, Region 1, U.S. Fish and Wildlife Service.

[FR Doc. E7–3663 Filed 3–1–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AZ–420–06–1610–DP–085A]

Notice of Availability of the Ironwood Forest National Monument Draft Resource Management Plan and Draft Environmental Impact Statement (DRMP/DEIS), Arizona

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969 (NEPA, 42 U.S.C. 4321 *et seq.*) and the Federal Land Policy and Management Act of 1976 (FLPMA, 43 U.S.C. 1701 *et seq.*), the Bureau of Land Management (BLM) has prepared a Draft Resource Management Plan and Draft Environmental Impact Statement (DRMP/DEIS) for the Ironwood Forest National Monument and by this notice is announcing the opening of the comment period.

DATES: To assure that they will be considered, BLM must receive written comments on the DRMP/DEIS within 90 days following the date the Environmental Protection Agency publishes its Notice of Availability in

the **Federal Register**. Public meetings and other public-involvement activities will be announced at least 15 days in advance through local media and via the Internet at *http://www.blm.gov/az/news.htm.*

ADDRESSES: Written comments may be mailed to Mark Lambert, Planning and Environmental Coordinator, Ironwood Forest National Monument, Tucson Field Office, 12661 East Broadway Boulevard, Tucson, Arizona 85748–7208. You may also hand-deliver comments to the above listed address. Electronic comments will be accepted and should be sent to: *AZ_IFNM_RMP@blm.gov*. Oral comments will also be accepted and recorded at public meetings held during the 90-day public review and comment period.

FOR FURTHER INFORMATION CONTACT: Mark Lambert, Planning and Environmental Coordinator, Bureau of Land Management, Tucson Field Office, 12661 East Broadway Boulevard, Tucson, Arizona 85748–7208, Telephone 520–258–7200.

SUPPLEMENTARY INFORMATION: The Ironwood Forest National Monument, established by Presidential Proclamation on June 9, 2000, encompasses approximately 128,686 acres of Federal land administered by the BLM. The DRMP/DEIS affects only Federal lands and Federal interests located within the established boundary of the monument. The BLM's Tucson Field Office has the responsibility of planning for and management of Federal lands within the monument. Issues identified as part of the planning process and addressed in the DRMP/DEIS include air resources, biological resources, cultural resources, fire management, grazing management, hazardous materials, lands and realty, mineral and energy resources, Native American issues, recreation, social and economic conditions, soils, wilderness characteristics, transportation and access, visual resources, and water resources. The DRMP/DEIS includes strategies for protecting and preserving the biological, cultural, recreational, geological, educational, scientific, and scenic values for which the monument was established. Four alternatives have been developed in response to the issues. The ''no action'' alternative represents current management of the Ironwood Forest National Monument. Three additional ''action'' alternatives present reasonable, yet varying, management scenarios. The alternatives range from emphasizing maintenance of the naturalness of Ironwood Forest National Monument (by restricting some human uses) to emphasizing continued human uses, while still protecting the objects and resources for which the monument was established. The no-action alternative proposes the continued designation of the Waterman Mountains Area of Critical Environmental Concern (ACEC). This ACEC is approximately 3,342 acres and was designated to protect the endangered Nichol Turk's head cactus, provide optimum habitat for naturally occurring populations of Nichol Turk's head cactus, and assist in its recovery. The following resource-use limitation applies to this ACEC: Prohibit land use authorizations except along existing roads and trails. The action alternatives do not propose designation of this ACEC. For detailed information, refer to Chapter 2 of the DRMP/DEIS, Special Area Designations section.

The range of alternatives in the DRMP/DEIS evaluates planning decisions brought forward from current BLM planning documents, including the Phoenix Resource Management Plan (1989), Arizona Standards for Rangeland Health and Guidelines for Grazing Administration (1987), and the Arizona Statewide Land Use Plan Amendment for Fire, Fuels, and Air Quality Management (2003). A Proposed Resource Management Plan and Final Environmental Impact Statement, as well as a Record of Decision will be prepared by the BLM for the Ironwood Forest National Monument Resource Management Plan in accordance with planning regulations at 43 CFR part 1610 and NEPA at 40 CFR part 1502.

Public comments, including names and street addresses of respondents, will be available for public review at: Bureau of Land Management, Tucson Field Office, 12661 East Broadway Boulevard Tucson, Arizona 85748–7208, during regular business hours (8 a.m. to 4 p.m.), Monday through Friday, except holidays. Individual respondents may request confidentiality. If you wish to withhold your name and/or street address from public review or from disclosure under the Freedom of Information Act (FOIA), you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be made available for public inspection in their entirety.

Copies of the Ironwood Forest National Monument DRMP/DEIS are available for review via the Internet at *http://www.blm.gov/az/env_docs/library/rmps/rmps.htm*. Electronic (CD–ROM) and paper copies are available for review at the BLM, Tucson Field Office. Electronic (on CD–ROM) and paper copies also may be obtained by contacting the BLM at the address and phone number provided above.

Dated: October 25, 2006.

Michael A. Taylor,

Acting State Director.

Editorial Note: This document was received at the Office of the Federal Register on February 26, 2007.

[FR Doc. E7–3626 Filed 3–1–07; 8:45 am]

BILLING CODE 4310–32–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Notice of Availability of Eastern San Diego County Draft Resource Management Plan and Draft Environmental Impact Statement

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969 and the Federal Land Policy and Management Act of 1976, the Bureau of Land Management (BLM) has prepared a Draft Resource Management Plan/Environmental Impact Statement (RMP/EIS) for the El Centro Field Office. The Draft RMP/EIS addresses public lands managed by the El Centro Field Office in the eastern portion of San Diego County, California, and by this notice is announcing the opening of the comment period.

DATES: To assure that they will be considered, BLM must receive written comments on the Draft RMP/EIS within 90 days following the date the Environmental Protection Agency publishes the Notice of Availability in the **Federal Register**. Future meetings or hearings and any other public involvement activities will be announced at least 15 days in advance through public notices, media news releases, and/or mailings.

ADDRESSES: You may submit comments at the public meetings or by any of the following methods:

- *Web Site: http://www.ca.blm.gov/elcentro.*
- *Fax:* (760) 337–4490.
- *Mail:* 1661 So. 4th St., El Centro, California 92243.
- *E-mail: caesdrmp@.ca.blm.gov.*

CD and paper copies of the Eastern San Diego County Draft RMP/EIS are available at the El Centro Field Office at

the above address and at the California BLM State Office, 2800 Cottage Way, Sacramento, California 95825.

FOR FURTHER INFORMATION CONTACT: Thomas Zale, (760) 337–4420.

SUPPLEMENTARY INFORMATION: The Eastern San Diego County Planning Unit is comprised of 98,902 acres of public land, spanning a portion of the eastern escarpment of Southern California's Peninsular Ranges. The Eastern San Diego County RMP, when completed, will provide management guidance for use and protection of the resources managed by the El Centro Field Office in this area. The Draft RMP/EIS has been developed through a collaborative planning process and considers five alternatives. The primary issues addressed include: Conflicts between motorized, mechanized, and non-motorized/non-mechanized recreationists; protection of sensitive natural and cultural resources from impacts due to recreational use, livestock grazing, and other land uses; guidance for renewable energy development; and addressing other planning issues raised during the scoping process.

The Draft RMP/EIS also includes consideration of the designation of Areas of Critical Environmental Concern (ACECs). The preferred alternative includes the following ACECs: In-Ko-Pah ACEC—23,020 acres (currently 22,186 acres); Table Mountain ACEC—4,684 acres (currently 4,293 acres). Use of public lands within these ACECs would vary, depending on the resources and/or values identified (see Chapter 2 of the Draft RMP/EIS), but would likely include limitations on OHV use, livestock grazing, and development projects.

Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. Such requests will be honored to the extent allowed by law. All submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety.

Editorial Note: This document was received at the Office of the Federal Register on February 26, 2007.

Dated: September 6, 2006.

Vicki L. Wood,

El Centro Field Office Manager.

[FR Doc. E7–3614 Filed 3–1–07; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CA–169–07–1610–DO]

Revised Notice of Intent To Prepare a Resource Management Plan and Associated Environmental Impact Statement for the Carrizo Plain National Monument, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Intent.

SUMMARY: This notice is a revision of the April 24, 2002 Notice of Intent (**Federal Register** Volume 67, Number 79, pages 20152–20153). In compliance with the National Environmental Policy Act of 1969 (NEPA), the Federal Land Policy Management Act of 1976 (FLPMA, and the Code of Federal Regulations (40 CFR 1501.7, 43 CFR 1610.2), notice is hereby given that the Bureau of Land Management (BLM) intends to initiate a new scoping process for a Resource Management Plan and Environmental Impact Statement (RMP/EIS). Previously, the BLM announced that an Environmental Assessment would be prepared in connection with the RMP for the Carrizo Plain National Monument. By this notice, the BLM is announcing public scoping meetings.

DATES: Specific dates and locations of public meetings will be announced at least 15 days in advance through local news media and on BLM's Web site, *http://www.ca.blm.gov.* We will provide additional formal opportunities for public participation upon publication of the Draft RMP/EIS, expected to be ready for public review and comment sometime in 2007.

ADDRESSES: Written scoping comments should be sent to: Monument Manager, Carrizo Plain National Monument, Bakersfield Field Office, 3801 Pegasus Drive, Bakersfield, Calif. 93308. Scoping comments previously submitted following publication of the 2002 Notice of Intent are still valid and will be considered together with comments received pursuant to this revised notice. Commentors do not need to resubmit comments but may provide additional comments or clarifications of those previously made.

FOR FURTHER INFORMATION CONTACT: Monument Manager, Carrizo Plain National Monument, Bakersfield Field Office, 3801 Pegasus Drive, Bakersfield, Calif. 93308 or telephone (661) 391–6000.

SUPPLEMENTARY INFORMATION: With the recent appointment of the new Carrizo Plain National Monument Advisory Committee, the BLM is resuming work with the public on developing a draft RMP to guide future management of the Monument.

BLM has decided to prepare an EIS to support the plan, based on public requests and BLM's interest in expanding public involvement in the planning process. The BLM will use an interdisciplinary approach to develop the RMP in order to consider the variety of resource issues and concerns identified during scoping.

In cooperation with the Monument Advisory Committee, the BLM and its Monument managing partners, The Nature Conservancy and the California Department of Fish and Game, will be conducting additional public scoping meetings to gather input on issues to be addressed in the draft RMP and EIS. To be most helpful, you should submit formal scoping comments within 30 days after the last public meeting. The minutes and list of attendees for each scoping meeting will be available to the public and open for 30 days after the meeting to any participant who wishes to clarify the views he or she expressed. Individual respondents may request confidentiality. If you wish to withhold your name and/or address from public review or disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comment. The BLM will honor such requests to the extent allowed by law. All submissions from organizations or businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, are available for public inspection in their entirety.

The Carrizo Plain, the largest undeveloped remnant of the once vast San Joaquin Valley ecosystem, was designated a national monument in 2001 in recognition of its special resource values, including threatened and endangered species such as the San Joaquin kit fox, giant kangaroo rat, and blunt-nosed leopard lizard. It also contains nationally significant geological features, such as one of the best exposed examples of the 10-million year old San Andreas Fault, as well as one of the most significant cultural sites in California, at Painted Rock. In the spring, the Plain exhibits a lavish wildflower display of goldfields, purple

owls, lupine, and the rare California jewel flower.

Dated: November 27, 2006.

Ron Huntsinger,

Field Manager, Bakersfield Field Office.

Editorial Note: This document was received at the Office of the Federal Register on February 26, 2007.

[FR Doc. E7–3640 Filed 3–1–07; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–060–1990]

Notice of Intent To Prepare an Environmental Impact Statement To Analyze the Proposed Mount Hope Project Plan of Operations (NVN–082096) for the Mount Hope Molybdenum Mine

AGENCY: Bureau of Land Management.

ACTION: Notice of Intent.

SUMMARY: Pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969, 40 Code of Federal Regulations (CFR) subparts 1500–1508, and 43 CFR subpart 3809, notice is hereby given that the Bureau of Land Management (BLM), Battle Mountain Field Office will be preparing an Environmental Impact Statement (EIS) for the Mount Hope Project, a proposed open pit molybdenum mine, mill, and associated facilities, located on public and private lands in Eureka County, Nevada.

DATES: This notice initiates the public scoping period. Written comments on the scope of the EIS should be post-marked or hand delivered to the BLM Battle Mountain Field Office by 4:30 p.m., no later than 30 days after the date of publication in the **Federal Register** to ensure full consideration. The public will be notified of scoping meetings through the local news media at least 15 days prior to the first meeting. It is anticipated at least two scoping meetings (in Eureka and Battle Mountain, Nevada) will be held during this scoping period.

ADDRESSES: Written scoping comments should be sent to the BLM, Battle Mountain Field Office, 50 Bastian Road, Battle Mountain, Nevada 89820, ATTN: Angelica Ordaz. Written comments may also be faxed to Angelica Ordaz at (775) 635–4034, or submitted in writing to the BLM at one of the scoping meetings.

FOR FURTHER INFORMATION CONTACT: For further information and/or to have your name added to our mailing list, contact Angelica Ordaz, Planning and Environmental Coordinator at the BLM Battle Mountain Field Office, or by telephone at (775) 635–4000.

SUPPLEMENTARY INFORMATION: Idaho General Mines, Inc. (IGMI) has submitted a Plan of Operations (NVN–082096) to the BLM for the proposed mining project. Pursuant to Council on Environmental Quality (CEQ) regulations 1502.14(a) and 1502.14(d), in addition to the proposed action, the BLM will explore and objectively evaluate all reasonable alternatives, including the alternative of no action. The reasonable range of alternatives will include an analysis of the feasibility to back fill or partially back fill the mined out pits.

The Mount Hope Project Plan of Operations (Plan) will be presented to the public during scoping meetings, and informational letters on the Plan will be mailed to interested parties. The Plan will be available for public review at BLM's Battle Mountain Field Office. The BLM invites public comment on the scope of the analysis, including issues to consider and alternatives to the proposed action. The purpose of the public scoping process is to determine relevant issues that will influence the scope of the environmental analysis and EIS alternatives. BLM personnel will be present at the scoping meetings to explain the environmental review process, the mining regulations, and other requirements for processing the proposed Plan and the associated EIS. Representatives of IGMI will also be available to describe their proposal.

You may submit comments on issues in writing to the BLM at the public scoping meetings, or you may submit them to the BLM using one of the methods listed in the **ADDRESSES** section above. Before including your address, phone number, email address, or other personal identifying information in your comment, be advised that your entire comment—including your personal identifying information—may be made publicly available at any time. While you can ask us in your comment to withhold from public review your personal identifying information, we cannot guarantee that we will be able to do so. To be most helpful, formal scoping comments should be submitted within 30 days after the date of publication of this notice, although comments will be accepted throughout the development of the EIS. Comments received and a list of attendees for each scoping meeting will be made available for public inspection and open for 30 days following each meeting for any participant(s) who wish to clarify their views. Comments and documents pertinent to this proposal, including names and street addresses of respondents, may be examined at the Battle Mountain Field Office during regular business hours (7:30 a.m.–4:30 p.m. Monday through Friday, except holidays). Comments may be published as part of the EIS.

The proposed project would be located in north-central Nevada approximately 23 miles northwest of the town of Eureka in Townships 20, 21, 22, and 23 North, Ranges 51 and 52 East. The project would involve both public and private lands in Eureka County, Nevada. The project would involve the construction and development of the following primary components: An open pit for development of the Mount Hope ore body with an in-pit groundwater dewatering system; waste rock stockpiles; high grade and low grade ore stockpiles; ancillary facilities (maintenance shop, administrative facilities, and fuel and lubricant storage facilities); primary crusher; conveyor system; crushed ore stock pile area and ore reclaim system; a mill and flotation circuit including reagent storage, offices and a laboratory, warehouse, and laydown yards; north and south tailings storage facilities; a molybdenite concentrate roaster; water supply well(s) and associated rights-of-way for access roads, power lines, and pipelines; relocation of existing Falcon to Gonder 230-kV transmission line segments in the project area; installation of a 120-kV transmission line and substation; construction of a landfill, haul, secondary, access, and exploration roads; and ancillary facilities including growth media stockpiles, diversion ditches, and stormwater runoff controls.

The mine and milling facility would operate for approximately 53 years. During the first 12 years, the milling rate would be 44,100 tons per day and would increase to 55,100 tons per day for years 12 through 53. The roaster would convert molybdenum disulfide (MoS_2) to technical grade molybdenum oxide (MoO_3). Up to 100 tons of molybdenite concentrate per day would be processed through the roaster. Concurrent reclamation would be conducted during the 53-year operating period as mining in an area is completed. Site closure and final reclamation would be undertaken at the end of mining and milling.

An interdisciplinary approach will be used to develop the EIS, in order to consider the variety of resource issues and concerns identified. Potential significant direct, indirect, residual, and cumulative impacts from the proposed action will be analyzed in the EIS.

Significant issues to be addressed in the EIS include in-pit dewatering activities, Native American religious concerns, visual resources, and socioeconomics. Additional issues may be identified during the scoping process. Federal, State, and local agencies, as well as individuals or organizations that may be interested in or affected by the BLM's decision on this Plan of Operations are invited to participate in the scoping process and, if eligible, may request or be requested by the BLM to participate as a cooperating agency. The Nevada Department of Wildlife and Eureka County will participate as cooperating agencies for this project.

Dated: January 3, 2007.

Gene Seidlitz,

Associate Field Manager, Battle Mountain Field Office.

[FR Doc. E7–3643 Filed 3–1–07; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

DEPARTMENT OF AGRICULTURE

Forest Service

[NV–912–07–1220PA–006F]

Notice of Public Meeting: Recreation Subcommittee Meeting of the BLM Nevada Sierra Front-Northwestern Great Basin, Northeastern Great Basin and Mojave-Southern Great Basin Resource Advisory Councils (RACs)

AGENCIES: Bureau of Land Management, Interior and Forest Service, Agriculture.

ACTION: BLM Nevada RACs Recreation Subcommittee meeting (hereinafter referred to as ''Recreation Subcommittee.'')

SUMMARY: In accordance with the Federal Lands Recreation Enhancement Act of 2004 (FLREA), the Recreation Subcommittee will hold a meeting to establish guidelines for the newly formed Recreation Subcommittee, to discuss a proposal for establishing a fee at Bob Scott campground managed by the Forest Service and to discuss a proposal to raise fees at BLM campgrounds managed by the BLM Nevada Elko Field Office.

Date and Time: The Recreation Subcommittee will meet on Thursday, March 29, 2007, from 9 a.m. to 4:30 p.m. at the Bureau of Land Management, Nevada State Office. All meetings are open to the public. A general public comment period, where the public may submit oral or written comments to the Recreation Subcommittee will begin at approximately 11 a.m. unless otherwise listed in the final meeting agenda.

A final detailed agenda, with any additions/corrections to agenda topics, location, field trips and meeting times, will be sent to local and regional media sources at least 14 days before each meeting, and hard copies can also be mailed or sent via FAX. Individuals who need special assistance such as sign language interpretation or other reasonable accommodations, or who wish a hard copy of each agenda, should contact Barbara Keleher no later than 10 days prior to each meeting.

ADDRESSES: 1340 Financial Blvd., Reno, Nevada, *Phone:* (775) 861–6400.

FOR FURTHER INFORMATION CONTACT: Doran Sanchez, Chief, Office of Communications, telephone (775) 861–6586, or Barbara Keleher, Outdoor Recreation Planner, telephone (775) 861–6628, at the BLM Nevada State Office, 1340 Financial Blvd., Reno, Nevada.

SUPPLEMENTARY INFORMATION: The Federal Lands Recreation Enhancement Act (REA; Pub. L. 108–447), enacted on December 8, 2004, directs the Secretaries of the Interior or Agriculture, or both, to establish Recreation Resource Advisory Committees to provide advice and recommendations on recreation fees and fee areas in each State or region for Federal recreational lands and waters managed by the Bureau of Land Management or Forest Service. The law allows the agencies to use existing RACs or to establish new Recreation RACs. For the state of Nevada, a recreation subcommittee, of the three existing RACs, has been designated to perform Recreation Resource Advisory Committees responsibilities pertaining to both BLM and Forest Service managed Federal lands and waters per the national interagency agreement between the Forest Service and BLM. This subcommittee will recommend new amenity fees and fee change proposals to the respective RAC(s) for that geographic region.

Dated: February 26, 2007.

Ron Wenker,

Bureau of Land Management, Nevada State Director.

Dated: February 26, 2007.

Ed Monnig,

Forest Service, Supervisor, Humboldt-Toiyabe National Forest.

[FR Doc. 07–945 Filed 3–1–07; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–910–06–7122–PN–C002]

Notice of Final Amended Supplementary Rules for Public Land Administered by the Bureau of Land Management in Colorado Relating to the Unlawful Use of Alcohol by Underage Persons, Driving Under the Influence of Alcohol and/or Drugs, Firearms and Drug Paraphernalia Use and Possession on Public Land

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice; Final amended supplementary rules for public land within the State of Colorado.

SUMMARY: The Colorado State Office of the Bureau of Land Management (BLM) is amending the supplementary rules published in 2003 (January 14, 203, 68 FR 1858) for the public lands within the State of Colorado. The supplementary rules relate to the illegal use of alcohol and drugs on the public lands. The amended supplementary rules are necessary to protect natural resources and the health and safety of public land users. These amended supplementary rules will allow BLM personnel to continue enforcement of existing public land regulations pertaining to alcohol and drug use in a manner consistent with current state laws as contained in the Colorado Revised Statutes.

DATES: These rules are effective March 2, 2007.

FOR FURTHER INFORMATION CONTACT: Dorothy Bensusan, Bureau of Land Management, 2850 Youngfield Street, Lakewood, Colorado 80215, telephone (303) 239–3893. Persons who use a telecommunications device for the deaf (TDD) may contact this individual by calling the Federal Information Relay Service (FIRS) at (800) 877–8339, 24 hours a day, 7 days a week.

SUPPLEMENTARY INFORMATION:

I. Public Comment
II. Background
III. Procedural Matters

I. Public Comment

These supplementary rules were published as proposed in the **Federal Register** on October 11, 2006 (71 FR 59811), and were open for public comment for 60 days, ending December 11, 2006. No comments were received by the due date. Accordingly, these rules are being published as final.

II. Background

The BLM, Colorado, published final supplementary rules in 2003 that

prohibited certain activities related to drug and alcohol use on public lands in the state. Since that publication, state legislation has been passed that is more restrictive in several of these areas, and as a result the existing supplemental rules are no longer in concurrence with state law. These amended supplementary rules will correct this, and further promote consistency between the BLM and other agencies, including the Colorado Division of Wildlife, Colorado State Parks, Colorado State Patrol, and various County Sheriff Offices where working relationships and partnerships in public land management exist.

In keeping with the BLM's performance goal of reducing threats to public health, safety, and property, these amended supplementary rules are necessary to protect the natural resources and allow for safe public recreation and public health; to reduce the potential for damage to the environment; and to enhance the safety of visitors and neighboring residents.

Alcohol-related offenses are a growing problem on the public lands. Unlawful consumption of alcohol and drugs has the potential to pose a significant health and safety hazard to all users. Operation of motor vehicles while under the influence of alcohol or drugs can result in the destruction of natural resources and property, and/or serious physical injury or death.

Of special concern is the use of firearms by persons under the influence of alcohol or drugs, or in violation of state law. Vandalism to public land resources as a result of firearm use, and the clear risks to public safety, demonstrate the need for greater regulation of these activities. Possession of drug paraphernalia has frequently been linked to other illegal use of controlled substances, including cultivation, manufacture or possession for distribution. The BLM, in keeping with the National Drug Control policy, intends to continue efforts to reduce illegal use of controlled substances on public lands. These amended supplementary rules will provide an avenue for consistent application and enforcement of alcohol and drug regulations on public lands, further enhancing public safety by all public land users.

III. Procedural Information

Executive Order 12866, Regulatory Planning and Review

These amended supplementary rules are not a significant regulatory action and are not subject to review by the Office of Management and Budget under Executive Order 12866. These amended rules will not have an effect of $100 million or more on the economy. They are directed at preventing unlawful personal behavior on public lands, for purposes of protecting public health and safety. They 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. These final supplementary rules will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. The amended supplementary rules do not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the right or obligations of their recipients; nor do they raise novel legal or policy issues. The amended supplementary rules merely revise the existing rules to be consistent with the Colorado Revised Statutes, as applied to public land management.

National Environmental Policy Act

BLM has prepared an environmental assessment (EA) and a Finding of No Significant Impact (FONSI) finding that the final supplementary rules will not constitute a major Federal action significantly affecting the quality of the human environment under section 102(2)(C) of the Environmental Protection Act of 1969 (NEPA), 42 U.S.C. 4332(2)(C). The final supplementary rules will enable BLM law enforcement personnel to cite persons for unlawful possession/use of alcohol or drugs on public lands for the purpose of protecting public health and safety. BLM has placed the EA and the FONSI on file in the BLM Administration Record at the address specified in the **ADDRESSES** section.

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act of 1980, as amended, 5 U.S.C. 601–612, (RFA) to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA requires a regulatory flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial, on a substantial number of small entities. The final supplementary rules do not pertain specifically to commercial or governmental entities of any size, but contain rules to protect the health and safety of individuals, property, and resources on the public lands. Therefore, BLM has determined under the RFA that these final supplementary rules will not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

These supplementary rules do not constitute a ''major rule'' as defined at 5 U.S.C. 804(2). Again, the supplementary rules pertain only to individuals who may wish to use alcohol or drugs on the public lands. In this respect, the regulation of such use is necessary to protect the public lands and facilities and those, including small business concessionaires and outfitters, who use them. The supplementary rules have no effect on business, commercial, or industrial use of the public lands.

Unfunded Mandates Reform Act

These final supplementary rules do not impose an unfunded mandate on state, local, or tribal governments or the private sector of more than $100 million per year; nor do these interim final supplementary rules have a significant or unique effect on state, local, or tribal governments or the private sector. The supplementary rules do not require anything of state, local, or tribal governments. Therefore, BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*).

Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights (Takings)

The final supplementary rules do not represent a government action capable of interfering with constitutionally protected property rights. The supplementary rules do not address property rights in any form, and do not cause the impairment of anyone's property rights. Therefore, the BLM has determined that the supplementary rules would not cause a taking of private property or require further discussion of takings implications under this Executive Order.

Executive Order 13132, Federalism

The final supplementary rules 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. The supplementary rules apply in only one state, Colorado, and do not address jurisdictional issues involving the Colorado State government. Therefore, in accordance with Executive Order 13132, the BLM has determined that these final supplementary rules do not

have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the Colorado State Office of the BLM has determined that these final supplementary rules would not unduly burden the judicial system and that they meet the requirements of sections 3(a) and 3(b)(2) of the Order.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

In accordance with E.O. 13175, we have found that these final supplementary rules do not include policies that have tribal implications. Since the supplementary rules do not change BLM policy and do not involve Indian reservation lands or resources, we have determined that the government-to-government relationships would remain unaffected. The supplementary rules only prohibit the use of alcoholic beverages and illegal drugs on public lands.

Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

These final supplementary rules do not comprise a significant energy action. The rules will not have an adverse effect on energy supplies, production, or consumption. They only address use of alcoholic beverages and drugs on public lands, and have no conceivable connection with energy policy.

Paperwork Reduction Act

These final supplementary rules do not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501 *et seq.*

Author

The principal author of these supplementary rules is State Staff Ranger Dorothy Bensusan, Bureau of Land Management.

For the reasons stated in the Preamble, and under the authority of 43 CFR 8365.1–6, the Colorado State Director, Bureau of Land Management, issues supplementary rules for public lands in Colorado, to read as follows:

Supplementary Rules on Public Lands in Colorado

A. You must not violate any state laws relating to the purchase, possession, use or consumption of alcohol.

B. You must not operate a motor vehicle while under influence of alcohol, in violation of any state law.

C. You must not possess any drug paraphernalia, in violation of any state law.

D. You must not possess or discharge a firearm or explosive device in violation of any state Law.

E. Penalties. On public lands under section 303(a) of the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1733(a) and 43 CFR 8360.0–7), any person who violates any of these supplementary rules may be tried before a United States Magistrate and fined no more than $1,000 or imprisoned for no more than 12 months, or both. Such violations may also be subject to enhanced fines provided for by 18 U.S.C. 3571.

Dated: February 26, 2007.

Sally Wisely,

Colorado State Director, Bureau of Land Management.

[FR Doc. 07–939 Filed 3–1–07; 8:45 am]

BILLING CODE 4310–JB–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID310–06–1640–HQ]

Notice of Emergency Closure/ Restriction Order

AGENCY: Bureau of Land Management, Department of the Interior.

ACTION: Notice of Emergency Closure/ Restriction Order.

SUMMARY: Pursuant to 43 CFR 8364.1, the Bureau of Land Management (BLM) Upper Snake Field Office (USFO) will temporarily close parts of four sections of public lands to car and truck traffic. This closure will cut off of certain roads to target shooting. BLM is taking this action because of uncontrolled, open, illegal dumping by members of the public of unwanted and waste items. Any person who fails to comply with a closure or restriction order issued under this authority may be subject to the penalties provided in 43 CFR 8360.0–7. The closure is effective immediately upon publication of this notice in the **Federal Register**.

SUPPLEMENTARY INFORMATION: Annually, the BLM buries or removes 20 to 50 dumped dead animals and about 10 tons of solid waste from the public lands near North Menan Butte, a National Natural Landmark. The waste originates from the public, who bring and leave propane tanks, hot water heaters, computers, televisions, washers, dryers, car batteries, paint cans and other waste objects. Target shooters use this waste to shoot at and leave shell casings littering the landscape. This area is now a health and safety hazard due to dumping, shooting, and the potential for disease transmission from uncovered dead animal carcasses. This waste has also attracted hazardous waste dumping in recent years.

BLM proposes to close the following sections:

Boise Meridian, Idaho

T. 6 N., R 38 E.,
Section 27 (all) in Madison County,
Sections 28 (parts) in Jefferson County, and
T. 5 N., R. 38 E.,
Sections 4 (all) and 5 (parts) in Jefferson County.

Signs will be placed on the highway and at the site explaining the road and target shooting closures. Fences and road barriers will be installed that will allow for continued access by ATVs, motorcycles, equestrian use, and foot traffic in the southern portion.

Exemptions: Persons who are exempt from this restriction include: Any federal, state or local officer or employee acting within the scope of their duties; members of any organized rescue or fire-fighting force in the performance of an official duty; any person holding written authorization from the BLM.

EFFECTIVE DATE: This temporary closure will be effective the date this notice is published in the **Federal Register** and will remain in effect for three years from the date of publication or until rescinded or modified by the authorized officer or designated Federal officer.

Additional Information: Additional information concerning the emergency closure is available by contacting Dan Kotansky at the BLM Upper Snake Field Office, 1405 Hollipark Drive, Idaho Falls, Idaho 83401, or by calling (208) 524–7500.

(Authority: 43 CFR 8364.1. Violators of this closure order are punishable by a fine not to exceed $1,000 and/or imprisonment not to exceed 12 months. 43 CFR 8360.0–7.)

Dated: January 11, 2007.

Wendy Reynolds,

Upper Snake Field Manager.

[FR Doc. E7–3641 Filed 3–1–07; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–057–1630-NU]

Shooting Closure on Certain Lands Managed by the Bureau of Land Management, Las Vegas Field Office

AGENCY: Bureau of Land Management, Interior.

ACTION: Establishment of a shooting closure on selected public lands in Nye County, Nevada with request for comment.

SUMMARY: The Field Manager of the Las Vegas Field Office is proposing to close selected public lands under its administration within Nye County, Nevada, to target shooting. The proposed closure is to ensure the safety of persons and property adjacent to these selected public lands. The rapid increase in population and growth of Pahrump, Nevada has created conflicts between new residential areas and traditional public lands users accustomed to target shooting on public lands around Pahrump. There have been incidents of damage to private property and indiscriminate shooting towards residential areas by public land users. Trash accumulation from items used as targets is also affecting the condition of the public lands. This action is being taken to help ensure public safety and prevent environmental degradation. This proposed closure does not apply to hunting under the laws and regulations of the State of Nevada.

DATES: We invite the public to submit written comments concerning the proposed shooting closure by April 2, 2007.

ADDRESSES: Mail or hand deliver all comments concerning the proposed shooting closure to the Bureau of Land Management, Las Vegas Field Office, 4701 North Torrey Pines, Las Vegas, Nevada 89130; or, you may access the Federal eRulemaking Portal: *http://www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: The Office of the Chief Ranger of Law Enforcement, Bureau of Land Management, Las Vegas Field Office, 4701 North Torrey Pines Drive, Las Vegas, Nevada 89130, telephone number (702) 515–5000.

SUPPLEMENTARY INFORMATION:

I. Public Comment Procedures

Written comments on the proposed shooting closure should be specific, confined to issues pertinent to the proposed closure, and should explain the reason for any recommended change. Where possible, comments should reference the specific section or paragraph of the supplementary rule that the comment is addressing. The BLM need not consider or include in the Administrative Record for the final shooting closure:

a. Comments that BLM receives after the close of the comment period (see **DATES**) unless they are postmarked or electronically dated before the deadline, or;

b. Comments delivered to an address other than those listed above (see **ADDRESSES**).

You may also access and comment on the proposed shooting closure at the Federal eRulemaking Portal by following the instructions at that site (see **ADDRESSES**).

Comments, including names, street addresses and other contact information of respondents, will be available for public review at the Las Vegas Field Office, 4701 N. Torrey Pines, Las Vegas, Nevada 89130, during regular business hours (7:30 a.m. to 4:30 p.m.), Monday through Friday, except Federal holidays. Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that your entire comment—including your personal identifying information—may be made available at any time. While you can ask us in your comments to withhold your personal information from public review, we cannot guarantee that we will be able to do so.

II. Background

The BLM plans to establish a shooting closure under the authority of 43 CFR 8364.1, which allows BLM Field Managers to establish closures for the protection of persons, property, and public lands and resources.

This provision allows the BLM to issue closures of less than national effect without codifying the rules in the Code of Federal Regulations.

III. Procedural Matters

Executive Order 12866, Regulatory Planning and Review

This proposed shooting closure is not a significant regulatory action and is not subject to review by the Office of Management and Budget under Executive Order 12866. This proposed shooting closure will not have an annual effect of $100 million or more on the economy. It is not intended to affect commercial activity, but contain rules of conduct for public use of certain public lands. 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 proposed shooting closure will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. This proposed shooting closure does not materially alter the budgetary effects of entitlements, grants, user fees, or loan programs or the right or obligations of their recipients; nor does it raise novel legal or policy issues. It merely imposes certain rules on recreational use on a limited portion of public lands in Southern Nevada in order to protect human health, and safety.

Clarity of the Proposed Shooting Closure

Executive Order 12866 requires each agency to write regulations that are simple and easy to understand. We invite your comments on how to make this proposed shooting closure easier to understand, including answers to questions such as the following:

a. Are the requirements in the proposed shooting closure clearly stated?

b. Does the proposed shooting closure contain technical language or jargon that interferes with its clarity?

c. Does the format of the proposed shooting closure (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?

d. Would the proposed shooting closure rules be easier to understand if they were divided into more (but shorter) sections?

e. Is the description of the proposed shooting closure in the **SUPPLEMENTARY INFORMATION** section of this preamble helpful in understanding the proposed shooting closure? How could this description be more helpful in making the proposed shooting closure easier to understand?

Please send any comments you have on the clarity of the proposed shooting closure to the address specified in the **ADRESSES** section.

National Environmental Policy Act

This proposed shooting closure itself does not constitute a major Federal action significantly affecting the quality of the human environment under section 102(2)(C) of the National Environmental Policy Act of 1969, 42 U.S.C. 4332(2)(C).

Regulatory Flexibility Act

Congress enacted the Regulatory Flexibility Act (RFA), 5 U.S.C. 601–612, to ensure that Government regulations do not unnecessarily or disproportionately burden small entities. The RFA required a regulatory

flexibility analysis if a rule would have a significant economic impact, either detrimental or beneficial on a substantial number of small entities. The proposed shooting closure does not pertain specifically to commercial or governmental entities of any size, but to public recreational use of specific lands. Therefore, the BLM has determined under the RFA that these interim supplementary rules would not have a significant economic impact on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act (SBREFA)

This proposed shooting closure does not constitute a ''major rule'' as defined by U.S.C. 804(2). The proposed shooting closure merely contains rules of conduct for recreational use of certain public lands. The proposed shooting closure has no effect on business, commercial, or industrial use of the public lands.

Unfunded Mandates Reform Act

The proposed shooting closure does not impose an unfunded mandate on state, local, or Tribal governments in the aggregate, or the private sector, of more than $100 million per year; nor does it have a significant or unique effect on small governments. The propsed shooting closure does not require anything of state, local, or Tribal governments. Therefore, the BLM is not required to prepare a statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1532 *et seq.*).

Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights (Takings)

The proposed shooting closure is not a government action capable of interfering with constitutionally protected property rights. The proposed shooting closure does not address property rights in any form, and does not cause the impairment of anybody's property rights. Therefore, the Department of the Interior has determined that this proposed shooting closure would not cause a taking of private property or require further discussion of takings implications under this Executive Order.

Executive Order 13132 Federalism

The proposed shooting closure 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. The proposed shooting closure affects land in only one state, Nevada. Therefore, the BLM has determined that the proposed shooting closure does not have sufficient Federalism implications to warrant preparation of a Federalism Assessment.

Executive Order 12988, Civil Justice Reform

Under Executive Order 12988, the Office of the Solicitor has determined that the proposed shooting closure will not unduly burden the judicial system and that the requirements of sections 3(a) and 3(b)(2) of the Order are met. The proposed shooting closure includes rules of conduct and prohibited acts, but they are straightforward and not confusing, and their enforcement should not unreasonably burden the United States Magistrate who will try any persons cited for violating them.

Executive Order 13175, Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, the BLM has found that this proposed shooting closure does not include policies that have Tribal implications. The proposed shooting closure does not affect lands held for the benefit of Indians, Aleuts or Eskimos.

Paperwork Reduction Action

The proposed shooting closure does not contain information collection requirements that the Office of Management and Budget must approve under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* rules requiring special recreation permits for certain recreational users will involve collection of information contained on BLM Special Recreation Permit form 2930–1. This permit form has been approved under OMB Number 10004–0119.

Author

The principal author of these interim supplementary rules is Erika Schumacher, Chief Ranger, Las Vegas Field Office, Bureau of Land Management.

Closure Area

Public lands affected are within the following described area: Township 21 Range 53 Sections 14, 15, 22, 23, 24, 25, 26, 27, 34, 35, 36; Township 21 Range 54 Sections 21, 22, 27, 28, 29, 30 and 31, 32, 33, 34, Township 22 Range 53 Sections 1, 2 and 12; Township 22 Range 54 Sections 5, 6 and 7, Mount Diablo Meridian, Nevada.

Maps Depicting the area affected by this closure order are available for public inspection at the Las Vegas Field Office, Bureau of Land Management, 4701 N. Torrey Pines Drive, Las Vegas, Nevada.

Exceptions to Closure

a. Hunting with a valid state hunting license and in accordance with State laws, and

b. Law Enforcement personnel in the performance of their duties.

Closure Restrictions

Unless otherwise authorized, within the closure area no person shall:

a. Discharge any firearm.

b. Possess an unregistered firearm, when registration of a firearm is required by the State of Nevada or Nye County.

c. Possess an illegally obtained firearm.

d. Possess any firearm in violation of Federal, state or county regulations.

e. Unless specifically addressed by regulations set forth in 43 CFR, the laws and regulations of the State of Nevada and Nye County shall govern the use and possession of firearms. Such state and county laws and regulations, which are now or may later be in effect are hereby adopted and made part of this closure.

Definitions

Firearm: Any weapon capable of firing a projectile including but not limited to rifle, shotgun, handgun, BB-gun, pellet gun, etc.

This closure is issued under the authority of 43 CFR 8364.1. Violations of any terms, conditions, or restrictions contained in this closure order, may subject the violator to citation or arrest, with penalty of fine and imprisonment or both as specified by law.

Juan Palma,

Field Manager, Las Vegas Field Office.

[FR Doc. E7–3642 Filed 3–1–07; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[CO–120–1610–DO–022C]

Notice of Intent to Prepare a Resource Management Plans for the Kremmling and Glenwood Springs Field Office and Associated Environmental Impact Statement, Colorado

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of intent.

SUMMARY: The Bureau of Land Management (BLM) Kremmling and Glenwood Springs Field Office, Colorado intends to prepare Resource

Management Plans (RMP) with an associated Environmental Impact Statement (EIS) for the Kremmling and Glenwood Springs planning areas and by this notice is announcing public scoping meetings. The Field Offices will simultaneously revise their respective RMPs for the BLM-administered public lands within each Field Office under one EIS. The RMPs will replace the existing Kremmling and Glenwood Springs RMPs.

DATES: This notice initiates the public scoping process. Comments and resource information should be submitted to the BLM within 60 days of publication of this notice in the **Federal Register**. The BLM will announce public scoping meetings to identify relevant issues through local news media, newsletters, and the BLM Web site (*http://www.blm.gov/rmp/co/kfo-gsfo*) at least 15 days prior to the first meeting.

ADDRESSES: You may submit written comments by any of the following methods:

- *Web site:* (*http://www.blm.gov/rmp/co/kfo-gsfo*).
- *E-mail: cormpkg@blm.gov.*
- *Fax:* (970) 724–9590.
- Bureau of Land Management, Kremmling Field Office, Joe Stout, RMP Project Manager, P.O. Box 68, Kremmling, CO 80459.

Documents pertinent to this proposal may be examined at the Kremmling and Glenwood Springs Field Offices. Respondents' comments, including their names and street addresses, will be available for public review at the Kremmling Field Office during regular business hours from 8 a.m. to 4:30 p.m., and at the Glenwood Springs Field Office during regular business hours from 7:45 a.m. to 4:30 p.m., Monday through Friday, except holidays, and may be published as part of the EIS. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comments. Such requests will be honored to the extent allowed by law. All submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety.

FOR FURTHER INFORMATION CONTACT: For further information and\or to have your name added to our mailing list, contact Joe Stout, Kremmling Field Office, at (970) 724–3003. Comments may be sent electronically to *cormpkg@blm.gov.*

SUPPLEMENTARY INFORMATION: The Kremmling planning area is located in Grand, Eagle, Jackson, Larimer, and Summit Counties, Colorado. The Glenwood Springs planning area is located in Eagle, Garfield, Mesa, Pitkin, Rio Blanco, and Routt Counties, Colorado. This planning activity encompasses approximately 964,000 acres of BLM-administered public lands. The plan will fulfill the needs and obligations set forth by the National Environmental Policy Act, the Federal Land Policy and Management Act, and BLM management policies. The BLM will work collaboratively with interested parties to identify the management decisions that are best suited to local, regional, and national needs and concerns.

The purpose of the public scoping process is to determine relevant issues that will influence the scope of the environmental analysis and alternatives. These issues also guide the planning process. You may submit comments on issues and planning criteria in writing to the BLM at any public scoping meeting, or you may submit them to the BLM using one of the methods listed in the **ADDRESSES** section above. Individual respondents may request confidentiality. If you wish to withhold your name or street address from public review or from disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your written comments. Such requests will be honored to the extent allowed by law. All submissions from organizations and businesses, and from individuals identifying themselves as representatives or officials of organizations or businesses, will be available for public inspection in their entirety.

Preliminary issues and management concerns have been identified by BLM personnel, other agencies, and in meetings with individuals and user groups. They represent the BLM's knowledge to date regarding the existing issues and concerns with current land management. The EIS will describe and analyze a range of alternatives, comprised of the No Action alternative (continued management) and a number of action alternatives, each of which will describe options for addressing the major issues. The major issues that will be addressed in this planning effort include:

- Oil and gas development;
- Range health/upland management;
- Water/riparian issues;
- Increased recreation demands and uses;
- Comprehensive travel management and transportation;
- High concentration of cultural sites;
- Maintaining habitat for Sage Grouse and Sagebrush obligate species; and
- Rapidly expanding urban interface areas.

Issues identified through public comments will be placed into one of four categories:

1. Issues to be resolved in the plan;
2. Issues to be resolved through policy or administrative action;
3. Issues beyond the scope of the plan; or
4. Issues that have already been addressed but should be better communicated to the issue holder.

Rationale will be provided for each issue placed in categories two, three, and four. The public is encouraged to help identify these questions and concerns during the scoping phase.

An interdisciplinary approach will be used to develop the plan in order to consider the variety of resource issues and concerns identified. Disciplines involved in the planning process will include specialists with expertise in minerals and geology, forestry, range, fire and fuels, outdoor recreation, archaeology, paleontology, wildlife, fisheries, lands and realty, hydrology, soils, sociology, environmental justice and economics.

The following planning criteria have been proposed to guide development of the plan, avoid unnecessary data collection and analyses, and to ensure the plan is tailored to the issues. Other criteria may be identified during the public scoping process. After gathering comments on planning criteria, the BLM will finalize the criteria and provide feedback to the public on the criteria to be used throughout the planning process. Some of the planning criteria that are under consideration include:

- The plans will be completed in compliance with the Federal Land Policy and Management Act (43 U.S.C. 1701 *et seq.*) and the National Environmental Policy Act.
- The plan will recognize valid existing rights.
- Public participation will be encouraged throughout the process. The BLM will collaborate and build relationships with tribes, state and local governments, federal agencies, local stakeholders and others in the community of interest of the plan as normal business.

Dated: November 8, 2006.

Peter McFadden,

Acting Kremmling Field Manager.

Dated: November 9, 2006.

Jamie Connell,

Glenwood Springs Field Manager.

[FR Doc. E7–3627 Filed 3–1–07; 8:45 am]

BILLING CODE 1610–DO–P

DEPARTMENT OF JUSTICE

[OMB Number 1105–0030]

Justice Management Division, Office of Attorney Recruitment and Management: Agency Information Collection Activities: Proposed Revision to Previously Approved Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: Electronic Applications for the Attorney General's Honors Program and the Summer Law Intern Program.

The U.S. Department of Justice (DOJ), Justice Management Division, Office of Attorney Recruitment and Management (OARM), has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. Office of Management and Budget (OMB) approval is sought for the information collection listed below. This proposed information collection was previously published in the **Federal Register** on December 26, 2006, Volume 71, Number 247, pages 77411–77412, allowing for a 60-day public comment period.

The purpose of this notice is to allow an additional 30 days for public comment until April 2, 2007. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the item(s) contained in this notice, especially regarding the estimated public burden and associated response time, should be directed to the Office of Management and Budget, Office of Information and Regulatory Affairs, *Attention:* Department of Justice Desk Officer, Washington, DC 20530. Additionally, comments may be submitted to OMB via facsimile to 202–395–7285. Comments may also be submitted to the Department Clearance Officer, United States Department of Justice, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this Information Collection:

(1) *Type of Information Collection:* Revision of a Currently Approved Collection

(2) *Title of the Form/Collection:* Electronic Applications for the Attorney General's Honors Program and the Summer Law Intern Program.

(3) *Agency form number, if any, and the applicable component of the Department sponsoring the collection:* Form Number: none. Office of Attorney Recruitment and Management, Justice Management Division, U.S. Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or households. *Other:* None. The application form is submitted voluntarily once a year by law students and judicial law clerks, who will be in this applicant pool only once; the revision to this collection concerns two additional forms required to be submitted only by those applicants who were selected to be interviewed by Department components. These forms seek information in order to prepare both the official Travel Authorizations prior to the interviewees' performing pre-employment interview travel (as defined by 41 CFR 301–1.3), and the official Travel Vouchers after the travel is completed. The first new form is the Travel Survey—used by the Department in scheduling travel and/or hotel accommodations, which in turn provides the estimated travel costs required by the Travel Authorization form. The second new form is a simple Reimbursement Form—the interviewees are asked to provide their travel costs and/or hotel accommodations (if applicable) in order for the Department to prepare the Travel Vouchers required before these interviewees can be reimbursed by the Department for the authorized costs they incurred during this pre-employment interview travel.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply:* It is estimated that 5000 respondents will complete the application in approximately one (1) hour per application. The revised burden would include 600 respondents who will complete the travel survey in approximately 10 minutes per form, and 600 respondents who will complete the reimbursement form in approximately 10 minutes per form.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The estimated revised total annual public burden associated with this application is 5200 hours.

If additional information is required, contact Lynn Bryant, Department Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: February 26, 2007.

Lynn Bryant,

Department Clearance Officer, PRA, Department of Justice.

[FR Doc. E7–3634 Filed 3–1–07; 8:45 am]

BILLING CODE 4410–PB–P

DEPARTMENT OF JUSTICE

Federal Bureau of Investigation

[OMB Number 1110–0006]

Agency Information Collection Activities: Proposed Collection, Comments Requested

ACTION: 30-day notice of information collection under review: Revision of a currently approved collection law enforcement officers killed or assaulted.

The Department of Justice, Federal Bureau of Investigation, Criminal Justice Information Services Division will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with established review procedures of the Paperwork Reduction Act of 1995. The proposed information collection is published to obtain comments from the public and affected agencies. This proposed information collection was previously published in the **Federal**

Register on December 21, 2006, Volume 71, Number 245, Pages 76688–76689 allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until April 2, 2007. This process is conducted in accordance with 5 CFR 1320.10.

Written comments and/or suggestions regarding the items contained in this notice, especially the estimated public burden and associated response time, should be directed to Mr. Gregory E. Scarbro, Unit Chief, Federal Bureau of Investigation, Criminal Justice Information Services (CJIS) Division, Module E–3, 1000 Custer Hollow Road, Clarksburg, West Virginia 26306; facsimile (304) 625–3566.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Comments should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques of other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of information collection:* Revision of a currently approved collection.

(2) *The title of the form/collection:* Law Enforcement Officers Killed or Assaulted

(3) *The agency form number, if any, and the applicable component of the department sponsoring the collection:* Form 1–705; Criminal Justice Information Services Division, Federal Bureau of Investigation, Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:* Primary: City, county, State, Federal and tribal law enforcement agencies. This collection is needed to collect information on law enforcement officers killed or assaulted in the line of duty throughout the United States. Data are tabulated and published in the annual Law Enforcement Officers Killed and Assaulted publication.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* There are approximately 17,499 law enforcement agency participants; calculated estimates indicate 7 minutes for respondents to complete hard copy and 5 minutes for electronic submission completion.

(6) *An estimate of the total public burden (in hours) associated with this collection:* There are approximately 3,500 hours, annual burden, associated with this information collection.

If additional information is required contact: Lynn Bryant, Department Clearance Officer, Policy and Planning Staff, Justice Management Division, United States Department of Justice, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: February 26, 2007.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E7–3662 Filed 3–1–07; 8:45 am]

BILLING CODE 4410–02–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OMB Number 1121–0024]

Bureau of Justice Assistance; Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review Extension of currently approved collection.

Bureau of Justice Assistance Application Form: Claim for Death Benefits Form. The Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. This proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until May 1, 2007. If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact M. Pressley 1–866–859–2687, Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice, 810 7th Street, NW., Washington, DC 20531.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—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.

Overview of this information collection:

(1) *Type of information collection:* Extension of currently approved collection.

(2) *The title of the form/collection:* Claim for Death Benefits Form.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* None. Bureau of Justice Assistance, Office of Justice Programs, United States Department of Justice. OJP Form 1240/20. Form number?

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Dependents of public safety officers who were killed or permanently and totally disabled in the line of duty.

Abstract: BJA's Public Safety Officers' Benefits (PSOB) division will use the PSOEA Application information to confirm the eligibility of applicants to receive PSOEA benefits. Eligibility is dependent on several factors, including the applicant having received or being eligible to receive a portion of the PSOB Death Benefit, or having a family member who received the PSOB Disability Benefit. Also considered are the applicant's age and the schools being attended. In addition, information to help BJA identify an individual is collected, such as Social Security number and contact numbers and e-mail addresses. The changes to the

application form have been made in an effort to streamline the application process and eliminate requests for information that is either irrelevant or already being collected by other means.

Others: None.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 275 respondents will complete the claim process in approximately 4 hours. 275 ''Claim for Death Benefit'' forms. This form is completed and submitted by the decedent's employing agency. It is estimated that it takes the employer 4 hours to complete the form and assemble supporting documentation.

(6) An estimate of the total public burden (in hours) associated with the Collection is 1,100 hours. Total Annual Reporting Burden: 275 × 240 minutes per application = 66,000 minutes / by 60 minutes per hour = 1,100 hours.

If additional information is required, please contact, Lynn Bryant, Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: February 26, 2007.

Lynn Bryant,

Department Clearance Officer, United States Department of Justice.

[FR Doc. E7–3632 Filed 3–1–07; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OMB Number 1121–0025]

Bureau of Justice Assistance: Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review Extension of currently approved collection.

Bureau of Justice Assistance Application Form: *Report of Public Safety Officers' Death.* The Department of Justice, Office of Justice Programs, Bureau of Justice Assistance, has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. This proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until May 1, 2007. If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact M. Pressley 1–866–859–2687, Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice, 810 7th Street, NW., Washington, DC 20531.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—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.

Overview of this information collection:

(1) *Type of information collection:* Extension of currently approved collection.

(2) *The title of the form/collection:* Report of Public Safety Officers' Death

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* None. Bureau of Justice Assistance, Office of Justice Programs, United States Department of Justice. OJP Form 1240/20. Form number?

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: Dependents of public safety officers who were killed or permanently and totally disabled in the line of duty.

Abstract: BJA's Public Safety Officers Benefits (PSOB) division will use the PSOEA Application information to confirm the eligibility of applicants to receive PSOEA benefits. Eligibility is dependent on several factors, including the applicant having received or being eligible to receive a portion of the PSOB Death Benefit, or having a family member who received the PSOB Disability Benefit. Also considered are the applicant's age and the schools being attended. In addition, information to help BJA identify an individual is collected, such as Social Security number and contact numbers and e-mail addresses. The changes to the application form have been made in an effort to streamline the application process and eliminate requests for information that is either irrelevant or already being collected by other means.

Others: None.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* It is estimated that 275 respondents will complete the claim process in approximately 4 hours. 275 ''Claim for Death Benefit'' forms. This form is completed and submitted by the decedent's employing agency. It is estimated that it takes the employer 4 hours to complete the form and assemble supporting documentation.

(6) *An estimate of the total public burden (in hours) associated with the Collection is 1,100 hours. Total Annual Reporting Burden:* 275 × 240 minutes per application = 66,000 minutes / by 60 minutes per hour = 1,100 hours.

If additional information is required, please contact, Lynn Bryant, Clearance Officer, United States Department of Justice, Justice Management Division, Policy and Planning Staff, Patrick Henry Building, Suite 1600, 601 D Street, NW., Washington, DC 20530.

Dated: February 26, 2007.

Lynn Bryant,

Department Clearance Officer, United States Department of Justice.

[FR Doc. E7–3633 Filed 3–1–07; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employment and Training Administration

Proposed Information Collection Request Submitted for Public Comment and Recommendations; YouthBuild Reporting System

ACTION: Notice.

SUMMARY: The Department of Labor, as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed and/or continuing collections of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) [44 U.S.C. 3506(c)(2)(A)]. This program helps to ensure that requested data can be provided in the desired

format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirements on respondents can be properly assessed. Currently, the Employment and Training Administration (ETA) is soliciting comments concerning the YouthBuild program. A copy of the proposed information collection request (ICR) can be obtained by contacting the office listed below in the addressee section of this notice or at this Web site: *http://www.doleta.gov/OMBCN/OMBControlNumber.cfm.*

DATES: Written comments must be submitted to the office listed in the addressee section below on or before May 1, 2007.

ADDRESSES: Gregg Weltz, Office of Workforce Investment, Division of Youth Services, U.S. Department of Labor, Room N4459, 200 Constitution Ave., NW., Washington, DC 20210. Phone (202) 693–3527 (This is not a toll-free number), fax (202) 693–3861, or e-mail *weltz.greg@dol.gov.*

SUPPLEMENTARY INFORMATION:

I. Background

In applying for YouthBuild grants, grantees agree to submit participant data and quarterly aggregate reports for individuals who receive services through the YouthBuild program. The reports will include aggregate data on demographic characteristics, types of services received, placements, outcomes, and follow-up status. Specifically, they summarize data on participants who received education, occupational skill training, leadership development services, and other services essential to preparing at-risk youth for high-wage, high-demand occupations through the YouthBuild program.

This is a request for approval to implement the reporting and recordkeeping requirements of the YouthBuild program through an ETA-provided, Web-based Management Information System (MIS). Three outcome measures will be used to measure success in the YouthBuild grants: Placement in employment or education, attainment of a degree or certificate, and literacy and numeracy gains. These conform to the common performance measures implemented across Federal employment and job training programs as of July 1, 2005. By standardizing the reporting and performance requirements of different programs, the common measures streamline reporting and give Federal policymakers and ETA the ability to compare across programs the core goals of the youth workforce system: How many youth found jobs or continued on to post-secondary education; how many youth earned a high school diploma or GED or other industry recognized credential; and how much progress did they make in terms of their basic skill levels in literacy and numeracy. Although the common measures are an integral part of ETA's performance accountability system, these measures provide only part of the information necessary to effectively oversee the workforce investment system. ETA will also collect additional data from YouthBuild grantees on program activities, participants, and outcomes that are necessary for program management and to convey full and accurate information on the performance of the YouthBuild program.

This request establishes a reporting and record-keeping system for a level of information collection that is necessary to comply with Equal Opportunity requirements, hold YouthBuild grantees appropriately accountable for the Federal funds they receive, including common performance measures, and allow the Department to fulfill its oversight and management responsibilities.

II. Review Focus

The Department of Labor is particularly interested in comments that:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;
- evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- enhance the quality, utility, and clarity of the information to be collected; and
- minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submissions of responses.

III. Current Actions

Type of Review: New.

Agency: Employment and Training Administration.

Title: YouthBuild Reporting System.

OMB Number: 1205–0NEW.

Agency Number(s): ETA–9136.

Affected Public: YouthBuild Grantees.

Total Respondents: 85.

Estimated Total Burden Hours: 16,280.

Form/activity	Total respondents	Frequency	Total annual esponse	Average time per response (hours)	Total annual burden hours
Participant Data Collection	85	Continual	3,000	1.8	5,400
Quarterly narrative progress report	85	Quarterly	340	16	5,440
Quarterly performance report	85	Quarterly	340	16	5,440
Totals	85		3,680		16,280

Total Burden Cost (capital/startup): 0.

Total Burden Cost (operating/maintaining): 0.

Comments submitted in response to this comment request 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 26, 2007.

Emily Stover DeRocco,

Assistant Secretary, Employment and Training Administration.

[FR Doc. E7–3622 Filed 3–1–07; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Employment and Training Administration

Derecognition of California Department of Industrial Relations and California Apprenticeship Council

Authority: 29 U.S.C. 50, 40 U.S.C. 3141 *et seq.*, 29 CFR parts 29 and 30, and 29 CFR 5.5(a)(4).

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice.

SUMMARY: On January 31, 2007, the U.S. Department of Labor (DOL) Administrative Review Board (ARB), acting under authority delegated by the Secretary of Labor, issued a Final Decision and Order that withdrew recognition, for Federal purposes, from the California Department of Industrial Relations (CDIR) and the California Apprenticeship Council (CAC), which constitute California's State Apprentice Council (SAC). Therefore, under the implementing regulations (29 CFR part 29) for the National Apprenticeship Act (29 U.S.C. 50), the SAC no longer has the authority to register or oversee apprenticeship programs for ''Federal purposes.'' Accordingly, apprenticeship programs registered in California must register with DOL's Office of Apprenticeship (OA), if they wish to pay apprentice wages at the rates authorized under the regulations implementing the Davis-Bacon and related acts. This notice sets out the process for accomplishing the transition from SAC registration to OA registration, for Federal purposes.

DATES: After March 2, 2007, (30 days after the date of the ARB's order withdrawing recognition of California's registration agency), the Department shall cease to recognize, for Federal purposes, each apprenticeship program registered with the State of California, unless the program sponsor requests registration with OA by March 2, 2007.

FOR FURTHER INFORMATION CONTACT: Mr. Anthony Swoope, Administrator, Office of Apprenticeship, U.S. Department of Labor, Room N–5311, 200 Constitution Avenue, NW., Washington, DC 20210. *Telephone:* (202) 693–2796, (this is not a toll-free number).

SUPPLEMENTARY INFORMATION: In May 2002, the Office of Apprenticeship (OA) initiated derecognition proceedings against the California Department of Industrial Relations (CDIR) and California Apprenticeship Council (CAC) (referred to collectively as the California State Apprentice Council (SAC)), on the grounds that California Labor Code section 3075(b) did not conform to OA's regulations at 29 CFR part 29, because the State law established a ''needs test'' which limited, rather than promoted, apprenticeship opportunity. The SAC appealed, so the matter was assigned to an Administrative Law Judge (ALJ) for preliminary findings and the preparation of a recommended decision. In April 2005, the ALJ agreed with OA that the ''needs test'' did not conform to 29 CFR part 29, recommending derecognition on that ground. The Department's Administrative Review Board (ARB), exercising authority delegated by the Secretary, reviewed the ALJ's recommended findings and decision. On January 31, 2007, the ARB issued a Final Decision and Order (*DOL, Office of Apprenticeship (OA)* v. *California Department of Industrial Relations (CDIR) and the California Apprenticeship Council (CAC), ARB Case No. 05–093)* that adopted the ALJ's findings, thereby completing the agency's derecognition process.

DOL hereby gives public notice, as required by 29 CFR 29.13(d), that the Department has withdrawn recognition, for Federal purposes, from both CDIR and CAC. The CDIR and the CAC no longer have the authority to register or oversee apprenticeship programs for ''Federal purposes.'' See 29 CFR 29.2(k). Apprenticeship programs registered in California must register with OA, if they wish to pay apprentice wages at the rates authorized under the regulations implementing the Davis-Bacon and related acts. See 29 CFR 5.5(a)(4).

As required by 29 CFR 29.13(d), OA hereby provides notice that, after March 2, 2007 (30 days after the date of the ARB's order withdrawing recognition of California's registration agency), the Department shall cease to recognize, for Federal purposes, each apprenticeship program registered with the State of California, unless within that time, the program sponsor requests registration with OA.

OA may grant the request for registration contingent upon its finding that the State apprenticeship program is operating in accordance with the requirements of 29 CFR part 29, pertaining to the registration of programs and apprentices and of 29 CFR part 30, pertaining to equal employment opportunity. OA shall make a finding on this issue within 30 days of receipt of the request. If the finding is in the negative, the State sponsor shall be notified in writing that the contingent OA registration has been revoked. If the finding is in the affirmative, the State sponsor shall be notified in writing that the contingent OA registration is made permanent.

As required by 29 CFR 29.13(e), if the sponsor fails to request OA registration, or upon a finding of noncompliance pursuant to a contingent OA registration, OA shall provide written notice to such State sponsor, advising the recipient that any actions or benefits applicable to recognition for Federal purposes are no longer available to participants in its apprenticeship program.

As required by 29 CFR 29.13(f), the notice issued under § 29.13(e) shall also direct the State sponsor to notify, within 15 days, all its registered apprentices of the withdrawal of recognition for Federal purposes; the effective date thereof; and that such withdrawal removes the apprentice from coverage under any Federal provision applicable to his/her individual registration under a program recognized or registered by the OA for Federal purposes.

Signed at Washington, DC this 26th day of February 2007.

Emily Stover DeRocco,

Assistant Secretary for Employment and Training.

[FR Doc. E7–3616 Filed 3–1–07; 8:45 am]

BILLING CODE 4510–30–P

DEPARTMENT OF LABOR

Occupational Safety And Health Administration

[Docket No. OSHA–2007–0011]

Federal Advisory Council on Occupational Safety and Health

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

ACTION: Request for nominations.

SUMMARY: The Assistant Secretary of Labor for Occupational Safety and Health invites interested parties to submit nominations for membership on

the Federal Advisory Council on Occupational Safety and Health (FACOSH).

DATES: Nominations for FACOSH must be received by April 2, 2007.

ADDRESSES: You may submit nominations for FACOSH, identified by Docket No. OSHA–2007–0011, by any of the following methods:

Electronically: Nominations, including attachments, may be submitted electronically at *http://www.regulations.gov,* the Federal eRulemaking Portal. Follow the online instructions for submitting nominations.

Facsimile: If your nomination, including attachments, is not longer than 10 pages, you may fax it to the OSHA Docket Office at (202) 693–1648.

Mail, express delivery, hand delivery, messenger or courier service: Submit three copies of your nomination 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). Deliveries (hand, express mail, messenger and courier service) are accepted during the Department of Labor's and Docket Office's normal business hours, 8:15 a.m.–4:45 p.m., e.t.

Instructions: All nominations for FACOSH must include the Agency name and docket number for this **Federal Register** notice (Docket No. OSHA–2007–0011). All submissions in response to this **Federal Register** notice, including personal information provided, will be posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions interested parties about submitting personal information such as social security numbers and birth dates. Because of security-related procedures, submitting nominations by regular mail may result in a significant delay in their receipt. Please contact the OSHA Docket Office, at the address above, for information about security procedures for submitting nominations by hand delivery, express delivery, and messenger or courier service. For additional information on submitting nominations, see the **SUPPLEMENTARY INFORMATION** section below.

Docket: To read or download submissions, go to *http://www.regulations.gov.* All documents in the docket are listed in the *http://www.regulations.gov* index. Although listed in the index, some documents (e.g., copyrighted material) are not publicly available to read or download through *http://www.regulations.gov.* All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office at the address above.

FOR FURTHER INFORMATION CONTACT: Diane Brayden, Director, OSHA, Office of Federal Agency Programs, U.S. Department of Labor, Room N–3622, 200 Constitution Avenue, NW., Washington, DC 20210; telephone (202) 693–2122; fax (202) 693–1685; email *ofap@dol.gov.*

SUPPLEMENTARY INFORMATION: The Assistant Secretary of Labor for Occupational Safety and Health invites interested parties to submit nominations for membership on FACOSH. FACOSH is authorized by section 19 of the Occupational Safety and Health Act of 1970 (OSH Act) (29 U.S.C. 668), 5 U.S.C. 7902, and Executive Order 12196 to advise the Secretary of Labor on all matters relating to the occupational safety and health of Federal employees (Ex. 2). This includes providing advice on how to reduce and keep to a minimum the number of injuries and illnesses in the Federal workforce and how to encourage the establishment and maintenance of effective occupational safety and health programs in each Federal Department and Agency (Ex. 3).

FACOSH is comprised of 16 members, whom the Secretary of Labor appoints, and is chaired by the Assistant Secretary. The composition of FACOSH and the number of new members to be appointed at this time are as follows:

- Eight members are management representatives from Federal Departments or Agencies. Two management representatives will be appointed; and
- Eight members are representatives of labor organizations representing Federal employees. Three labor representatives will be appointed.

FACOSH members serve staggered three-year terms, unless the member becomes unable to serve, resigns, ceases to be qualified to serve, or is removed by the Secretary (Ex. 2). The Secretary may appoint FACOSH members to successive terms (Ex. 2). FACOSH meets between two to six times a year for one-day meetings (Ex. 2).

Interested parties may nominate one or more qualified persons for membership. Others are invited and encouraged to submit endorsements in support of particular nominees. Nominations must include the nominee's name, occupation, current position, and contact information. The nomination also must identify the category of membership for which the nominee is qualified and a resume of the nominee's background, experience and qualifications for membership. In addition, the nomination must include a statement that the nominee is aware of the nomination, willing to serve a three-year term, and attend meetings regularly.

The information received through the nomination process, along with other relevant sources of information, will assist the Secretary in making appointments to FACOSH. In selecting FACOSH members, the Secretary will consider individuals nominated in response to this **Federal Register** notice, as well as other qualified individuals. OSHA will publish the new FACOSH membership list in the **Federal Register**.

Public Participation—Submission of Nominations and Access to Docket

You may submit nominations (1) electronically at *http://www.regulations.gov;* (2) by facsimile (FAX); or (3) by hard copy. All comments, attachments and other materials must identify the Agency name and the OSHA docket number for this **Federal Register** notice (Docket No. OSHA–2007–0011). You may supplement electronic nominations by uploading document files electronically. If, instead, you wish to submit hard copies of any additional material in reference to an electronic submission, you must submit three copies to the OSHA Docket Office following the instructions in the **ADDRESSES** section. The additional material must clearly identify your electronic submission by name, date, and docket number so OSHA can attach them to your nomination.

Because of security-related procedures, the use of regular mail may result in a significant delay in the receipt of nominations. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger or courier service, please contact the OSHA Docket Office (see **ADDRESSES** section).

Submissions in response to this **Federal Register** notice are posted without change at *http://www.regulations.gov.* Therefore, OSHA cautions interested parties about submitting personal information such as social security numbers and birth dates. Although all submissions are listed in the *http://www.regulations.gov* index, some documents (e.g., copyrighted material) are not publicly available to read or download through *http://www.regulations.gov.* All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office.

Exhibits referenced in this **Federal Register** notice are included in Docket No. OSHA–2007–0011 at *http://www.regulations.gov.* In the *http://*

www.regulations.gov index for this docket, exhibit numbers are listed at the beginning of the title of each document (see ''Document Title'' column).

Information on using the *http://www.regulations.gov* Web site to make submissions and to access the docket and exhibits is available at the Web site's User Tips link. Contact the OSHA Docket Office for information about materials not available through *http://www.regulations.gov* and for assistance in using the Internet to locate submissions and other documents in the docket.

Electronic copies of this **Federal Register** notice are available at *http://www.regulations.gov.* This notice, as well as news releases and other relevant information, is available at OSHA's Webpage at *http://www.osha.gov.*

Authority and Signature

Edwin G. Foulke, Jr., Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice under the authority granted by section 19 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 668), 5 U.S.C. 7902, section 1–5 of Executive Order 12196, 29 CFR 1960 (Basic Program Elements of for Federal Employee Occupational Safety and Health Programs), and Secretary of Labor's Order 5–2002 (67 FR 65008).

Signed at Washington, DC this 27th day of February, 2007.

Edwin G. Foulke, Jr.,

Assistant Secretary of Labor.

[FR Doc. E7–3690 Filed 3–1–07; 8:45 am]

BILLING CODE 4510–26–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation

[Docket No. FHWA–2006–25031]

U.S. Institute for Environmental Conflict Resolution; Notice of Final Report of National Outdoor Advertising Control (OAC) Program Assessment and Request for Public Input

AGENCIES: Federal Highway Administration (FHWA), DOT and United States Institute for Environmental Conflict Resolution (U.S. Institute).

ACTION: Notice; request for public input on final OAC program assessment report.

SUMMARY: In July 2006, the FHWA and the U.S. Institute initiated a neutral assessment of the national Outdoor Advertising Control (OAC) program. The U.S. Institute has submitted the completed assessment report to the FHWA and other interested stakeholders in outdoor advertising, as described in this notice, thereby concluding the assessment process. The FHWA has placed the report in the docket (U.S. Department of Transportation Dockets Management System (DMS), at *http://dms.dot.gov*, under Docket No. FHWA–2006–25031 and online at *http://www.fhwa.dot.gov/realestate/out_ad.htm.* The FHWA seeks public comment on the assessment report. Comments submitted in response to this notice, together with the assessment report, previously submitted public comments, and other information relevant to the OAC program, will be considered by the FHWA when the agency makes future determinations about OAC program needs and the best methods for addressing those needs.

DATES: Comments must be received on or before May 1, 2007.

ADDRESSES: Mail or hand deliver comments on the report to the U.S. Department of Transportation, Dockets Management Facility, Room PL–401, 400 Seventh Street, SW., Washington, DC 20590, or submit electronically at *http://dms.dot.gov* or fax comments to (202) 493–2251. All comments should include the docket number that appears in the heading of this document.

All comments received will be available for examination and copying at the above address from 9 a.m. to 5 p.m. e.t., Monday through Friday, except Federal holidays. Those desiring notification of receipt of comments must include a self-addressed, stamped postcard or may print the acknowledgement page that appears after submitting comments electronically. Anyone is able to search the electronic form of all comments received onto any of DOT's 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: Mr. Gerald Solomon, Office of Real Estate Services (HEPR) (202) 366–2037, *gerald.solomon@dot.gov*, or Ms. Janet Myers, Office of the Chief Counsel (HCC–30) (202) 366–2019, janet.myers@dot.gov, Federal Highway Administration, 400 Seventh Street, SW., Washington, DC 20590. Office hours for the Federal Highway Administration are 7:45 a.m. to 4:15 p.m., e.t., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may submit or retrieve comments online through the Docket Management System (DMS) at *http://dms.dot.gov/submit.* The DMS is available 24 hours each day, 365 days a year. Electronic submissions and retrievals help and guidelines are available under the help section of the Web site.

An electronic copy of this document may also be downloaded from the Office of the Federal Register's home page at: *http://www.archives.gov* and the Government Printing Office's Web page at: *http://www.access.gpo.gov/nara.*

Background

On July 20, 2006, the FHWA and the U.S. Institute published a notice in the **Federal Register** (71 FR 41258) announcing the initiation of an assessment of the national outdoor advertising control (OAC) program. The goal of this assessment was to reach out to parties interested in the OAC to identify issues that cause controversy, perspectives of the various stakeholders, and appropriate methods for addressing conflicts and improving program results. As a result of information obtained through the assessment, including the comments submitted in response to this notice, the U.S. Institute compiled an assessment report and provided it to the FHWA. The purpose of this notice is to announce the availability of that report and to request comments on the report.

Under the 1965 Highway Beautification Act (HBA), 23 U.S.C. 131, and various agreements entered into by the FHWA and the States, the States are responsible for implementing the OAC program. The HBA requires control of outdoor advertising signs (signs) near Federal-aid highways in a manner consistent with Federal laws and regulations. Failure by a State to maintain effective control can result in the FHWA withholding of a portion of the State's Federal-aid highway funds. Most States have assigned administrative responsibility for OAC to their transportation agencies. Additional information about the history, relevant laws, and current status of the OAC program appears in the July 20, 2006, **Federal Register** notice. Other OAC resources include: National Alliance of Highway Beautification Agencies, *http://www.nahba.org/*; Outdoor

Advertising Association of America, *http://www.oaaa.org*; and Scenic America, *http://www.scenic.org*.

Since the adoption of the HBA and the implementing regulations, there have been substantial changes in relevant practices, technologies, and local conditions. As a result, many of those affected by the OAC program see an increasing gap between current Federal law and regulations and the needs of States, local communities, advertisers, sign owners, owners of properties on which signs are located, interest groups, and the traveling public.

The U.S. Institute and the FHWA initiated the neutral assessment of the OAC program to identify issues that cause controversy, gather the perspectives of various stakeholders on those issues, and identify potential methods for addressing conflicts in order to improve program results. Assessment activities, carried out by the U.S. Institute and its contractor, The Osprey Group, commenced following publication of the **Federal Register** notice described above.

Over several months, the assessment team obtained diverse perspectives through interviews, focus groups, and public listening sessions, supplemented by public comment letters filed in the docket. Substantial input was received and was considered by the assessment team when it prepared its OAC program assessment report.

The assessment report identifies a broad range of attitude/relationship, organization, and substantive OAC program issues. Among these are regulatory approaches to new billboard technology; control of sham businesses and sham zoning that permit erection of billboards in non-commercial and industrial areas; future of non-conforming signs; vegetation control in the vicinity of billboards; consistency in administration of regulations and enforcement; future of the 1958 bonus program, enacted prior to the HBA, by PL 85–381, to control outdoor advertising through bonus payments to States that elected to enter into agreements to meet the stricter requirements; increased FHWA flexibility in enforcement mechanisms for failure to maintain effective control; update of Federal-State Agreements that govern States' OAC obligations; Highway Beautification Act scope associated with highways not within the National Highway System; and evaluation of organizational structures and commitments to the OAC program.

Conclusion

The U.S. Institute's report and the comments submitted in response to this notice will provide valuable information to the FHWA and other stakeholders, helping them to better understand the issues surrounding the OAC program and develop effective means to address some of the controversial topics.

(Authority: 23 U.S.C. 131; 20 U.S.C. 5601 *et seq.*)

Issued on: February 26, 2007.

Christopher L. Helms,

Executive Director, Morris K. Udall Scholarship and Excellence in National Environmental Policy Foundation.

J. Richard Capka,

Federal Highway Administrator.

[FR Doc. 07–982 Filed 3–1–07; 8:45 am]

BILLING CODE 4910–22–P

NATIONAL INDIAN GAMING COMMISSION

Fee Rate

AGENCY: National Indian Gaming Commission.

ACTION: Notice.

SUMMARY: Notice is hereby given, pursuant to 25 CFR 514.1(a)(3), that the National Indian Gaming Commission has adopted preliminary annual fee rates of 0.00% for tier 1 and 0.059% (.00059) for tier 2 for calendar year 2007. These rates shall apply to all assessable gross revenues from each gaming operation under the jurisdiction of the Commission. If a tribe has a certificate of self-regulation under 25 CFR part 518, the preliminary fee rate on class II revenues for calendar year 2007 shall be one-half of the annual fee rate, which is 0.0295% (.000295).

FOR FURTHER INFORMATION CONTACT: Kwame Mainoo, National Indian Gaming Commission, 1441 L Street, NW., Suite 9100, Washington, DC 20005; telephone (202) 632–7003; fax (202) 632–7066 (these are not toll-free numbers).

SUPPLEMENTARY INFORMATION: The Indian Gaming Regulatory Act (IGRA) established the National Indian Gaming Commission which is charged with, among other things, regulating gaming on Indian lands.

The regulations of the Commission (25 CFR part 514), as amended, provide for a system of fee assessment and payment that is self-administered by gaming operations. Pursuant to those regulations, the Commission is required to adopt and communicate assessment rates; the gaming operations are required to apply those rates to their revenues, compute the fees to be paid, report the revenues, and remit the fees to the Commission on a quarterly basis.

The regulations of the Commission and the preliminary rate being adopted today are effective for calendar year 2007. Therefore, all gaming operations within the jurisdiction of the Commission are required to self administer the provisions of these regulations, and report and pay any fees that are due to the Commission by March 31, 2007.

Dated: February 22, 2007.

Philip N. Hogen,

Chairman, National Indian Gaming Commission.

[FR Doc. 07–942 Filed 3–1–07; 8:45 am]

BILLING CODE 7565–01–M

OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE

Notice of Meeting of the Industry Trade Advisory Committee on Small and Minority Business (ITAC–11)

AGENCY: Office of the United States Trade Representative.

ACTION: Notice of a partially opened meeting.

SUMMARY: The Industry Trade Advisory Committee on Small and Minority Business (ITAC–11) will hold a meeting on Monday, March 19, 2007, from 9 a.m. to 4:30 p.m. The meeting will be closed to the public from 9 a.m. to 2 p.m. and opened to the public from 3 p.m. to 4:30 p.m.

DATES: The meeting is scheduled for March 19, 2007, unless otherwise notified.

ADDRESSES: The meeting will be held at the Ronald Reagan International Trade Center, Trade Information Center, Training Room A.

FOR FURTHER INFORMATION CONTACT: Laura Hellstern, DFO for ITAC–11 at (202) 482–3222, Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230.

SUPPLEMENTARY INFORMATION: During the opened portion of the meeting the following agenda items will be considered.

- Updates on Trade Promotion Coordinating Committee Export Promotion Programs, particularly trade financing.
- Government Procurement through International Development Banks.
- Overview of the Recent U.S. Commercial Service Export Promotion Programs, particularly those that assist small businesses in areas of concern expressed by ITAC–11: Foreign

government procurement opportunities and trade finance.

Tiffany M. Moore,

Assistant U.S. Trade Representative for Intergovernmental Affairs and Public Liaison.

[FR Doc. E7–3711 Filed 3–1–07; 8:45 am]

BILLING CODE 3190–W7–P

RAILROAD RETIREMENT BOARD

Proposed Collection; Comment Request

Summary: In accordance with the requirement of Section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 which provides opportunity for public comment on new or revised data collections, the Railroad Retirement Board (RRB) will publish periodic summaries of proposed data collections.

Comments are invited on: (a) Whether the proposed information collection is necessary for the proper performance of the functions of the agency, including whether the information has practical utility; (b) the accuracy of the RRB's estimate of the burden of the collection of the information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden related to the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Title and purpose of information collection:

Pay Rate Report; OMB 3220–0097.

Under Section 2(a) of the Railroad Unemployment Insurance Act, the daily benefit rate for unemployment and sickness benefits depends on the claimant's last daily rate of pay in the base year. The procedures pertaining to the use of a claimant's daily pay rate in determining the daily benefit rate are prescribed in 20 CFR part 330.

The RRB utilizes Form UI–1e, Request for Pay Rate Information, to obtain information from a claimant about their last railroad employer and pay rate, when it is not available from other RRB records. Form UI–1e also explains the possibility of receiving a higher daily benefit rate if claimants report their daily rate of pay for railroad work in the base year. Completion is required to obtain or retain benefits. One response is requested of each respondent.

The RRB proposes no changes to Form UI–1e. The completion time for Form UI–1e is estimated at 5 minutes per response. The RRB estimates that 350 Form UI–1e's are completed annually.

Additional Information or Comments: To request more information or to obtain a copy of the information collection justification, forms, and/or supporting material, please call the RRB Clearance Officer at (312) 751–3363 or send an e-mail request to *Charles.Mierzwa@RRB.GOV.* Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 or send an e-mail to *Ronald.Hodapp@RRB.GOV.* Written comments should be received within 60 days of this notice.

Charles Mierzwa,

Clearance Officer.

[FR Doc. E7–3666 Filed 3–1–07; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. IC—27740; 812–13345]

NASDAQ–100 Trust, Series 1, *et al.*; Notice of Application

February 27, 2007.

AGENCY: Securities and Exchange Commission.

ACTION: Notice of application for an order under section 6(c) of the Investment Company Act of 1940 (''Act'') for an exemption from sections 2(a)(32), 4(2), 22(d), 24(d) and 26(a)(2)(C) of the Act and rule 22c–1 under the Act; under sections 6(c) and 17(b) of the Act for an exemption from sections 17(a)(1) and (a)(2) of the Act; and under section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint transactions.

SUMMARY OF APPLICATION: Applicants request an order to permit (a) Nasdaq-100 Trust, Series 1 (''Trust''), a unit investment trust whose portfolio consists of the component stocks of the Nasdaq-100 Index (''Index''), to issue shares (''Nasdaq-100 Shares'') that are only redeemable in large aggregations; (b) secondary market transactions in Nasdaq-100 Shares to occur at negotiated prices; (c) dealers to sell Nasdaq-100 Shares to purchasers in the secondary market unaccompanied by a prospectus when prospectus delivery is not required by the Securities Act of 1933 (''Securities Act''); (d) the Trust, rather than the Sponsor (defined below), to bear certain expenses associated with the maintenance of the Trust; (e) certain ''affiliated persons'' of the Trust to deposit securities into, and receive securities from, the Trust in connection with the purchase and redemption of Nasdaq-100 Shares; and (f) the Trust to reimburse the Sponsor for payment of an annual licensing fee to The Nasdaq Stock Market, Inc. (''Nasdaq'').

APPLICANTS: The Trust, PowerShares Capital Management LLC (''PowerShares,'' together with its successor in interest [1] and with any person, directly or indirectly, controlling, controlled by, or under common control with, PowerShares, ''Sponsor''), and ALPS Distributors, Inc. (''Distributor'').

FILING DATES: The application was filed on November 20, 2006. Applicants have agreed to file an amendment during the notice period, the substance of which is reflected in this notice.

HEARING OR NOTIFICATION OF HEARING: An order granting the requested relief will be issued unless the Commission orders a hearing. Interested persons may request a hearing by writing to the Commission's Secretary and serving applicants with a copy of the request, personally or by mail. Hearing requests should be received by the Commission by 5:30 p.m. on March 19, 2007, and should be accompanied by proof of service on applicants, in the form of an affidavit or, for lawyers, a certificate of service. Hearing requests should state the nature of the writer's interest, the reason for the request, and the issues contested. Persons who wish to be notified of a hearing may request notification by writing to the Commission's Secretary.

ADDRESSES: Secretary, U.S. Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090. Applicants: H. Bruce Bond, PowerShares Capital Management LLC, 301 West Roosevelt Road, Wheaton, IL 60187.

FOR FURTHER INFORMATION CONTACT: Jaea F. Hahn, Senior Counsel, at (202) 551–6870, or Janet M. Grossnickle, Branch Chief, at (202) 551–6821 (Division of Investment Management, Office of Investment Company Regulation).

The following is a summary of the application. The complete application may be obtained for a fee at the Commission's Public Reference Branch, 100 F Street, NE., Washington, DC 20549–0102 (tel. 202–551–5850).

Applicants' Representations

1. The Trust is a unit investment trust (''UIT'') organized under the laws of the

[1] ''Successors in interest'' means any entity or entities that result from a reorganization into another jurisdiction or a change in the type of business organization.

state of New York. The Sponsor is a wholly owned subsidiary of AIM Management Group Inc.[2] The Bank of New York acts as trustee to the Trust (''Trustee'') pursuant to a trust agreement entered into by and between the Trustee and the Initial Sponsor of the Trust, as amended (the ''Trust Agreement'').[3] The Distributor is registered as a broker-dealer under the Securities Exchange Act of 1934 (''Exchange Act'') and serves, on an agency basis, as principal underwriter of the Trust.

2. The Trust holds a portfolio of securities (''Portfolio Securities'') consisting of substantially all of the securities in substantially the same weighting as the component securities of the Index (the ''Index Securities''). The Index is a ''modified capitalization-weighted'' index of securities issued by the 100 largest and most actively traded non-financial companies listed on the Nasdaq Global Select Market or the Nasdaq Global Market. The Index was first published in 1985.

3. Nasdaq-100 Shares, units of beneficial interest in the Trust, are designed to provide investors with an instrument that closely tracks the Index, trades like a share of common stock, and pays periodic dividends proportionate to those paid by the Portfolio Securities.[4] Applicants believe that Nasdaq-100 Shares afford significant benefits in the public interest. Applicants state that the Trust is able to track the Index more closely than certain other index products and, unlike shares of open-end index funds, Nasdaq-100 Shares trade at negotiated prices throughout the Business Day.[5] Applicants also state that Nasdaq-100 Shares attract investors and foreign capital to the U.S. markets.

4. The Trustee adjusts the composition of the Portfolio Securities from time to time to reflect changes made by Nasdaq to the composition and weighting of the Index Securities.[6] All adjustments to the Portfolio Securities are made by the Trustee as set forth in the Trust Agreement and are non-discretionary.

5. The Trustee is paid a ''Trustee's Fee'' at an annual rate of 0.04% to 0.10% of the net asset value (''NAV'') of the Trust, with the minimum fee amount not to fall below $180,000.[7] Until the Sponsor otherwise determines, the Sponsor has undertaken that the ordinary operating expenses of the Trust as calculated by the Trustee will not be permitted to exceed an amount which is 20/100 of one percent (0.20%) per annum of the daily NAV of the Trust.[8] The Sponsor retains the ability to be repaid by the Trust to the extent that subsequently during the fiscal year expenses fall below the 0.20% per year level on any given day. Trust fees and expenses are first paid out of income received by the Trust in the form of dividends and other distributions on the Portfolio Securities.[9]

6. The Sponsor will be granted a license to use the Index as a basis for determining the composition of the Trust and to use certain trademarks of Nasdaq in connection with the Trust. The Sponsor will pay Nasdaq an annual licensing fee for the Index and will seek reimbursement from the Trust for the fee charged in connection with its Index. The Sponsor will pay the Distributor a flat annual fee for services provided to the Trust. The Sponsor will not seek reimbursement from the Trust for such payment without first obtaining prior exemptive relief from the Commission.

7. Nasdaq-100 Shares are issued in aggregations of 50,000 shares (''Creation Units''). The price of one Portfolio Deposit (defined below), exclusive of brokerage costs, was approximately $2,032,500 (based on the market value of the Index) on September 30, 2006. All orders to purchase Creation Units must be delivered through a party that has executed a Nasdaq-100 participation agreement with the Distributor and Trustee and is either (i) a participant in the Continuous Net Settlement (''CNS'') System of the National Securities Clearing Corporation (''NSCC'') (''Nasdaq-100 Clearing Process'') or (ii) a Depository Trust Company (''DTC'') participant.

8. An investor wishing to purchase a Creation Unit from the Trust has to transfer to the Trustee a ''Portfolio Deposit'' consisting of: (i) A portfolio of securities substantially similar in composition and weighting to the Index Securities (''Deposit Securities'');[10] (ii) a cash payment equal to the dividends accrued on the Portfolio Securities since the last dividend payment on the Portfolio Securities, net of expenses and liabilities (''Income Net of Expense Amount''); and (iii) a cash payment or credit to equalize any differences between the market value of the Deposit Securities and the NAV of the Trust on a per Creation Unit basis (the ''Balancing Amount'').[11] The Balancing Amount and the Income Net of Expense Amount together constitute the ''Cash Component.'' An investor making a Portfolio Deposit will be charged a service fee (''Transaction Fee''), paid to the Trustee, to defray the Trustee's costs in processing securities deposited into the Trust.[12] The Sponsor makes

[2] On October 18, 2006, PowerShares entered into a Transaction Agreement (''Transaction Agreement'') with Nasdaq, the parent of Nasdaq Global Funds, Inc. (formerly named Nasdaq AMEX Investment Product Services, Inc., and later renamed Nasdaq Financial Product Services, Inc., the ''Initial Sponsor'') pursuant to which the Initial Sponsor will transfer sponsorship of the Trust to PowerShares. In connection with the Transaction Agreement, PowerShares is seeking exemptive relief substantially identical to the relief granted to the Trust pursuant to a Commission order (Investment Company Act Release No. 25795 (Feb. 22, 1999), as amended by Investment Company Act Release No. 26415 (Apr. 9, 2004)). The transfer of sponsorship of the Trust from the Initial Sponsor to PowerShares is contingent upon receipt of the exemptive relief requested in the application.

[3] If the relief requested herein is granted, the Initial Sponsor will assign its duties under the Trust Agreement to PowerShares.

[4] The Trust makes quarterly distributions of an amount representing the dividends accumulated on Portfolio Securities during each quarter, net of fees and expenses, if any.

[5] A ''Business Day'' is any day that the Nasdaq or any other exchange that lists Nasdaq-100 Shares is open for business and any day that the Trust is open for business as required by section 22(e) of the Act.

[6] Nasdaq determines, comprises, and calculates the Index without regard to the Trust.

[7] If the amount of the Trustee's compensation is less than the minimum annual fee, the Sponsor will pay the amount of the shortfall.

[8] For purposes of this undertaking, ''ordinary operating expenses'' will not include taxes, brokerage commissions and extraordinary non-recurring expenses.

[9] In circumstances where the Trust's income is insufficient to pay the fees and expenses of the Trust, the Trustee will sell Portfolio Securities to generate sufficient cash to pay the Trust fees and expenses in excess of Trust income. The Trustee is ordinarily required to sell Portfolio Securities whenever the Trustee determines that accrued fees and expenses exceed dividends and other Trust accrued income on a projected basis by more than 0.01% of the NAV of the Trust.

[10] The Trust will comply with the federal securities laws in accepting Deposit Securities and satisfying redemptions with redemption securities (''Redemption Securities''), including that the Deposit Securities and Redemption Securities are sold in transactions that would be exempt from registration under the Securities Act of 1933. The specified Deposit Securities and Redemption Securities generally will correspond pro rata to the Portfolio Securities.

[11] At the close of the market on each Business Day, the Trustee calculates the NAV of the Trust and then divides the NAV by the number of outstanding Nasdaq-100 Shares in Creation Unit size aggregations, resulting in an NAV per Creation Unit. The Trustee then calculates the required number of shares of the Index Securities, and the amount of cash, comprising a Portfolio Deposit for the following Business Day.

[12] The Transaction Fee is (i) $500 per ''Participating Party'' (defined below) per day for creations of Creation Units where there are also, in the same day, separate creations in any number, or redemptions in an amount not equal to the number of Nasdaq-100 Shares created, of other similar exchange-traded funds based on the Index for which the Trustee or its affiliate acts as trustee, fund administrator or in any similar capacity, (ii) no fee per Participating Party where there is, in the same day, a redemption of an equal number of shares of another similar exchange-traded fund based on the Index, for which the Trustee or its

Continued

available each Business Day a list of the names and the required number of shares for each of the Deposit Securities in the current Portfolio Deposit, as well as the Income Net of Expense Amount effective through and including the previous Business Day, per outstanding Nasdaq-100 Share.[13]

9. Orders to purchase Creation Units are placed with the Distributor, who is responsible for transmitting the orders to the Trustee. The Distributor issues confirmations of acceptance, transmits delivery instructions to the Trustee to implement the delivery of Creation Units, and maintain records of the orders and the confirmations. The Distributor also is responsible for delivering prospectuses to purchasers of Creation Units and may provide certain other administrative services, such as those related to state securities law compliance.

10. Persons purchasing Creation Units from the Trust may hold the Nasdaq-100 Shares or sell some or all of them in the secondary market. Nasdaq-100 Shares are listed on the Nasdaq Global Select Market and the Nasdaq Global Market, each part of Nasdaq, and traded in the secondary market as individual units (*i.e.*, in less than Creation Units) in the same manner as other equity securities. One or more member firms of Nasdaq will act as market makers (''Market Makers'') and maintain a market for Nasdaq-100 shares.[14] Transactions involving the sale of Nasdaq-100 Shares are subject to customary brokerage commissions and charges. Applicants state that the price at which Nasdaq-100 Shares trade is disciplined by arbitrage opportunities created by the ability to continually purchase or redeem Creation Units at their NAV, which should ensure that Nasdaq-100 Shares do not trade at a material discount or premium in relation to their NAV.

11. Applicants state that purchasers of Creation Units include institutional investors and arbitrageurs (which could include institutional investors). A Market Maker also may purchase Creation Units for use in market making activities. Applicants also state that secondary market purchasers of Nasdaq-100 Shares include both institutional and retail investors.[15]

12. Applicants will make available a standard product description for Nasdaq-100 Shares (''Product Description'') to Nasdaq members and member organizations for distribution to investors purchasing Nasdaq-100 Shares in accordance with Nasdaq rules. The purpose of the Product Description is to provide a brief and readily understandable description of the salient aspects of Nasdaq-100 Shares. The Product Description also advises investors that a prospectus for Nasdaq-100 Shares is available without charge upon request from the investor's account executive. Applicants state that purchases of Nasdaq-100 Shares through a non-member broker-dealer in a transaction away from the Nasdaq do not constitute a significant portion of the market activity in Nasdaq-100 Shares.

13. Nasdaq-100 Shares are not individually redeemable, except upon termination of the Trust. Nasdaq-100 Shares are only redeemable in Creation Units through the Trust. To redeem, an investor has to accumulate enough Nasdaq-100 Shares to constitute a Creation Unit. An investor redeeming a Creation Unit will receive a portfolio of securities typically identical in composition and weighting to the securities portion of a Portfolio Deposit as of the date the redemption request was made. An investor may receive the cash equivalent of an Index Security (i) when the Trustee determines that an Index Security is likely to be unavailable or available in insufficient quantity for delivery by the Trust; (ii) upon the request of the redeeming investor; or (iii) upon notice of the termination of the Trust. A redeeming investor may receive or may pay an amount equal to the Income Net of Expense Amount, plus or minus the Balancing Amount. A redeeming investor will pay a Transaction Fee calculated in the same manner as a Transaction Fee payable in connection with the purchase of a Creation Unit. The Trustee will transfer the securities and cash to the redeeming investor within three Business Days of receipt of the request for redemption.

14. Because the Trust ordinarily redeems Creation Units in kind, the Trust does not have to maintain cash reserves for redemptions. This allows the assets of the Trust to be committed as fully as possible to tracking the Index, enabling the Trust to track the Index more closely than other investment products that must allocate a greater portion of their assets for cash redemptions.

15. The Trust will terminate on the earlier of (i) March 4, 2124, or (ii) the date 20 years after the death of the last survivor of fifteen persons named in the trust agreement, the oldest of whom was born in 1986 and the youngest of whom was born in 1996. The Trust will also terminate if (i) Nasdaq-100 Shares are de-listed from the Nasdaq and are not subsequently re-listed on a national securities exchange registered under the Exchange Act; or (ii) either the Sponsor or the Trustee resigns or is removed, and a successor is not appointed. The Trust may terminate if: (i) 66⅔% of the holders of the outstanding Nasdaq-100 Shares agree to terminate it; (ii) the DTC is unable or unwilling to continue to perform its functions and a suitable replacement is unavailable; (iii) NSCC no longer provides clearance services with respect to the Nasdaq-100 Shares, or if the Trustee is no longer a participant in NSCC; (iv) Nasdaq ceases to publish the Index; or (v) the license agreement is terminated.

16. Within a reasonable time after the Trust's termination, the Trustee will use its best efforts to sell all Portfolio Securities not previously distributed to investors redeeming Creation Units. Nasdaq-100 Shares not redeemed prior to termination will be redeemed in cash at NAV based on the proceeds from the sale of the Portfolio Securities.

Applicants' Legal Analysis

1. Applicants request an order under section 6(c) of the Act granting an exemption from sections 2(a)(32), 4(2),

affiliate acts as the Trustee, fund administrator or in a similar capacity, and (iii) in all other cases $1,000 per day, regardless of the number of Creation Units purchased on that day by such Participating Party. The Transaction Fee may be changed by the Trustee with the Sponsor's consent, but it will not exceed 0.10% of the value of a Creation Unit. For purchases of Creation Units outside the Nasdaq-100 Clearing Process, the Transaction Fee will be one to four times greater. The amount of the Transaction Fee will be disclosed in the prospectus for the Trust. A ''Participating Party'' is a broker-dealer or other NSCC participant who is a participating party in the Nasdaq-100 Clearing Process.

[13] The cash equivalent of an Index Security may be included in the Cash Component of a Portfolio Deposit in lieu of the security if (i) the Trustee determines that an Index Security is likely to be unavailable or available in insufficient quantity for inclusion in a Portfolio Deposit (for example, when the security is subject to a trading halt or stop order, or the subject of a tender offer), or (ii) a particular investor is restricted from investing or engaging in transactions in the Index Security (for example, when the investor is a broker-dealer restricted by regulation or internal policy from investing in securities issued by a company on whose board of directors one of its principals serves, or when the investor is a broker-dealer and the security is on its ''restricted list'').

[14] No particular Market Maker is contractually obligated to make a market in Nasdaq-100 Shares although Nasdaq's listing requirements stipulate that at least two Market Makers must be registered in Nasdaq-100 Shares to maintain the listing. Applicants do not expect that any Market Maker will be an affiliated person, or an affiliated person of an affiliated person of the Trust, within the meaning of section 2(a)(3) of the Act, except pursuant to section 2(a)(3)(A) or (C) of the Act due to ownership of Nasdaq-100 Shares, as described below.

[15] Nasdaq-100 Shares are registered in book-entry form only. DTC or its nominee is the registered owner of all outstanding Nasdaq-100 Shares. Records reflecting the beneficial owners of Nasdaq-100 Shares are maintained by DTC or its participants.

22(d), 24(d), and 26(a)(2)(C) of the Act and rule 22c–1 under the Act; under sections 6(c) and 17(b) of the Act granting an exemption from sections 17(a)(1) and (2) of the Act; and under section 17(d) of the Act and rule 17d–1 under the Act to permit certain joint transactions.

2. Section 6(c) of the Act provides that the Commission may exempt any person, security, or transaction, or any class of persons, securities, or transactions, if and to the extent that such exemption is necessary or appropriate in the public interest and consistent with the protection of investors and the purposes fairly intended by the policy and provisions of the Act.

Sections 4(2) and 2(a)(32) of the Act

3. Section 4(2) of the Act defines a UIT as an investment company that, among other things, issues only redeemable securities. The term ''redeemable security'' is defined in section 2(a)(32) of the Act as any security, other than short-term paper, under the terms of which the holder, upon its presentation to the issuer is entitled to receive approximately a proportionate share of the issuer's current net assets or the cash equivalent. Because Nasdaq-100 Shares are not individually redeemable, applicants request an order that would permit the Trust to register and operate as a UIT and issue Nasdaq-100 Shares that are redeemable in Creation Units only. Applicants state that investors may purchase Nasdaq-100 Shares in Creation Units from the Trust and redeem Creation Units. Applicants further state that because the market price of Creation Units is disciplined by arbitrage opportunities, investors should be able to sell Nasdaq-100 Shares in the secondary market at approximately their NAV.

Section 22(d) of the Act and Rule 22c–1 Under the Act

4. Section 22(d) of the Act, among other things, prohibits a dealer from selling a redeemable security that is being currently offered to the public by or through an underwriter, except at a current public offering price described in the prospectus. Rule 22c–1 under the Act generally requires that a dealer selling, redeeming, or repurchasing a redeemable security do so only at a price based on its NAV next computed after receipt of a tender of the security for redemption or of an order to purchase or sell the security. Applicants state that secondary market trading in Nasdaq-100 Shares takes place at negotiated prices, not at a current offering price described in the prospectus, and not at a price based on NAV. Thus, purchases and sales of Nasdaq-100 Shares in the secondary market do not comply with section 22(d) and rule 22c–1. Applicants request an exemption from these provisions.

5. Applicants assert that the concerns sought to be addressed by section 22(d) of the Act and rule 22c–1 under the Act with respect to pricing are equally satisfied by the method of pricing Nasdaq-100 Shares. Applicants maintain that while there is little legislative history regarding section 22(d), its provisions, as well as those of rule 22c–1, appear to have been designed to (i) prevent dilution caused by certain riskless-trading schemes by principal underwriters and contract dealers; (ii) prevent unjust discrimination or preferential treatment among buyers resulting from sales at different prices; and (iii) assure an orderly distribution of investment company shares by eliminating price competition from dealers offering shares at less than the published sales price and repurchasing shares at more than the published redemption price.

6. Applicants believe that none of these purposes are thwarted by permitting Nasdaq-100 Shares to trade in the secondary market at negotiated prices. Applicants state (i) that secondary market trading in Nasdaq-100 Shares does not involve the Trust as a party and cannot result in dilution of an investment in Nasdaq-100 Shares; and (ii) to the extent different prices exist during a given trading day, or from day to day, such variances occur as a result of third-party market forces, such as supply and demand, not as a result of unjust or discriminatory manipulation. Therefore, applicants assert that secondary market transactions in Nasdaq-100 Shares do not create discrimination or preferential treatment among purchasers. Finally, applicants contend that the proposed distribution system is orderly because arbitrage activity ensures that the difference between the market price of Nasdaq-100 Shares and their NAV remains narrow.

Section 24(d) of the Act

7. Section 24(d) of the Act provides, in pertinent part, that the prospectus delivery exemption provided to dealer transactions by section 4(3) of the Securities Act does not apply to any transaction in a redeemable security issued by a UIT. Applicants request an exemption from section 24(d) to permit dealers in Nasdaq-100 Shares to rely on the prospectus delivery exemption provided by section 4(3) of the Securities Act.[16] Applicants state that the imposition of prospectus delivery requirements on dealers in the secondary market will materially impede the success of Nasdaq-100 Shares.

8. Applicants state that the secondary market for Nasdaq-100 Shares is significantly different from the typical secondary market for UIT securities, which is usually maintained by the sponsor. Nasdaq-100 Shares are listed on a national securities exchange and trade in the same manner as listed securities issued by operating companies and closed-end investment companies. Dealers selling shares of operating companies and closed-end investment companies in the secondary market generally are not required to deliver a prospectus to the purchaser.

9. Applicants contend that Nasdaq-100 Shares, as a listed security, merit a reduction in the compliance costs and regulatory burdens resulting from the imposition of prospectus delivery obligations in the secondary market. Because Nasdaq-100 Shares are exchange-listed, prospective investors have access to several types of market information about them. Applicants state that quotations, last sale price, and volume information are continually available on a real time basis through the consolidated tape and are available throughout the day on brokers' computer screens and other electronic services, such as Quotron. The previous day's price and volume information is also published in the financial section of newspapers. The Sponsor also publishes daily, on a per Nasdaq-100 Share basis, the amount of accumulated dividends, net of accrued expenses.

[16] Applicants state that persons purchasing Creation Units will be cautioned in the prospectus that some activities on their part may, depending on the circumstances, result in their being deemed statutory underwriters and subject them to the prospectus delivery and liability provisions of the Securities Act. For example, a broker-dealer firm and/or its client may be deemed a statutory underwriter if it takes Creation Units after placing an order with the Distributor, breaks them down into the constituent Nasdaq-100 Shares, and sells Nasdaq-100 Shares directly to its customers; or if it chooses to couple the creation of a supply of new Nasdaq-100 Shares with an active selling effort involving solicitation of secondary market demand for Nasdaq-100 Shares. The prospectus will state that whether a person is an underwriter depends upon all the facts and circumstances pertaining to that person's activities. The prospectus also will state that broker-dealer firms should also note that dealers who are not ''underwriters'' but are participating in a distribution (as contrasted to ordinary secondary trading transactions), and thus dealing with Nasdaq-100 Shares that are part of an ''unsold allotment'' within the meaning of section 4(3)(C) of the Securities Act, would be unable to take advantage of the prospectus delivery exemption provided by section 4(3) of the Securities Act.

10. Investors also receive Product Descriptions. Applicants state that, while not intended as a substitute for a prospectus, the Product Description contains pertinent information about Nasdaq-100 Shares. Applicants also note that Nasdaq-100 Shares are readily understandable to retail investors as a product that tracks the Nasdaq-100 Index, which is well known to most investors and widely recognized.

Section 26(a)(2)(C) of the Act

11. Section 26(a)(2)(C) of the Act requires, among other things, that a UIT's trust indenture prohibit payments to the trust's depositor (in the case of the Trust, the Sponsor), and any affiliated person of the depositor, except payments for performing certain administrative services. Applicants request an exemption from section 26(a)(2)(C) to permit the Trust to reimburse the Sponsor for certain licensing, registration, and marketing expenses.

12. Applicants state that, ordinarily, a sponsor of a UIT has several sources of income in connection with the creation of the trust. Applicants assert, however, that under the structure of the Trust, the usual sources of income are not available because the Sponsor will not impose a sales load, maintain a secondary market, or deposit Index Securities into the Trust. Applicants contend that the abuse sought to be remedied by section 26(a)(2)(C) of the Act—''double dipping'' by UIT sponsors collecting money from their captive trusts in addition to the profits already generated by sales charges and other sources—will not be present if the requested exemption is granted.

13. Applicants contend that permitting the Trust to reimburse the Sponsor for certain expenses would be no more disadvantageous to the holders of Nasdaq-100 Shares than allowing the expenses to be imposed indirectly as offsets to sales loads and other charges, as is done by typical UITs. Applicants state that the Trust pays the Sponsor only its actual out-of-pocket expenses and no component of profit is included. Finally, applicants state that the payment is capped at 20 basis points of the Trust's NAV on an annualized basis, with any expenses in excess of that amount absorbed by the Sponsor.

Section 17(a) of the Act

14. Section 17(a) of the Act generally prohibits an affiliated person of a registered investment company, or an affiliated person of such person, from selling any security to or purchasing any security from the company. Section 2(a)(3) defines ''affiliated person'' to include any person directly or indirectly owning, controlling, or holding with power to vote, 5% or more of the outstanding voting securities of the other person, and any person controlling, controlled by or under common control with the other person. Section 2(a)(9) provides that a control relationship will be presumed where one person owns 25% or more of another person's voting securities. Applicants state that, because the definition of ''affiliated person'' includes any person owning 5% or more, or more than 25%, of an issuer's outstanding voting securities, every purchaser of a Creation Unit will be an affiliated person of the Trust so long as 20 or fewer Creation Units are in existence. Applicants request an exemption from section 17(a) under sections 6(c) and 17(b) to permit persons that are affiliated persons solely by virtue of a 5% or more, or more than 25%, ownership interest in the Trust (or affiliated persons of such person that are not otherwise affiliated with the Trust) to purchase and redeem Creation Units through in-kind transactions.

15. Section 17(b) authorizes the Commission to exempt a proposed transaction from section 17(a) if evidence establishes that the terms of the transaction, including the consideration to be paid or received, are reasonable and fair and do not involve overreaching, and the proposed transaction is consistent with the policies of the registered investment company and the general provisions of the Act. Applicants contend that no useful purpose would be served by prohibiting affiliated persons of the Trust from purchasing or redeeming Creation Units. The composition of a Portfolio Deposit made by a purchaser or given to a redeeming investor is the same regardless of the investor's identity, and is valued under the same objective standards applied to valuing the Portfolio Securities. Therefore, applicants state that ''in kind'' purchases and redemptions will afford no opportunity for an affiliated person of the Trust to effect a transaction detrimental to the other holders of Nasdaq-100 Shares. Applicants also believe that ''in kind'' purchases and redemptions do not result in abusive self-dealing or overreaching by affiliated persons of the Trust.

Section 17(d) of the Act and Rule 17d–1 Under the Act

16. Section 17(d) of the Act and rule 17d–1 under the Act prohibit any affiliated person of, or principal underwriter for, a registered investment company, or any affiliated person of the affiliated person or the principal underwriter, acting as principal, from effecting any transaction in connection with any joint enterprise or other arrangement or profit-sharing plan in which the investment company participates, unless an application regarding the joint transaction has been filed with the Commission and granted by order. Under rule 17d–1, in passing upon such applications, the Commission considers whether the participation of the registered investment company in the joint transaction is consistent with the provisions, policies and purposes of the Act and the extent to which such participation is on a basis different or less advantageous than that of other participants.

17. Applicants request an order under rule 17d–1 that would permit the Trust to reimburse the Sponsor for the payment to Nasdaq of an annual license fee under a license agreement. Applicants believe that relief is necessary because the Trust's undertaking to reimburse the Sponsor might be deemed a joint enterprise or other joint arrangement in which the Trust is a participant, in contravention of section 17(d) of the Act and rule 17d–1.

18. The license agreement allows applicants to use the Index as a basis for Nasdaq-100 Shares and to use certain of Nasdaq's trade name and trademark rights. Applicants believe that Nasdaq is a valuable name that is well-known to investors and that investors will desire to invest in an instrument that closely mirrors the Index. In view of this, applicants state that it is necessary to obtain from Nasdaq the above-mentioned license agreement so that appropriate reference to Nasdaq and Nasdaq-100 Shares may be made in materials describing Nasdaq-100 Shares and the Trust. Applicants assert that the terms and provisions of the license agreement are comparable to the terms and provisions of other similar license agreements and that the annual license fee is for fair value and is in an amount comparable to that which would be charged by Nasdaq for similar arrangements. For these reasons, applicants state that the proposed license fee arrangement satisfies the standards of section 17(d) and rule 17d–1.

Applicants' Conditions

Applicants agree that the order granting the requested relief will be subject to the following conditions:

1. Applicants will not register a new series of the Trust by means of filing a post-effective amendment to the Trust's

registration statement or by any other means, unless applicants have requested and received with respect to such new series, either exemptive relief from the Commission or a no-action position from the Division of Investment Management of the Commission.

2. The Trust's prospectus and the Product Description clearly disclose that, for purposes of the Act, Nasdaq-100 Shares are issued by the Trust and that the acquisition of Nasdaq-100 Shares by investment companies is subject to the restrictions of section 12(d)(1) of the Act, except as permitted by an exemptive order that permits registered investment companies to invest in the Trust beyond the limits of Section 12(d)(1)(A), subject to certain terms and conditions, including that the investment company enter into an agreement with the Trust regarding the terms of the investment.

3. As long as the Trust operates in reliance on the requested order, the Nasdaq-100 Shares will be listed on an Exchange.

4. The website for the Trust, which will be publicly accessible at no charge, will contain the following information, on a per Nasdaq-100 Share basis, for the Trust: (a) The prior Business Day's NAV and the reported closing price, and a calculation of the premium or discount of such price against such NAV; and (b) data in chart format displaying the frequency distribution of discounts and premiums of the daily closing price against the NAV, within appropriate ranges, for each of the four previous calendar quarters. In addition, the Product Description for the Trust will state that the website for the Trust has information about premiums and discounts at which the Nasdaq-100 Shares have traded.

5. The prospectus and annual report for the Trust will also include: (a) The information listed in condition 4(b), (i) in the case of the prospectus, for the most recently completed year (and the most recently completed quarter or quarters, as applicable) and (ii) in the case of the annual report, for the immediately preceding five years, as applicable; and (b) the following data, calculated on a per Nasdaq-100 Share basis for one-, five- and ten-year periods (or life of the Trust), (i) the cumulative total return and the average annual total return based on NAV and closing price, and (ii) the cumulative total return of the Index.

6. Before the Trust may rely on the order, the Commission will have approved pursuant to rule 19b–4 under the Exchange Act, an Exchange rule requiring Exchange members and member organizations effecting transactions in Nasdaq-100 Shares to deliver a Product Description to purchasers of Nasdaq-100 Shares.

For the Commission, by the Division of Investment Management, pursuant to delegated authority.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–3677 Filed 3–1–07; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release Nos. 33–8782, 34–55350; File No. 4–532]

Roundtable on International Financial Reporting Standards ''Roadmap''

AGENCY: Securities and Exchange Commission.

ACTION: Notice of roundtable meeting.

SUMMARY: On Tuesday, March 6, 2007 the Securities and Exchange Commission will hold a roundtable discussion on the ''roadmap'' regarding International Financial Reporting Standards (IFRS). The roadmap describes the path toward eliminating the need for non-U.S. companies to reconcile to U.S. GAAP financial statements they prepare pursuant to IFRS issued by the International Accounting Standards Board in filings with the Commission. The subject matter of the roundtable will be the effect on the capital raising process in the U.S. capital markets with respect to the roadmap, the effect on investors in the U.S. capital markets with respect to the roadmap, and the effect on issuers in the U.S capital markets with respect to the roadmap. Representative(s) of the following have been invited to participate: Issuers, investors, securities counsel, underwriters, credit rating agencies, stock exchanges, academia, and audit firms.

The roundtable will take place at the Commission's headquarters at 100 F Street, NE., Auditorium, Room L–002, Washington, DC at 10 a.m. The public is invited to observe the roundtable discussions. Seating is available on a first-come, first-serve basis.

FOR FURTHER INFORMATION CONTACT: Katrina Kimpel at (202) 551–5313.

Dated: February 26, 2007.

By the Commission.

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–3645 Filed 3–1–07; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55352; File No. SR–NYSE–2006–71]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing of Proposed Rule Change To List and Trade Nine Series of Exchange-Traded Notes of Barclays Bank PLC Linked to the Performance of Sub-Indices of the Dow Jones—AIG Commodity Index℠

February 26, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (the ''Exchange Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on February 20, 2007, the New York Stock Exchange LLC (''Exchange'' or ''NYSE'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule changes as described in Items I, II, and III below, which items have been substantially prepared by the Exchange. The Commission is publishing this notice to solicit comments on the proposed rule changes from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The NYSE proposes to list and trade nine series of Exchange-Traded Notes of Barclays Bank PLC (''Barclays'') linked to the performance of sub-indices of the Dow Jones—AIG Commodity Index ℠.

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 NYSE has prepared summaries, set forth in Sections A, B and C below, of the most significant aspects of such statements.

The text of the proposed rule change is available at the NYSE, the Commission's Public Reference Room, and *http://www.nyse.com.*

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Notes

Under Section 703.19 of the Listed Company Manual (the ''Manual''), the Exchange may approve for listing and trading securities not otherwise covered by the criteria of Sections 1 and 7 of the Manual, provided the issue is suited for auction market trading.[3] The Exchange proposes to list and trade, under Section 703.19 of the Manual, nine series of the Notes, which are linked to the performance of the following sub-indices (the sub-index linked to each series of Notes is referred to in this filing as the ''Index'' with respect to that series) of the Dow Jones—AIG Commodity Index SM: the Dow Jones—AIG Petroleum Total Return Sub-Index SM; the Dow Jones—AIG Livestock Total Return Sub-Index SM; the Dow Jones—AIG Agriculture Total Return Sub-Index SM; the Dow Jones—AIG Grains Total Return Sub-Index SM; the Dow Jones—AIG Energy Total Return Sub-Index SM; the Dow Jones—AIG Precious Metals Total Return Sub-Index SM; the Dow Jones—AIG ExEnergy Total Return Sub-Index SM; the Dow Jones—AIG Industrial Metals Total Return Sub-Index SM; and the Dow Jones—AIG Softs Total Return Sub-Index SM. Barclays intends to issue the Notes under the name ''iPath SM Exchange-Traded Notes.''

The Exchange believes that the Notes will conform to the initial listing standards for equity securities under Section 703.19, as Barclays is an affiliate of Barclays PLC,[4] which is a listed company in good standing, the Notes will have a minimum life of one year, the minimum public market value of each series of the Notes at the time of issuance will exceed $4 million, there will be at least one million units of each series of Notes outstanding, and there will be at least 400 holders of each series at the time of issuance. The Notes are medium-term debt securities of Barclays that provide for a cash payment at maturity or upon earlier exchange at the holder's option, based on the performance of the Index subject to the adjustments described below. The original issue price of each Note is expected to be $50. The Notes will trade on the Exchange's equity trading floor and the Exchange's existing equity trading rules will apply to trading in the Notes. The Notes will not have a minimum principal amount that will be repaid and, accordingly, payment on the Notes prior to or at maturity may be less than the original issue price of the Notes. In fact, the value of the Index must increase for the investor to receive at least the $50 original issue price per Note at maturity or upon redemption. If the value of the Index decreases or does not increase sufficiently to offset the investor fee (described below), the investor will receive less, and possibly significantly less, than the $50 original issue price per Note. In addition, holders of the Notes will not receive any interest payments from the Notes. The Notes will have a term of 30 years. The Notes are not callable.

Holders who have not previously redeemed their Notes will receive a cash payment at maturity equal to the original issue price of their Notes times the index factor on the Final Valuation Date (as defined below) minus the investor fee on the Final Valuation Date. The ''index factor'' on any given day will be equal to the closing value of the Index on that day divided by the initial index level. The ''initial index level'' is the closing value of the Index on the date of issuance of the Notes (the ''Trade Date'') and the ''final index level'' is the closing value of the Index on the Final Valuation Date. The investor fee is equal to 0.75% per year times the principal amount of a holder's Notes times the index factor, calculated on a daily basis in the following manner: The investor fee on the Trade Date will equal zero. On each subsequent calendar day until maturity or early redemption, the investor fee will increase by an amount equal to 0.75% times the principal amount of a holder's Notes times the index factor on that day (or, if such day is not a trading day, the index factor on the immediately preceding trading day) divided by 365. The investor fee is the only fee holders who hold their Notes until maturity will be charged in connection with their ownership of the Notes (investors who redeem their Notes early, as described below, will be charged an additional fee in the form of an adjustment to the index factor).

Prior to maturity, holders may redeem their Notes on any Redemption Date (defined below) during the term of the Notes provided that they present at least 50,000 Notes for redemption, or they act through a broker or other financial intermediaries (such as a bank or other financial institution not required to register as a broker-dealer to engage in securities transactions) that are willing to bundle their Notes for redemption with other investors' Notes. If a holder chooses to redeem such holder's Notes, the holder will receive a cash payment on the applicable Redemption Date equal to the initial issue price of such holder's Notes times the adjusted index factor on the applicable Valuation Date minus the investor fee on the applicable Valuation Date. The adjusted index factor on any given day will be equal to the closing value of the Index on that day times 0.9975 divided by the initial Index level. A ''Redemption Date'' is the third business day following a Valuation Date (other than the Final Valuation Date (defined below)). A ''Valuation Date'' is each Thursday from the first Thursday after issuance of the Notes until the last Thursday before maturity of the Notes (the ''Final Valuation Date'') inclusive (or, if such date is not a trading day,[5] the next succeeding trading day), unless the calculation agent determines that a market disruption event, as described below, occurs or is continuing on that day.[6] In that event, the Valuation Date for the maturity date or corresponding Redemption Date, as the case may be, will be the first following trading day on which the calculation agent determines that a market disruption event does not occur and is not continuing. In no event, however, will a Valuation Date be postponed by more than five trading days.[7]

Any of the following will be a market disruption event: (i) A material limitation, suspension or disruption in the trading of any Index component which results in a failure by the trading facility on which the relevant contract is traded to report a daily contract reference price (*i.e.*, the price of the relevant contract that is used as a reference or benchmark by market

[3] *See* Securities Exchange Act Release No. 28217 (July 18, 1990), 55 FR 30056 (July 24, 1990).

[4] The issuer of the Notes, Barclays, is an affiliate of an Exchange-listed company (Barclays PLC) and not an Exchange-listed company itself. However, Barclays, though an affiliate of Barclays PLC, would exceed the Exchange's earnings and minimum tangible net worth requirements in Section 102 of the Manual. Additionally, Barclays has informed the Exchange that the original issue price of the Notes, when combined with the original issue price of all other iPath securities offerings of the issuer that are listed on a national securities exchange (or association), does not exceed 25% of the issuer's tangible net worth.

[5] A ''trading day'' is a day on which (i) the value of the Index is published by AIG–FP and Dow Jones, (ii) trading is generally conducted on the Exchange and (iii) trading is generally conducted on the markets on which the futures contracts underlying the Index are traded, in each case as determined by the calculation agent in its sole discretion.

[6] Barclays will serve as the initial calculation agent.

[7] If a ''market disruption event'' is of more than a temporary nature, the Exchange will file a proposed rule change pursuant to Rule 19b–4 seeking Commission approval to continue trading the Notes. Unless approved for continued trading, the Exchange would commence delisting proceedings.

participants); (ii) the daily contract reference price for any Index component is a ''limit price,'' which means that the daily contract reference price for such contract has increased or decreased from the previous day's daily contract reference price by the maximum amount permitted under the applicable rules or procedures of the relevant trading facility; (iii) failure by AIG–FP and Dow Jones to publish the closing value of the Index or of the applicable trading facility or other price source to announce or publish the daily contract reference price for one or more Index component; or (iv) any other event, if the calculation agent determines in its sole discretion that the event materially interferes with Barclays' ability or the ability of any of Barclays' affiliates to unwind all or a material portion of a hedge with respect to the Notes that Barclays or Barclays' affiliates have effected or may effect as described herein in connection with the sale of the Notes.

If a Valuation Date is postponed by five trading days, that fifth day will nevertheless be the date on which the value of the Index will be determined by the calculation agent. In such an event, the calculation agent will make a good faith estimate in its sole discretion of the value of the Index.

To redeem their Notes, holders must instruct their broker or other person through whom they hold their Notes to take the following steps:

- Deliver a notice of redemption to Barclays via e-mail by no later than 11 a.m. Eastern time (''ET'') on the business day prior to the applicable Valuation Date. If Barclays receives such notice by the time specified in the preceding sentence, it will respond by sending the holder a confirmation of redemption;
- Deliver the signed confirmation of redemption to Barclays via facsmile in the specified form by 4 p.m. ET on the same day; Barclays must acknowledge receipt in order for the confirmation to be effective; and
- Transfer such holder's book-entry interest in its Notes to the trustee on Barclays' behalf at or prior to 10 a.m. ET on the applicable Redemption Date (the third business day following the Valuation Date).

If holders elect to redeem their Notes, Barclays may request that Barclays Capital Inc. (a broker-dealer) purchase the Notes for the cash amount that would otherwise have been payable by Barclays upon redemption. In this case, Barclays will remain obligated to redeem the Notes if Barclays Capital Inc. fails to purchase the Notes. Any Notes purchased by Barclays Capital Inc. may remain outstanding.

If an event of default occurs and the maturity of the Notes is accelerated, Barclays will pay the default amount in respect of the principal of the Notes at maturity. The default amount for the Notes on any day will be an amount, determined by the calculation agent in its sole discretion, equal to the cost of having a qualified financial institution, of the kind and selected as described below, expressly assume all Barclays' payment and other obligations with respect to the Notes as of that day and as if no default or acceleration had occurred, or to undertake other obligations providing substantially equivalent economic value to the holders of the Notes with respect to the Notes. That cost will equal:

- The lowest amount that a qualified financial institution would charge to effect this assumption or undertaking, plus
- The reasonable expenses, including reasonable attorneys' fees, incurred by the holders of the Notes in preparing any documentation necessary for this assumption or undertaking.

During the default quotation period for the Notes (described below), the holders of the Notes and/or Barclays may request a qualified financial institution to provide a quotation of the amount it would charge to effect this assumption or undertaking. If either party obtains a quotation, it must notify the other party in writing of the quotation. The amount referred to in the first bullet point above will equal the lowest—or, if there is only one, the only—quotation obtained, and as to which notice is so given, during the default quotation period. With respect to any quotation, however, the party not obtaining the quotation may object, on reasonable and significant grounds, to the assumption or undertaking by the qualified financial institution providing the quotation and notify the other party in writing of those grounds within two business days after the last day of the default quotation period, in which case that quotation will be disregarded in determining the default amount. The default quotation period is the period beginning on the day the default amount first becomes due and ending on the third business day after that day, unless:

- No quotation of the kind referred to above is obtained, or
- Every quotation of that kind obtained is objected to within five business days after the due date as described above.

If either of these two events occurs, the default quotation period will continue until the third business day after the first business day on which prompt notice of a quotation is given as described above. If that quotation is objected to as described above within five business days after that first business day; however, the default quotation period will continue as described in the prior sentence and this sentence.

In any event, if the default quotation period and the subsequent two business day objection period have not ended before the Final Valuation Date, then the default amount will equal the stated principal amount of the Notes.[8]

Indicative Value

An intraday ''Indicative Value'' meant to approximate the intrinsic economic value of the Notes will be calculated and published via the facilities of the Consolidated Tape Association (''CTA'') every 15 seconds throughout the NYSE trading day on each day on which the Notes are traded on the Exchange.[9] Additionally, Barclays or an affiliate will calculate and publish the closing Indicative Value of the Notes on each trading day at *www.ipathetn.com.* The last sale price of the Notes will also be disseminated over the consolidated tape, subject to a 20-minute delay. In connection with the Notes, the term ''Indicative Value'' refers to the value at a given time determined based on the following equation:

Indicative Value = Principal Amount per Unit X (Current Index Level/ Initial Index Level) − Current Investor Fee

Where:

Principal Amount per Unit = $50;
Current Index Level = The most recent published level of the Index as reported by Dow Jones and AIG–FP;
Initial Index Level = The Index level on the trade date for the Notes; and
Current Investor Fee = The most recent daily calculation of the investor fee with respect to the Notes, determined as described above (which, during any trading day, will be the investor fee determined on the preceding calendar

[8] Additional information about the default provisions of the Notes is provided in Barclays' Registration Statement on Form F–3 (333–126811), as amended by Amendment No. 1 on September 14, 2005.

[9] The Indicative Value calculation will be provided for reference purposes only. It is not intended as a price or quotation, or as an offer or solicitation for the purchase, sale, redemption or termination of the Notes, nor does it reflect hedging or transaction costs, credit considerations, market liquidity or bid-offer spreads. Published Index levels from the sponsors may occasionally be subject to delay or postponement. Any such delays or postponements will affect the current Index level and therefore the Indicative Value of the Notes. Index levels provided by the sponsors will not necessarily reflect the depth and liquidity of the underlying commodities markets. For this reason and others, the actual trading price of the Notes may be different from their Indicative Value.

day).

The Indicative Value will not reflect price changes to the price of an underlying commodity between the close of trading of the futures contract at the relevant futures exchange and the close of trading on the NYSE at 4 p.m. ET. The value of the Notes may accordingly be influenced by non-concurrent trading hours between the NYSE and the various futures exchanges on which the futures contracts based on the Index commodities are traded. While the Notes will trade on the NYSE from 9:30 a.m. to 4 p.m. ET, the table below lists the trading hours for all of the components of each series of Notes.

CBOT
Corn 10:30 a.m.–2:15 p.m. ET
Soybeans 10:30 a.m.–2:15 p.m. ET
Soybean Oil 10:30 a.m.–2:15 p.m. ET
Wheat 10:30 a.m.–2:15 p.m. ET
CME
Lean Hogs 10:10 a.m.–2 p.m. ET
Live Cattle 10:05 a.m.–2 p.m. ET
CSCE
Coffee 9:15 a.m.–12:30 p.m. ET
Sugar #11 9 a.m.–12 p.m. ET
NYBOT
Cotton #2 10:30 a.m.–2:15 p.m. ET
NYMEX
Copper 8:10 a.m.–1 p.m. ET
Gold 8:20 a.m.–1:30 p.m. ET
Heating Oil 10:05 a.m.–2:30 p.m. ET
Natural Gas 10 a.m.–2:30 p.m. ET
Silver 8:25 a.m.–1:25 p.m. ET
Unleaded Gasoline 10:05 a.m.–2:30 p.m. ET
WTI Crude Oil 10 a.m.–2:30 p.m. ET
LME
Aluminum 6:55 a.m.–12 p.m. ET
Nickel 7:15 a.m.–11:55 a.m. ET
Zinc 7:10 a.m.–11:55 a.m. ET

While the market for futures trading for each of the Index commodities is open, the Indicative Value can be expected to closely approximate the redemption value of the Notes. However, during NYSE trading hours when the futures contracts have ceased trading, spreads and resulting premiums or discounts may widen, and therefore, increase the difference between the price of the Notes and their redemption value. The Indicative Value disseminated during NYSE trading hours should not be viewed as a real time update of the redemption value.

Description of the Indices

All of the indices to which the Notes included in this filing are linked are sub-indices of the Dow Jones—AIG Commodity Index SM. The Commission has previously reviewed and approved for listing Exchange-Traded Notes linked to the Dow Jones—AIG Commodity Index Total Return SM and it is described in detail in the related filing.[10] At present, Dow Jones disseminates the Index value of each sub-index every 15 seconds (assuming the Index value has changed within such 15 second interval) from 8 a.m. to 3 p.m. ET and publishes a daily Index value at approximately 4 p.m. ET on each day on which the Index is calculated. The sub-index values can still be retrieved after 3 p.m. until the end of the Exchange trading day but their values are generally static after 3 p.m., although they may change if settlement values for Index components become available after that time.

The following is a description of the components of the various sub-indices of the Dow Jones—AIG Commodity Index SM to which the various Notes are linked.

Dow Jones—AIG Petroleum Total Return Sub-Index SM

The index includes those contracts in the Dow Jones—AIG Commodity Index SM that relate to petroleum-related commodities: Crude oil, heating oil and unleaded gasoline. The relative weighting of each contract in the index as of August 15, 2006 was as follows:

Commodity	Designated contract	Exchange	Weighting (percent)
Crude Oil	Oil	NYMEX	62.43
Heating Oil	Heating Oil	NYMEX	19.05
Unleaded Gasoline	New York Harbor Unleaded Gasoline	NYMEX	18.51

Dow Jones—AIG Livestock Total Return Sub-Index SM

The index includes those contracts in the Dow Jones—AIG Commodity Index SM that relate to livestock: Hogs and live cattle. The relative weighting of each contract in the index as of August 15, 2006 was as follows:

Commodity	Designated contract	Exchange	Weighting (percent)
Live Cattle	Live Cattle	CME	57.72
Hogs	Lean Hogs	CME	42.28

Dow Jones—AIG Agriculture Total Return Sub-Index SM

The index includes those contracts in the Dow Jones—AIG Commodity Index SM that relate to agricultural commodities: Coffee, corn, cotton, soybean oil, soybeans and wheat. The relative weighting of each contract in the index as of August 15, 2006 was as follows:

[10] *See* Securities Exchange Act Release No. 53876 (May 25, 2006), 71 FR 32158 (June 2, 2006) (SR–NYSE–2006–16).

Commodity	Designated contract	Exchange	Weighting (percent)
Soybeans	Soybeans	CBOT	23.36
Corn	Corn	CBOT	21.11
Wheat	Wheat	CBOT	18.50
Cotton	Cotton	NYCE	10.27
Soybean Oil	Soybean Oil	CBOT	10.07
Coffee	Coffee ''C''	CSCE	8.46
Sugar	World Sugar No. 11	CSCE	8.23

Dow Jones—AIG Grains Total Return Sub-Index SM

The index includes those contracts in the Dow Jones—AIG Commodity Index SM that relate to grains: Corn, soybeans and wheat. The relative weighting of each contract in the index as of August 15, 2006 was as follows:

Commodity	Designated contract	Exchange	Weighting (percent)
Soybeans	Soybeans	CBOT	37.10
Corn	Corn	CBOT	33.52
Wheat	Wheat	CBOT	29.38

Dow Jones—AIG Energy Total Return Sub-Index SM

The index includes those contracts in the Dow Jones—AIG Commodity Index SM that relate to energy-related commodities: Crude oil, heating oil, natural gas and unleaded gasoline. The relative weighting of each contract in the index as of August 15, 2006 was as follows:

Commodity	Designated contract	Exchange	Weighting (percent)
Crude Oil	Oil	NYMEX	42.41
Natural Gas	Henry Hub Natural Gas	NYMEX	32.07
Heating Oil	Heating Oil	NYMEX	12.94
Unleaded Gasoline	New York Harbor Unleaded Gasoline	NYMEX	12.58

Dow Jones—AIG Precious Metals Total Return Sub-Index SM

The index includes those contracts in the Dow Jones—AIG Commodity Index SM that relate to commodities other than energy: Aluminum, coffee, copper, corn, cotton, gold, hogs, live cattle, nickel, silver, soybeans, soybean oil, sugar, wheat and zinc. The relative weighting of each contract in the index as of August 15, 2006 was as follows:

Commodity	Designated contract	Exchange	Weighting (percent)
Copper	Copper	NYMEX	12.63
Aluminum	High Grade Primary Aluminum	LME	9.52
Gold	Gold	NYMEX	9.34
Soybeans	Soybeans	CBOT	9.29
Corn	Corn	CBOT	8.39
Live Cattle	Live Cattle	CME	7.47
Wheat	Wheat	CBOT	7.36
Nickel	Primary Nickel	LMED	6.54
Zinc	Zinc	LME	5.85
Hogs	Lean Hogs	CME	5.47
Cotton	Cotton	NYCE	4.08
Soybean Oil	Soybean Oil	CBOT	4.00
Silver	Silver	NYMEX	3.43
Coffee	Coffee ''C''	CSCE	3.36
Sugar	World Sugar No. 11	CSCE	3.27

Dow Jones—AIG ExEnergy Total Return Sub-Index SM

The index includes those contracts in the Dow Jones—AIG Commodity Index SM that relate to commodities other than energy: Aluminum, coffee, copper, corn, cotton, gold, hogs, live cattle, nickel, silver, soybeans, soybean oil, sugar, wheat and zinc. The relative weighting of each contract in the index as of August 15, 2006 was as follows:

Commodity	Designated contract	Exchange	Weighting (percent)
Copper	Copper	NYMEX	12.63
Aluminum	High Grade Primary Aluminum	LME	9.52
Gold	Gold	NYMEX	9.34
Soybeans	Soybeans	CBOT	9.29
Corn	Corn	CBOT	8.39
Live Cattle	Live Cattle	CME	7.47
Wheat	Wheat	CBOT	7.36
Nickel	Primary Nickel	LME	6.54
Zinc	Zinc	LME	5.85
Hogs	Lean Hogs	CME	5.47
Cotton	Cotton	NYCE	4.08
Soybean Oil	Soybean Oil	CBOT	4.00
Silver	Silver	NYMEX	3.43
Coffee	Coffee ''C''	CSCE	3.36
Sugar	World Sugar No. 11	CSCE	3.27

Dow Jones–AIG Industrial Metals Total Return Sub-Index SM

The index includes those contracts in the Dow Jones—AIG Commodity Index SM that relate to industrial metals: Aluminum, copper, nickel and zinc. The relative weighting of each contract in the index as of August 15, 2006 was as follows:

Commodity	Designated contract	Exchange	Weighting (percent)
Copper	Copper	NYMEX	36.56
Aluminum	High Grade Primary Aluminum	LME	27.56
Nickel	Primary Nickel	LME	18.95
Zinc	Zinc	LME	16.93

Dow Jones—AIG Softs Total Return Sub-Index SM

The index includes those contracts in the Dow Jones—AIG Commodity Index SM that relate to soft commodities: Coffee, cotton and sugar. The relative weighting of each contract in the index as of August 15, 2006 was as follows:

Commodity	Designated contract	Exchange	Weighting (percent)
Cotton	Cotton	NYCE	38.09
Coffee	Coffee ''C''	CSCE	31.38
Sugar	World Sugar No. 11	CSCE	30.53

Continued Listing Criteria

The Exchange prohibits the initial and/or continued listing of any security that is not in compliance with Rule 10A–3 under the Exchange Act.[11]

The Exchange will delist any series of the Notes:

• (i) If, following the initial twelve month period from the date of commencement of trading of the Notes, the Notes have more than 60 days remaining until maturity and there are fewer than 50 beneficial holders of the Notes for 30 or more consecutive trading days; (ii) if fewer than 100,000 Notes remain issued and outstanding; or (iii) if the market value of all outstanding Notes is less than $1,000,000.

• If the Index value ceases to be calculated or available during the time the Notes trade on the Exchange on at least a 15 second basis through one or more major market data vendors or the sponsors of the Index.

• If, during the time the Notes trade on the Exchange, the Indicative Value ceases to be available on 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.

The Exchange will also delist any series of the Notes if:

• Dow Jones and AIG-FP substantially change either the Index component selection methodology or the weighting methodology.

• If a new component is added to the Index (or pricing information is used for a new or existing component) that constitutes more than 10% of the weight of the Index with whose principal trading market the Exchange does not have a comprehensive surveillance sharing agreement.[12]

• If a successor or substitute index is used in connection with the Notes. The filing will address, among other things the listing and trading characteristics of the successor or substitute index and the Exchange's surveillance procedures applicable thereto.

Notwithstanding the foregoing, the Exchange may continue the listing of a series of the Notes if, prior to the implementation of any of the foregoing changes, the Exchange files a proposed

[11] 17 CFR 240.10A–3.

[12] The Exchange will contact the Commission staff whenever Dow Jones and AIG–FP add a new component to the Index using pricing information from a market with which the Exchange does not have a previously existing information sharing agreement or switches to using pricing information from such a market with respect to an existing component. In such circumstances, the Exchange will discuss with the Commission staff whether a filing under Rule 19b–4 is necessary.

rule change pursuant to Rule 19b–4 under the Exchange Act and the Commission approves such filing.

Trading Halts

If the Index value or the Indicative Value is not being disseminated as required, the Exchange may halt trading during the day on which the interruption to the dissemination of the Index value or the Indicative Value first occurs. If the interruption to the dissemination of the Index value or the Indicative Value persists past the trading day in which it occurred, the Exchange will halt trading no later than the beginning of the trading day following the interruption.

Surveillance

The Exchange's surveillance procedures will incorporate and rely upon existing Exchange surveillance procedures governing equities with respect to surveillance of the Notes. The Exchange believes that these procedures are adequate to monitor Exchange trading of the Notes and to detect violations of Exchange rules, thereby deterring manipulation. In this regard, the Exchange currently has the authority under NYSE Rule 476 to request the Exchange specialist in the Notes to provide NYSE Regulation with information that the specialist uses in connection with pricing the Notes on the Exchange, including specialist proprietary or other information regarding securities, commodities, futures, options on futures or other derivative instruments. The Exchange believes it also has authority to request any other information from its members—including floor brokers, specialists and ''upstairs'' firms—to fulfill its regulatory obligations.

The Exchange's current trading surveillances focus on detecting securities trading outside normal patterns. When such situations are detected, surveillance analysis follows and investigations are opened, where appropriate, to review the behavior of all relevant parties for all relevant trading violations.

With regard to the Index components, the Exchange can obtain market surveillance information with respect to transactions occurring on the London Metal Exchange (''LME''), including customer identity information, pursuant to a memorandum of understanding with the LME. The Exchange has access to transaction information, including customer identity information with respect to all contracts traded on the New York Mercantile Exchange (the ''NYMEX'') pursuant to the Exchange's information sharing agreement with NYMEX. All of the other trading venues on which current Index components are traded are members of the Intermarket Surveillance Group and the Exchange therefore has access to all relevant trading information with respect to those contracts without any further action being required on the part of the Exchange.

Trading Rules

The Exchange's existing trading rules will apply to trading of the Notes. The Notes will trade between the hours of 9:30 a.m. and 4 p.m. ET and will be subject to the equity margin rules of the Exchange. The Notes will be subject to the equity margin rules of the Exchange.[13]

Suitability

Pursuant to Exchange Rule 405, the Exchange will impose a duty of due diligence on its members and member firms to learn the essential facts relating to every customer prior to trading the Notes.[14] With respect to suitability recommendations and risks, the Exchange will require members, member organizations and employees thereof recommending a transaction in the Notes: (1) To determine that such transaction is suitable for the customer, and (2) to have a reasonable basis for believing that the customer can evaluate the special characteristics of, and is able to bear the financial risks of, such transaction.

Information Memorandum

The Exchange will, prior to trading the Notes, distribute an information memorandum to the membership providing guidance with regard to member firm compliance responsibilities (including suitability recommendations) when handling transactions in the Notes. The information memorandum will note to members language in the prospectus used by Barclays in connection with the sale of the Notes regarding prospectus delivery requirements for the Notes. Specifically, in the initial distribution of the Notes,[15] and during any subsequent distribution of the Notes, NYSE member organizations will deliver a prospectus to investors purchasing from such distributors.

The information memorandum will discuss the special characteristics and risks of trading this type of security. Specifically, the information memorandum, among other things, will discuss what the Notes are, how the Notes are redeemed, applicable Exchange rules, dissemination of information regarding the Indicative Value, dissemination of information regarding the Index value and the Indicative Value, trading information and applicable suitability rules.

The information memorandum will also notify members and member organizations about the procedures for redemptions of Notes and that Notes are not individually redeemable but are redeemable only in aggregations of at least 50,000 Notes. The information memorandum will also discuss any relief, if granted, by the Commission or the staff from any rules under the Act. The information memorandum will also reference the fact that there is no regulated source of last sale information regarding physical commodities and that the SEC has no jurisdiction over the trading of physical commodities such as aluminum, gold, crude oil, heating oil, corn and wheat, or the futures contracts on which the value of the Notes is based.

2. Statutory Basis

The Exchange states that the basis under the Exchange Act for this proposed rule change is the requirement under Section 6(b)(5)[16] that an exchange have rules that are designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to remove impediments to, and perfect the mechanism of a free and open market and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Exchange Act.

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 written comments on 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**

[13] *See* NYSE Rule 431.

[14] NYSE Rule 405 requires that every member, member firm or member corporation use due diligence to learn the essential facts relative to every customer and to every order or account accepted.

[15] The Registration Statement reserves the right to make subsequent distributions of these Notes.

[16] 15 U.S.C. 78f(b)(5).

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 the proposed rule change, or

(B) Institute proceedings to determine whether the proposed rule change should be disapproved.

The Exchange has requested accelerated approval of this proposed rule change prior to the 30th day after the date of publication of the notice of the filing thereof. The Commission has determined that a 15-day comment period is appropriate in this case.

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 Exchange 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–2006–71 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–NYSE–2006–71. 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 will also be available for inspection and copying at the principal office of the NYSE. 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–2006–71 and should be submitted on or before March 19, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[17]

Nancy M. Morris,

Secretary.

[FR Doc. E7–3670 Filed 3–1–07; 8:45 am]

BILLING CODE 8010–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10815 and # 10816]

Louisiana Disaster # LA–00012

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for the State of Louisiana (FEMA–1685–DR), dated 02/23/2007.

Incident: Severe Storms and Tornadoes.

Incident Period: 02/12/2007 through 02/13/2007.

Effective Date: 02/23/2007.

Physical Loan Application Deadline Date: 04/24/2007.

Economic Injury (Eidl) Loan Application Deadline Date: 11/23/2007.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 02/23/2007, applications for disaster loans may be filed at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Parishes (Physical Damage and Economic Injury Loans): Jefferson, Orleans, Saint Martin

Contiguous Parishes/Counties (Economic Injury Loans Only):

Louisiana:

Assumption, Iberia, Iberville, Lafayette, Lafourche, Plaquemines, Pointe Coupee, Saint Bernard, Saint Charles, Saint Landry, Saint Mary, Saint Tammany, St John The Baptist, Tangipahoa

The Interest Rates are:

	Percent
For Physical Damage:	
Homeowners With Credit Available Elsewhere	5.750
Homeowners Without Credit Available Elsewhere	2.875
Businesses With Credit Available Elsewhere	8.000
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	5.250
Businesses And Non-Profit Organizations Without Credit Available Elsewhere	4.000
For Economic Injury:	
Businesses & Small Agricultural Cooperatives Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 10815C and for economic injury is 108160.

(Catalog of Federal Domestic Assistance Numbers 59002 and 59008).

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E7–3709 Filed 3–1–07; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10804]

Oklahoma Disaster Number OK–00010

AGENCY: U.S. Small Business Administration.

ACTION: Amendment 1.

SUMMARY: This is an amendment of the Presidential declaration of a major disaster for Public Assistance Only for the State of Oklahoma (FEMA–1678–DR), dated 02/01/2007.

Incident: Severe Winter Storms.

Incident Period: 01/12/2007 through 01/26/2007.

Effective Date: 02/21/2007.

Physical Loan Application Deadline Date: 04/02/2007.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing and Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance,

[17] 17 CFR 200.30–3(a)(12).

U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416.

SUPPLEMENTARY INFORMATION: The notice of the President's major disaster declaration for Private Non-Profit organizations in the State of Oklahoma, dated 02/01/2007, is hereby amended to include the following areas as adversely affected by the disaster.

Primary Counties:

Alfalfa, Canadian, Comanche, Dewey, Garvin, Grant, Greer, Jackson, Jefferson, Kay, Lincoln, Osage, Pontotoc, Pottawatomie, Rogers, Tillman, Tulsa, Washington, Washita, Woods

All other information in the original declaration remains unchanged.

(Catalog of Federal Domestic Assistance Number 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E7–3708 Filed 3–1–07; 8:45 am]

BILLING CODE 8025–01–P

SMALL BUSINESS ADMINISTRATION

[Disaster Declaration # 10817]

Oregon Disaster # OR–00017

AGENCY: U.S. Small Business Administration.

ACTION: Notice.

SUMMARY: This is a Notice of the Presidential declaration of a major disaster for Public Assistance Only for the State of Oregon (FEMA–1683–DR), dated 02/22/2007.

Incident: Severe Winter Storm and Flooding.

Incident Period: 12/14/2006 through 12/15/2006.

Effective Date: 02/22/2007.

Physical Loan Application Deadline Date: 04/23/2007.

ADDRESSES: Submit completed loan applications to: U.S. Small Business Administration, Processing And Disbursement Center, 14925 Kingsport Road, Fort Worth, TX 76155.

FOR FURTHER INFORMATION CONTACT: A. Escobar, Office of Disaster Assistance, U.S. Small Business Administration, 409 3rd Street, SW., Suite 6050, Washington, DC 20416

SUPPLEMENTARY INFORMATION: Notice is hereby given that as a result of the President's major disaster declaration on 02/22/2007, Private Non-Profit organizations that provide essential services of a governmental nature may file disaster loan applications at the address listed above or other locally announced locations.

The following areas have been determined to be adversely affected by the disaster:

Primary Counties: Benton, Clatsop Columbia, Lincoln, Polk, Tillamook, Wheeler, Yamhill, Confederated Tribes Of The Siletz Indians

The Interest Rates are:

	Percent
Other (Including Non-Profit Organizations) With Credit Available Elsewhere	5.250
Businesses And Non-Profit Organizations Without Credit Available Elsewhere	4.000

The number assigned to this disaster for physical damage is 10817.

(Catalog of Federal Domestic Assistance Number 59008)

Herbert L. Mitchell,

Associate Administrator for Disaster Assistance.

[FR Doc. E7–3710 Filed 3–1–07; 8:45 am]

BILLING CODE 8025–01–P

SOCIAL SECURITY ADMINISTRATION

[Document No. SSA–2007–0015]

The Ticket to Work and Work Incentives Advisory Panel Meeting

AGENCY: Social Security Administration (SSA).

ACTION: Notice of teleconference.

DATES: March 13, 2007—2 p.m. to 4 p.m. Eastern Daylight Savings Time

Ticket to Work and Work Incentives Advisory Panel Conference Call

Call-in number: 1–888–790–4158.

Pass code: PANEL TELECONFERENCE.

Leader/Host: Berthy De la Rosa-Aponte.

SUPPLEMENTARY INFORMATION:

Type of meeting: On March 13, 2007, the Ticket to Work and Work Incentives Advisory Panel (the ''Panel'') will hold a teleconference. This teleconference meeting is open to the public.

Purpose: In accordance with section 10(a)(2) of the Federal Advisory Committee Act, the Social Security Administration (SSA) announces this teleconference meeting of the Ticket to Work and Work Incentives Advisory Panel. Section 101(f) of Public Law 106–170 establishes the Panel to advise the President, the Congress, and the Commissioner of SSA on issues related to work incentive programs, planning, and assistance for individuals with disabilities as provided under section 101(f)(2)(A) of the Act. The Panel is also to advise the Commissioner on matters specified in section 101(f)(2)(B) of that Act, including certain issues related to the Ticket to Work and Self-Sufficiency Program established under section 101(a).

The interested public is invited to listen to the teleconference by calling the phone number listed above. Public testimony will be taken from 3:30 p.m. until 4 p.m. Eastern Standard Time. You must be registered to give public comment. Contact information is given at the end of this notice.

Agenda: The full agenda for the meeting will be posted on the Internet at *http://www.ssa.gov/work/panel* at least one week before the starting date or can be received, in advance, electronically or by fax upon request.

Contact Information: Records are kept of all proceedings and will be available for public inspection by appointment at the Panel office. Anyone requiring information regarding the Panel should contact the staff by:

- Mail addressed to the Social Security Administration, Ticket to Work and Work Incentives Advisory Panel Staff, 400 Virginia Avenue, SW., Suite 700, Washington, DC 20024. Telephone contact with Debra Tidwell-Peters at (202) 358–6126.
- Fax at (202) 358–6440
- E-mail to *TWWIIAPanel@ssa.gov.*
- To register for the public comment portion of the meeting please contact Debra Tidwell-Peters by calling (202) 358–6126 or by e-mail to *debra.tidwell-peters@ssa.gov.*

Dated: February 26, 2007.

Chris Silanskis,

Designated Federal Officer.

[FR Doc. E7–3676 Filed 3–1–07; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 5707]

Culturally Significant Objects Imported for Exhibition; Determinations: ''Great Britons: Treasures from the National Portrait Gallery, London''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875],

I hereby determine that the objects to be included in the exhibition ''Great Britons: Treasures from the National Portrait Gallery, London'', imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the National Portrait Gallery, Smithsonian Institution, Washington, DC, from on or about April 27, 2007, until on or about September 3, 2007, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Wolodymyr Sulzynsky, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: (202) 453–8050). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: February 26, 2007.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E7–3674 Filed 3–1–07; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 5708]

Culturally Significant Objects Imported for Exhibition; Determinations: ''The Old Order and the New: P.H. Emerson and Photography 1885–1895''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition ''The Old Order and the New: P.H. Emerson and Photography 1885–1895'', imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at The J. Paul Getty Museum, Los Angeles, California, from on or about March 27, 2007, until on or about July 8, 2007, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Wolodymyr Sulzynsky, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: (202) 453–8050). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: February 26, 2007.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E7–3673 Filed 3–1–07; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF STATE

[Public Notice 5706]

Culturally Significant Objects Imported for Exhibition; Determinations: ''Van Gogh and Expressionism''

SUMMARY: Notice is hereby given of the following determinations: Pursuant to the authority vested in me by the Act of October 19, 1965 (79 Stat. 985; 22 U.S.C. 2459), Executive Order 12047 of March 27, 1978, the Foreign Affairs Reform and Restructuring Act of 1998 (112 Stat. 2681, *et seq.*; 22 U.S.C. 6501 note, *et seq.*), Delegation of Authority No. 234 of October 1, 1999, Delegation of Authority No. 236 of October 19, 1999, as amended, and Delegation of Authority No. 257 of April 15, 2003 [68 FR 19875], I hereby determine that the objects to be included in the exhibition ''Van Gogh and Expressionism'', imported from abroad for temporary exhibition within the United States, are of cultural significance. The objects are imported pursuant to loan agreements with the foreign owners or custodians. I also determine that the exhibition or display of the exhibit objects at the Neue Galerie New York, New York, New York, from on or about March 22, 2007, until on or about July 2, 2007, and at possible additional venues yet to be determined, is in the national interest. Public Notice of these Determinations is ordered to be published in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: For further information, including a list of the exhibit objects, contact Wolodymyr Sulzynsky, Attorney-Adviser, Office of the Legal Adviser, U.S. Department of State (telephone: (202) 453–8050). The address is U.S. Department of State, SA–44, 301 4th Street, SW., Room 700, Washington, DC 20547–0001.

Dated: February 26, 2007.

C. Miller Crouch,

Principal Deputy Assistant Secretary for Educational and Cultural Affairs, Department of State.

[FR Doc. E7–3675 Filed 3–1–07; 8:45 am]

BILLING CODE 4710–05–P

DEPARTMENT OF TRANSPORTATION

Federal Railroad Administration

Petition for Waiver of Compliance

In accordance with Part 211 of Title 49 Code of Federal Regulations (CFR), notice is hereby given that the Federal Railroad Administration (FRA) has received a request for a waiver of compliance with certain requirements of its safety standards. The individual petition is described below, including the party seeking relief, the regulatory provisions involved, the nature of the relief being requested, and the petitioner's arguments in favor of relief.

Saint Louis Metro [Docket Number FRA–2007–27207]

Saint Louis Metro (Metro), the provider of bus, paratransit, and light rail transit in the St. Louis Metropolitan Area, seeks a permanent waiver of compliance from sections of Title 49 of the CFR for operation of its MetroLink Light Rail over two at-grade rail diamond crossings that constitute a ''limited connection'' with the general railroad system. (See Statement of Agency Policy Concerning Jurisdiction Over the Safety of Railroad Passenger Operations and Waivers Related to Shared Use of the Tracks of the General Railroad System by Light Rail and Conventional Equipment, 65 FR 42529 (July 10, 2000). See also Joint Statement of Agency Policy Concerning Shared Use of the Tracks of the General Railroad System by Conventional Railroads and Light Rail Transit Systems, 65 FR 42526 (July 10, 2000).)

MetroLink consists of 44.8 miles of light rail tracks located in St. Louis County and the City of St. Louis, Missouri; and St. Clair County, Illinois, for the purpose of providing rapid transit operations within the St. Louis Metropolitan area. The MetroLink alignment is a double-track light rail alignment running at grade, above grade, below grade, and in tunnels with two-car consists. Revenue hours are from 3:45 a.m. to 1:15 a.m. daily. MetroLink currently crosses a single

existing freight railroad industry lead known as the Grand Freight Diamond, thus constituting a limited connection to the general railroad system. Freight movements are conducted by Metro's contractor, Squaw Creek Southern Railroad, Inc., across this diamond crossing and are temporally separated, occurring only during MetroLink's nonrevenue hours of 1:15 a.m. to 3:45 a.m.

For this limited connection, Metro seeks permanent waiver of compliance from the following Parts of 49 CFR: Part 217—Railroad Operating Rules, Part 219—Control of Alcohol and Drug Use, Part 220—Railroad Communications, Part 221—Rear End Marking Devices, Part 223—Safety Glazing Standards, Part 238—Passenger Equipment Safety Standards, and Part 239—Passenger Emergency Preparedness. Metro offers that it is similarly governed by the System Safety Program Plan as required by the Federal Transit Administration (FTA) and administered by the Missouri Department of Transportation (Momot).

Interested parties are invited to participate in these proceedings by submitting written views, data, or comments. FRA does not anticipate scheduling a public hearing in connection with these proceedings since the facts do not appear to warrant a hearing. If any interested party desires an opportunity for oral comment, they should notify FRA in writing before the end of the comment period and specify the basis for their request.

All communications concerning these proceedings should identify the appropriate docket number (e.g., Waiver Petition Docket Number 2007–27207) and must be submitted to the Docket Clerk, DOT Docket Management Facility, Room PL–401 (Plaza Level), 400 7th Street, SW., Washington, DC 20590. Communications received within 30 days of the date of this notice will be considered by FRA before final action is taken. Comments received after that date will be considered as far as practicable. All written communications concerning these proceedings are available for examination during regular business hours (9 a.m.–5 p.m.) at the above facility. All documents in the public docket are also available for inspection and copying on the Internet at the docket facility's Web site at *http://dms.dot.gov.*

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

Issued in Washington, DC on February 23, 2007.

Grady C. Cothen, Jr.,

Deputy Associate Administrator for Safety Standards and Program Development.

Editorial Note: This document, previously published as FR Doc E7–3449, in the issue of February 28, 2007, is republished without change due to its inadvertent omissions from public inspection prior to publication.

[FR Doc. 07–993 Filed 3–1–07; 8:45 am]

BILLING CODE 1505–01–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

Office of Hazardous Materials Safety; Notice of Application for Special Permits

AGENCY: Pipeline and Hazardous Materials Safety Administration, DOT.

ACTION: List of Applications for Special Permits.

SUMMARY: In accordance with the procedures governing the application for, and the processing of, special permits from the Department of Transportation's Hazardous Material Regulations (49 CFR Part 107, Subpart B), notice is hereby given that the Office of Hazardous Materials Safety has received the application described herein. Each mode of transportation for which a particular special permit is requested is indicated by a number in the ''Nature of Application'' portion of the table below as follows: 1—Motor vehicle, 2—Rail freight, 3—Cargo vessel, 4—Cargo aircraft only, 5—Passenger-carrying aircraft.

DATES: Comments must be received on or before April 2, 2007.

Address Comments to: Record Center, Pipeline and Hazardous Materials Safety Administration, U.S. Department of Transportation, Washington, DC 20590.

Comments should refer to the application number and be submitted in triplicate. If confirmation of receipt of comments is desired, include a self-addressed stamped postcard showing the special permit number.

FOR FURTHER INFORMATION CONTACT: Copies of the applications are available for inspection in the Records Center, Nassif Building, 400 7th Street, SW., Washington, DC or at *http://dms.dot.gov*.

This notice of receipt of applications for special permits is published in accordance with Part 107 of the Federal hazardous materials transportation law (49 U.S.C. 5117(b); 49 CFR 1.53(b)).

Issued in Washington, DC, on February 8, 2007.

Delmer F. Billings,

Director, Office of Hazardous Materials, Special Permits & Approvals.

NEW SPECIAL PERMIT

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of special permit thereof
14467–N		Brenner Tank, LLC, Fond du Lac, WI.	49 CFR 178.345–2	To authorize the manufacture, marking, sale and use of DOT 400 series cargo tanks using alternative materials of construction, specifically duplex stainless steels. (mode 1).
14468–N		REC Advanced Silicon Materials LLC, Butte, MT.	49 CFR 173.301(f)	To authorize the transportation in commerce of certain cylinders containing Silane, compressed with a capacity over 50 L with a single relief device rather than one at each end. (modes 1, 2, 3, 4, 5).
14469–N		Space Systems/Loral, Palo Alto, CA.	49 CFR 172.101 column (9B).	To authorize the transportation in commerce of anhydrous ammonia by cargo aircraft exceeding the quantities authorized in Column (9B). (mode 4).

NEW SPECIAL PERMIT—Continued

Application No.	Docket No.	Applicant	Regulation(s) affected	Nature of special permit thereof
14470–N		Marsulex, Inc., Springfield, OR.	49 CFR 173.31(g)(1)	To authorize the transportation in commerce of certain hazardous materials by rail when the unloader does not secure access to the track as required by 49 CFR 174.67(a)(3). (mode 2).
14471–N		University of Colorado Hospital, Denver, CO.	49 CFR 173.12.	To authorize the one-way transportation in commerce of various hazardous materials in lab packs to facilitate relocation of laboratory facilities. (mode 1).
14472–N		University of Colorado Hospital, Denver, CO.	49 CFR 173.196; 178,609	To authorize the one-way transportation in commerce of infectious substances other than Risk Group 4 in specially designed packaging (freezers). (mode 1).
14473–N		Weatherford International, Fort Worth, TX.	49 CFR 173.302a and 173.304a.	To authorize the manufacture, marking, sale and use of a non-DOT specification cylinder similar to a DOT Specification 3A cylinder for use in the oil well sampling industry. (modes 1, 2, 3, 4).
14475–N		Chemtura Corporation, Middlebury, CT.	49 CFR 173.24a(a)(1)	To authorize the transportation in commerce of certain packagings containing Consumer commodity, ORM–D with closures that are not oriented in the upward direction. (modes 1, 2).

[FR Doc. 07–977 Filed 3–1–07; 8:45 am]
BILLING CODE 4909–60–M

DEPARTMENT OF TRANSPORATION

Surface Transportation Board

[STB Finance Docket No. 34995]

Modoc Railway and Land Company LLC—Acquisition and Operation Exemption—in Lake County, OR

Modoc Railway and Land Company LLC (MR&L), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire by lease, pursuant to an agreement with Lake County, an Oregon municipal entity, approximately 55.41 miles of rail line between milepost 456.89, in Alturas, CA, and milepost 512.3, in Lakeview, OR. MR&L indicates that Modoc Northern Railroad Company (MNRR), a Class III rail carrier, will be the operator of the property.

MR&L certifies that its projected revenues as a result of the transaction will not result in the creation of a Class II or Class I rail carrier, and further certifies that its annual revenues will not exceed $5 million.

The earliest this transaction may be consummated is the March 18, 2007 effective date of the exemption (30 days after the exemption was filed).[1]

This transaction is related to a concurrently filed notice of exemption in STB Finance Docket No. 34996, *Modoc Northern Railroad Company—Acquisition and Operation Exemption—Lake County, OR,* wherein MNRR seeks to acquire and operate approximately 55.41 miles of rail line between milepost 456.89, in Alturas, CA, and milepost 512.3, in Lakeview.[2]

If the verified 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. Petitions for stay must be filed no later than March 9, 2007 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34995, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Dennis C. Farley, Lear & Lear, L.L.P., 299 South Main, Suite 2200, Wells Fargo Center, Salt Lake City, UT 84111.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov*.

Decided: February 26, 2007.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E7–3706 Filed 3–1–07; 8:45 am]
BILLING CODE 4915–01–P

DEPARTMENT OF TRANSPORATION

Surface Transportation Board

[STB Finance Docket No. 34996]

Modoc Northern Railroad Company—Acquisition and Operation Exemption—in Lake County, OR

Modoc Northern Railroad Company (MNRR), a Class III rail carrier, has filed a verified notice of exemption under 49 CFR 1150.41 to acquire by lease, pursuant to an agreement with Lake County, an Oregon municipal entity, and to operate approximately 55.41 miles of rail line between milepost 456.89, in Alturas, CA, and milepost 512.3, in Lakeview, OR.

MR&L certifies that its projected revenues as a result of the transaction will not result in the creation of a Class II or Class I rail carrier, and further certifies that its annual revenues will not exceed $5 million.

The earliest this transaction may be consummated is the March 18, 2007

[1] MR&L had originally indicated a consummation date of March 1, 2007. MR&L has been informed by a Board staff member that consummation may not take place until March 18, 2007.

[2] MR&L owns, and MNRR operates, the adjacent rail line between milepost 552.0 near Texum, OR, and milepost 445.6 near McArthur, CA, and the Lakeview Branch between milepost 456.89 and milepost 458.60 at Alturas. *See Modoc Northern Railroad Company-Operation Exemption-Union Pacific Railroad Company,* STB Finance Docket No. 34768 (STB served Nov. 18, 2005), and *Modoc Railway and Land Company LLC-Acquisition Exemption-Union Pacific Railroad Company,* STB Finance Docket No. 34769 (STB served Nov. 18, 2005).

effective date of the exemption (30 days after the exemption was filed).[1]

This transaction is related to a concurrently filed notice of exemption in STB Finance Docket No. 34995, *Modoc Railway and Land Company LLC—Acquisition and Operation Exemption—Lake County, OR,* wherein MR&L seeks to acquire by lease, pursuant to an agreement with Lake County, approximately 55.41 miles of rail line between milepost 456.89 in Alturas, and milepost 512.3 in Lakeview.[2]

If the verified 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. Petitions for stay must be filed no later than March 9, 2007 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34996, must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, a copy of each pleading must be served on Dennis C. Farley, Lear & Lear, L.L.P., 299 South Main, Suite 2200, Wells Fargo Center, Salt Lake City, UT 84111.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: February 26, 2007.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E7–3707 Filed 3–1–07; 8:45 am]

BILLING CODE 4915–01–P

[1] MR&L had originally indicated a consummation date of March 1, 2007. MR&L has been informed by a Board staff member that consummation may not take place until March 18, 2007.

[2] ML&R owns, and MNRR operates, the adjacent rail line between milepost 552.0 near Texum, OR, and milepost 445.6 near McArthur, CA, and the Lakeview Branch between milepost 456.89 and milepost 458.60 at Alturas. *See Modoc Northern Railroad Company—Operation Exemption—Union Pacific Railroad Company,* STB Finance Docket No. 34768 (STB served Nov. 18, 2005), and *Modoc Railway and Land Company LLC—Acquisition Exemption—Union Pacific Railroad Company,* STB Finance Docket No. 34769 (STB served Nov. 18, 2005).

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34998]

BNSF Railway Company—Temporary Trackage Rights Exemption—Union Pacific Railroad Company

Union Pacific Railroad Company (UP) has agreed to grant temporary overhead trackage rights to BNSF Railway Company (BNSF) over UP lines for (1) Eastbound trains (a) On the Dallas Subdivision from milepost 245.3, Tower 55, at Ft. Worth, TX, to milepost 89.6, Longview, TX, (b) on the Little Rock Subdivision from milepost 89.6, Longview, to milepost 343.6, North Little Rock, AR, (c) on the Hoxie Subdivision from milepost 343.6, North Little Rock, to milepost 287.9, Bald Knob, AR, and (d) on the Memphis Subdivision from milepost 287.9, Bald Knob to milepost 378.1, Kentucky Street, Memphis, TN, a distance of 542.2 miles; and (2) westbound trains (a) on the Memphis Subdivision from Kentucky Street to milepost 375.3, Briark, AR, (b) on the Brinkley Subdivision from milepost 4.1 to milepost 70.6, Brinkley, AR, (c) on the Jonesboro Subdivision from milepost 200.5 to milepost 264.2, Pine Bluff, AR, (d) on the Pine Bluff Subdivision from milepost 264.2 to milepost 525.1, Big Sandy, TX, and (e) on the Dallas Subdivision from milepost 114.5 to milepost 245.3, Tower 55 at Ft. Worth, a distance of 526.3 miles.

The transaction is scheduled to be consummated on or after March 17, 2007,[1] the effective date of the exemption (30 days after the exemption was filed). The temporary trackage rights will expire on May 12, 2007.

The purpose of the temporary trackage rights is to facilitate the bridging of BNSF's train service while BNSF's main lines are out of service.

As a condition to this exemption, any employee affected by the acquisition of the temporary trackage rights will be protected by the conditions imposed in *Norfolk and Western Ry. Co.—Trackage Rights—BN,* 354 I.C.C. 605 (1978), as modified in *Mendocino Coast Ry., Inc.—Lease and Operate,* 360 I.C.C. 653 (1980), and any employee affected by the discontinuance of those trackage rights will be protected by the conditions set out in *Oregon Short Line R. Co.—Abandonment—Goshen,* 360 I.C.C. 91 (1979).

[1] Although the Verified Notice and Agreement (Exhibit No. 2) indicate March 16, 2007, as the expected consummation date, BNSF makes clear its intent to consummate on the effective date of the exemption.

This notice is filed under 49 CFR 1180.2(d)(8). If it 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. Any stay petition must be filed on or before March 9, 2007 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34998, must be filed with the Surface Transportation Board, 1925 K Street, NW., Washington, DC 20423–0001. Filings made on or after March 5, 2007, should be sent to the Board's new address: Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–1001. In addition, one copy of each pleading must be served on Sidney L. Strickland, Jr., Sidney Strickland and Associates, PLLC, 3050 K Street, NW., Suite 101, Washington, DC 20007.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: February 23, 2007.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E7–3566 Filed 3–1–07; 8:45 am]

BILLING CODE 4915–01–P

DEPARTMENT OF THE TREASURY

Financial Management Service; Privacy Act of 1974, as Amended

AGENCY: Financial Management Service, Treasury.

ACTION: Notice of alteration of Privacy Act System of Records.

SUMMARY: The Department of the Treasury, Financial Management Service (FMS) gives notice of a proposed alteration to the system of records entitled ''Treasury/FMS .014—Debt Collection Operations System,'' which is subject to the Privacy Act of 1974, as amended (5 U.S.C. 552a). The system notice was last published in its entirety in the **Federal Register** Vol. 70, page 34529 on June 14, 2005.

DATES: Comments must be received no later than April 2, 2007. The proposed alteration will be effective April 11, 2007 unless FMS receives comments which would result in a contrary determination.

ADDRESSES: Comments must be submitted to Debt Management Services, Financial Management Service, 401 14th Street, SW., Room

223, Washington, DC 20227, or by electronic mail to *Tom.Dugan@fms.treas.gov.* Comments received will be available for inspection at the same address between the hours of 9 a.m. and 4 p.m. Monday through Friday.

FOR FURTHER INFORMATION CONTACT: Tom Dungan, Financial Management Service, Debt Management Services, (202) 874–7349.

SUPPLEMENTARY INFORMATION: The Financial Management Service (FMS) operates several programs to facilitate collection or resolution of debts owed to the Federal Government and states, including past due support being enforced by states. One of these programs is FMS's cross-servicing program, wherein Federal agencies refer their debts to FMS for a broad range of debt collection actions. FMS maintains records on individuals who owe debts to the Federal Government, and such records are maintained in its ''Debt Collection Operations System'' system of records.

In 2006, FMS will begin obtaining data from the Department of Health and Human Service's new hire database to assist in the collection of delinquent debts, as authorized by statute (42 U.S.C. 653(j)(9)). In anticipation of this event, FMS conducted a complete review of its system of records notice entitled ''Treasury/FMS .014—Debt Collection Operations System,'' to determine if any alterations were necessary. FMS has determined that the system of records notice should be clarified in certain respects.

First, FMS is altering this system of records to clarify the categories of records in the system by specifically listing ''information concerning the financial status of the debtor and his/her household'' as part of the information about the debtor the system may include. Financial information about the debtor and or his/her household is used in considering debt collection actions, such as whether to consider a compromise or installment payment agreement. Financial information is included in the existing system, but is not independently identified as a separate record category. FMS believes that the system of records notice should state explicitly that the records could include financial information about an individual and/or his/her household.

Second, FMS is revising its routine use disclosure number (6), which currently authorizes disclosure to the Department of Justice (DOJ) for the purpose of litigation to enforce collection of a delinquent debt or to obtain DOJ's concurrence in a decision to compromise, suspend, or terminate collection action on a debt. The revision authorizes disclosure to any Federal agency when requested in connection with any legal proceeding, not just for litigation to enforce collection on a delinquent debt. This routine use is being revised because records contained in this system may be relevant and pertinent to a variety of proceedings, including administrative proceedings, though not specifically to enforce collection of a debt. Where records maintained in this system are relevant and pertinent to official legal proceedings, disclosure of those records to federal agencies should be authorized.

Finally, FMS is altering the record source categories to indicate that a source federal agency may include an agency that has financial or employment information about the debtor but is not the debtor's employer. For example, the Department of Health and Human Services will be a source agency for this system, and the records provided will not necessarily be limited to records of those individuals who are employed by HHS.

The report of an altered system of records, as required by 5 U.S.C. 552a(r) of the Privacy Act, has been submitted to the Committee on Government Reform of the House of Representatives, the Committee on Homeland Security and Governmental Affairs of the Senate, and the Office of Management and Budget, pursuant to Appendix I to OMB Circular A–130, ''Federal Agency Responsibilities for Maintaining Records About Individuals,'' dated November 30, 2000.

For the reasons set forth above, FMS proposes to alter system of records Treasury/FMS .014, ''Debt Collection Operations System—Treasury/Financial Management Service,'' as follows:

Treasury/FMS .014

SYSTEM NAME:

Debt Collection Operations System—Treasury/Financial Management Service.

* * * * *

CATEGORIES OF RECORDS IN THE SYSTEM:

* * * * *

Description of changes: The second sentence is revised to read as follows:

''The records may contain identifying information, such as name(s) and taxpayer identifying number (*i.e.*, Social Security number or employer identification number); debtor contact information, such as work and home address, and work and home telephone numbers; information concerning the financial status of the debtor and his/her household, including income, assets, liabilities or other financial burdens, and any other resources from which the debt may be recovered; and name of employer and employer address.''

* * * * *

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

* * * * *

Description of changes: Routine use (6) is revised to read as follows:

''(6) The Department of Justice or other Federal agency:

a. When requested in connection with a legal proceeding, or

b. To obtain concurrence in a decision to compromise, suspend, or terminate collection action on a debt.''

* * * * *

RECORD SOURCE CATEGORIES:

Description of changes: The current paragraph is revised to read as follows:

''Information in this system is provided by the individual on whom the record is maintained; Federal and state agencies to which the debt is owed; Federal agencies and other entities that employ the individual or have information concerning the individual's employment or financial resources; Federal and state agencies issuing payments; collection agencies, locator and asset search companies; credit bureaus; Federal, state or local agencies furnishing identifying information and/or address of debtor information; or from public documents.''

* * * * *

Dated: February 26, 2007.

Wesley T. Foster,

Acting Assistant Secretary for Management.

[FR Doc. E7–3687 Filed 3–1–07; 8:45 am]

BILLING CODE 4810–35–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Prosthetics and Special Disabilities Programs; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that a meeting of the Advisory Committee on Prosthetics and Special Disabilities Program will be held March 20–21, 2007 in Room 230, at VA Central Office, 810 Vermont Avenue, NW., Washington, DC. The sessions will convene at 8:30 a.m. each day and will adjourn at 4:30 p.m. on March 20 and

will end at 12 noon on March 21. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs on VA's prosthetic programs designed to provide state-of-the-art prosthetics and the associated rehabilitation research, development, and evaluation of such technology. The Committee also provides advice to the Secretary on special disability programs which are defined as any program administered by the Secretary to serve veterans with spinal cord injury, blindness or vision impairment, loss of or loss of use of extremities, deafness or hearing impairment, or other serious incapacities in terms of daily life functions.

On March 20, the Committee will be briefed by the Chief of Rehabilitation Service; the Director, Blind Rehabilitation Service; the Chief Consultant, Prosthetics and Clinical Logistics; the Chief Consultant, Spinal Cord Injury and Disorder Service; and the Acting Director of Rehabilitation Research and Development Service. On March 21, the Committee will be briefed by the Director of the Veterans Benefits Administration, Compensation and Pension Service.

No time will be allocated for receiving oral presentations from the public. However, members of the public may direct questions or submit written statements for review by the Committee in advance of the meeting to Ms. Cynthia Wade, Designated Federal Officer, Veterans Health Administration, Patient Care Services, Rehabilitation Strategic Healthcare Group (117), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420. any member of the public wishing to attend the meeting should contact Ms. Wade at (202) 273–8485.

Dated: February 21, 2007.

By Direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 07–976 Filed 3–1–07; 8:45 am]

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Federal Register

Friday,

March 2, 2007

Part II

Department of the Interior

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 942

Tennessee Federal Regulatory Program; Final Rule

DEPARTMENT OF THE INTERIOR

Office of Surface Mining Reclamation and Enforcement

30 CFR Part 942

RIN 1029-AC50

Tennessee Federal Regulatory Program

AGENCY: Office of Surface Mining Reclamation and Enforcement, Interior.

ACTION: Final rule.

SUMMARY: We, the Office of Surface Mining Reclamation and Enforcement (OSM), are finalizing changes to the Tennessee Federal regulatory program regarding performance bonds and revegetation success standards. These revisions provide a mechanism to use our statutory authority to accept financial assurances in the form of trust funds and annuities in Tennessee to fund the treatment of long-term postmining pollutional discharges from surface coal mining operations and thus satisfy performance bond obligations for treatment of those discharges. Our previous regulations also did not facilitate the growth of forests, and we are taking a number of steps to ensure the reestablishment of high quality hardwood forests where the postmining land uses are related to forestry. To minimize competition with woody plants and support healthier tree growth, we are removing the 80% ground cover revegetation success standard for mine sites with postmining land uses of wildlife habitat, undeveloped land, recreation, or forestry; limiting the herbaceous ground cover success standards to those necessary to control erosion and support the forestry-related postmining land use; requiring seed mixes and seeding rates of herbaceous vegetation for those land uses to be specified in the permit; and removing the limitations on the amount of bare areas that can remain after reclamation of mine sites with those land uses.

EFFECTIVE DATE: April 2, 2007.

FOR FURTHER INFORMATION CONTACT: Tim Dieringer, Field Office Director, U.S. Department of the Interior, Office of Surface Mining Reclamation and Enforcement, Knoxville Field Office, 710 Locust Street, 2nd Floor, Knoxville, Tennessee 37902; Telephone: 865–545–4103; E-mail: *tdieringer@osmre.gov.*

SUPPLEMENTARY INFORMATION:

I. Background on the Tennessee Federal Program
II. Background on This Rulemaking
III. How and why are we revising the Tennessee Federal program regulations?
IV. How did we respond to the comments that we received on the proposed rule?
V. Procedural Determinations

I. Background on the Tennessee Federal Program

Section 503(a) of the Surface Mining Control and Reclamation Act of 1977 (SMCRA or the Act), 30 U.S.C. 1253, permits a State to assume primacy for the regulation of surface coal mining and reclamation operations on non-Federal and non-Indian lands within its borders under certain conditions. The Secretary of the Interior conditionally approved the Tennessee program on August 10, 1982. However, because of actions that we took pursuant to 30 CFR Part 733 to correct shortcomings in the administration and implementation of the approved Tennessee program on May 16, 1984, the State repealed most of the Tennessee Coal Surface Mining Law of 1980, Tennessee Code Annotated 59–8–301–59–8–339, and its implementing regulations, effective October 1, 1984. As a result, on October 1, 1984, we withdrew approval of the Tennessee permanent regulatory program and promulgated a Federal program for Tennessee under the authority of section 504(a) of the Act, 30 U.S.C. 1254(a). This program appears in 30 CFR Part 942, where it replaced the disapproved State program. With the promulgation of a Federal regulatory program, we became the regulatory authority under SMCRA in Tennessee. You can find background information on the Tennessee Federal program, including our findings and the disposition of comments, in the October 1, 1984, **Federal Register**. 49 FR 38874.

II. Background on This Rulemaking

We published the proposed rule underlying this final rule on April 6, 2006. 71 FR 17682. On May 3, 2006, we extended the public comment period until June 30, 2006, and provided notice of a requested public hearing that was held on June 1, 2006. 71 FR 25992.

III. How and why are we revising the Tennessee Federal program regulations?

A. Section 942.800: Bond and Insurance Requirements for Surface Coal Mining and Reclamation Operations

On April 6, 2006, we published proposed revisions to the Tennessee Federal program that provided a mechanism to use our authority to implement trust funds and annuities for funding treatment of long-term postmining pollutional discharges. 71 FR 17682. Those revisions, which we are adopting in slightly revised form in this final rule, reflect our efforts to provide a system suitable for the long-term funding of the treatment of the postmining pollutional discharges that exist in Tennessee and any unanticipated discharges that may occur in the future.

We are adopting new § 942.800(c), which we proposed as § 942.800(b)(4), to provide us with a mechanism to use our statutory authority to accept trust funds and annuities as an alternative system as provided for in SMCRA at Section 509(c), 30 U.S.C. 1259(c), by which permittees may satisfy the requirement to provide a performance bond to cover the treatment of postmining pollutional discharges. Final § 942.800(c) reads as follows:

(c) *Special consideration for sites with long-term postmining pollutional discharges.* With the approval of the Office, the permittee may establish a trust fund, annuity or both to guarantee treatment of long-term postmining pollutional discharges in lieu of posting one of the bond forms listed in § 800.12 of this chapter for that purpose. The trust fund or annuity will be subject to the following conditions:

(1) The Office will determine the amount of the trust fund or annuity, which must be adequate to meet all anticipated treatment needs, including both capital and operational expenses.

(2) The trust fund or annuity must be in a form approved by the Office and contain all terms and conditions required by the Office.

(3) The trust fund or annuity must provide that the United States or the State of Tennessee is irrevocably established as the beneficiary of the trust fund or of the proceeds from the annuity.

(4) The Office will specify the investment objectives of the trust fund or annuity.

(5) Termination of the trust fund or annuity may occur only as specified by the Office upon a determination that no further treatment or other reclamation measures are necessary, that a replacement bond or another financial instrument has been posted, or that the administration of the trust fund or annuity in accordance with its purpose requires termination.

(6) Release of money from the trust fund or annuity may be made only upon written authorization of the Office or according to a schedule established in the agreement accompanying the trust fund or annuity.

(7) A financial institution or company serving as a trustee or issuing an annuity must be one of the following:

(i) A bank or trust company chartered by the Tennessee Department of Financial Institutions;

(ii) A national bank chartered by the Office of the Comptroller of the Currency;

(iii) An operating subsidiary of a national bank chartered by the Office of the Comptroller of the Currency;

(iv) An insurance company licensed or authorized to do business in Tennessee by the Tennessee Department of Commerce and Insurance or designated by the Commissioner of that Department as an eligible surplus lines insurer; or

(v) Any other financial institution or company with trust powers and with offices located in Tennessee, provided that the institution's or company's activities are examined or regulated by a State or Federal agency.

(8) Trust funds and annuities, as described in this paragraph, must be established in a manner that guarantees that sufficient moneys will be available to pay for treatment of postmining pollutional discharges (including maintenance, renovation, and replacement of treatment and support facilities as needed), the reclamation of the sites upon which treatment facilities are located and areas used in support of those facilities.

(9) When a trust fund or annuity is in place and fully funded, the Office may approve release under § 800.40(c)(3) of this chapter of conventional bonds posted for a permit or permit increment, provided that, apart from the pollutional discharge and associated treatment facilities, the area fully meets all applicable reclamation requirements and the trust fund or annuity is sufficient for treatment of pollutional discharges and reclamation of all areas involved in such treatment. The portion of the permit required for postmining water treatment must remain bonded. However, the trust fund or annuity may serve as that bond.

SMCRA, its implementing regulations, and our policy require that the performance bond be sufficient to cover treatment of those discharges in the event that the permittee fails to do so. Section 509(a) of SMCRA, 30 U.S.C. 1259(a), requires that each permittee post a performance bond conditioned upon faithful performance of all the requirements of the Act and the permit. That section of the Act also specifies that ''[t]he amount of the bond shall be sufficient to assure the completion of the reclamation plan if the work had to be performed by the regulatory authority in the event of forfeiture * * *.'' 30 U.S.C. 1259(a). Section 509(e) of the Act provides that ''[t]he amount of the bond or deposit required and the terms of each acceptance of the applicant's bond shall be adjusted by the regulatory authority from time to time as affected land acreages are increased or decreased or where the cost of future reclamation changes.'' 30 U.S.C. 1259(e). The statutory requirements for a ''reclamation plan'' include the measures to be taken to ensure water quality. 30 U.S.C. 1258(a)(13).

Our regulations at 30 CFR Part 800 implement the requirements of section 509 of the Act, 30 U.S.C. 1259. Those regulations, first promulgated in 1979, were revised in 1983 in a manner that clearly implies that performance bonds must be adjusted when unanticipated events, such as postmining pollutional discharges, increase the cost of reclamation (in this case, treatment of the discharges).

In our discussion of determining bond amounts in the March 13, 1979, **Federal Register** (44 FR 15111), we noted:

> The Office recognizes that the regulatory authority cannot reasonably establish the initial bond amount based upon speculative events such as the need to abate ground water pollution, since the operation must be designed initially to prevent such consequences in order to qualify for a permit. However, such unplanned consequences occasionally occur due to improper mining or reclamation, or because an important variable was not evaluated properly. When such consequences are identified prior to the release of all liability and termination of the permit in accordance with Part 807, the permittee's legal obligation to abate them necessarily adds to the cost of reclamation.
>
> Under such circumstances, the regulatory authority would be authorized to impose additional bond liability under that permit, or to retain a larger portion of the total liability than otherwise required in response to an application for release of bond, in order to ensure adequate funding to complete the abatement work required (Sections 805.14(a) and 807.12(d)).

According to this 1979 preamble discussion, regulatory authorities have discretionary authority to increase bonds to reflect the increased costs of reclamation that result from the occurrence of unanticipated events such as postmining pollutional discharges. However, in the preamble to our 1983 revisions to the bonding rules, we indicate that increases in bond amounts under those circumstances are mandatory, not discretionary:

> If at any time the cost of future reclamation under the bond changes, the regulatory authority is required to adjust the bond accordingly (Sec. 800.15(a)). Thus, the amount of the bond for any increment must at all times be sufficient to assure the completion of the reclamation plan if the work had to be performed by the regulatory authority.

48 FR 32937, July 19, 1983.

Under 30 CFR 780.21(h) and 784.14(g), one component of the reclamation plan is a hydrologic reclamation plan. Among other things, this plan must include the provision of ''water-treatment facilities when needed.'' Consequently, the bond must be adequate to cover the cost of treating long-term pollutional discharges because treatment of those discharges is part of the reclamation plan.

We further affirmed and clarified our position on financial guarantees for long-term postmining pollutional discharges in a March 31, 1997, document entitled, ''Policy Goals and Objectives on Correcting, Preventing and Controlling Acid/Toxic Mine Drainage.'' Objective 2 under the policy goal concerning environmental protection requires that financial responsibility associated with acid mine drainage (AMD) be fully addressed. Specifically, the policy includes the following strategies:

> Strategy 2.2—If, subsequent to permit issuance, monitoring identifies acid- or toxic-forming conditions which were not anticipated in the mining and operation plan, the regulatory authority should require the operator to adjust the financial assurance.
>
> Strategy 2.3—Where inspections conducted in response to bond release requests identify surface or subsurface water pollution, bond in an amount adequate to abate the pollution should be held as long as water treatment is required, unless a financial guarantee or some other enforceable contract or mechanism to ensure continued treatment exists.

When responding to commenters on the policy who objected to the requirement that permittees post financial guarantees for treatment of pollutional discharges during and after land reclamation (comment no.16), we stated:

> Section 509(a) of the Act requires that each permittee post a performance bond conditioned upon faithful performance of all the requirements of the Act and the permit. Paragraph (b) of this Section of the Act specifies that ''[t]he amount of the bond shall be sufficient to assure the completion of the reclamation plan if the work had to be performed by the regulatory authority in the event of forfeiture.'' The hydrologic reclamation plan is part of the reclamation plan to which this section refers. Section 519(c) of SMCRA authorizes release of this bond only when the regulatory authority is satisfied that the reclamation required by the bond has been accomplished, and paragraph (c)(3) specifies that ''no bond shall be fully released until all reclamation requirements of this Act are fully met.'' Furthermore, section 519(b) of the Act provides that whenever a bond release is requested, the regulatory authority must conduct an inspection to evaluate the reclamation work performed, including ''whether pollution of surface or subsurface water is occurring, the probability of continuance of future occurrence of such pollution, and the estimated cost of abating such pollution.'' Therefore, there is no doubt that, under SMCRA, the permittee must provide a financial guarantee to cover treatment of postmining discharges when such discharges develop and require treatment.

On May 30, 2000, our Knoxville, Tennessee Field Office (KFO) issued Field Office Policy Memorandum No. 37 entitled ''Policy for Requiring Bond Adjustments on Permitted Sites Requiring Long-Term Treatment of Pollutional Discharges.'' This policy described the general procedure that the KFO would utilize to require adjustments to performance bonds on sites in Tennessee where unanticipated pollutional discharges are occurring and

long-term treatment is required. The policy requires that treatment costs be estimated based on an assumption that treatment will be needed for at least 75 years, absent convincing evidence to the contrary. Between June and September of the year in which the policy was issued, the KFO ordered some permittees in Tennessee to submit permit revisions to provide for the installation, operation and maintenance of long-term treatment systems and to adjust performance bonds accordingly.

Those permittees then sought administrative review of the KFO's orders. However, on October 2, 2000, the National Mining Association (NMA) filed suit in the United States District Court for the Northern Division of the Eastern District of Tennessee seeking to overturn the policy. *NMA* v. *Babbitt,* No. 3:00–CV–549 (E.D. Tenn. filed Oct 2, 2000). The plaintiffs alleged that the KFO's Policy Memorandum No. 37 was unlawfully adopted in violation of the rulemaking requirements of the Administrative Procedure Act, is inconsistent with the permitting and bonding provisions of SMCRA by requiring retroactive revision of permits that have already expired and the posting of performance bond for expired permits, and violates the Due Process Clause of the U.S. Constitution.

The Department of the Interior's Office of Hearings and Appeals then placed the administrative appeals of the KFO's orders to individual permittees in abeyance pending resolution of the Federal district court case. On July 24, 2001, the Federal district court litigation also was placed in abeyance in response to NMA's request that the parties pursue settlement of the case. Settlement negotiations are ongoing.

The Tennessee Federal program regulations at 30 CFR 942.800 incorporate the Federal bonding regulations in 30 CFR Part 800 by reference. In addition, that section of the Tennessee Federal program contains a few Tennessee-specific bonding provisions. As adopted on October 1, 1984, the Tennessee Federal program relies upon a conventional bonding system in which site-specific performance bonds must be filed with the KFO. The KFO determines the amount of the performance bond based upon the approved reclamation plan and adjusts that amount periodically when the cost of future reclamation changes. The bond amount must be sufficient to assure completion of the reclamation plan if we have to perform the work in the event of bond forfeiture.

A system that provides an income stream may be better suited to ensuring the treatment of long-term pollutional discharges, such as AMD, than conventional bonds. Surety bonds, the most common form of conventional bond, are especially ill-suited for this purpose because surety companies normally do not underwrite a bond when there is no expectation of release of liability. Further, a mandate that would require the permittee to immediately post other forms of conventional bonds, such as cash or negotiable bonds, may force insolvency on a permittee that is currently treating pollutional discharges but is unable to provide the large sums required to guarantee treatment through conventional bonding instruments. Insolvency will most likely lead to forfeiture of existing bonds and the proceeds of that forfeiture may not be sufficient to ensure long-term treatment of discharges.

On May 17, 2002, we published an advance notice of proposed rulemaking (ANPR) entitled ''Bonding and Other Financial Assurance Mechanisms for Treatment of Long-Term Pollutional Discharges and Acid/Toxic Mine Drainage (AMD) Related Issues.'' 67 FR 35070. In that ANPR, we sought comments on, among other things, the form and amount of financial assurance that should be required to guarantee treatment of postmining pollutional discharges. Commenters on the ANPR disagreed as to whether financial assurance should be required, but they largely agreed that, if it was, surety bonds are not the best means—or even an appropriate means—of accomplishing that purpose. For instance, the Surety Association of America stated that surface coal mining operations ''would not be prudently bondable if the scope of the obligation included perpetual treatment of discharge[s].'' According to the Association, ''the problem of acid mine drainage requires a funding vehicle, and a surety bond is not a funding vehicle.''

Through responses to the ANPR and the experience of Pennsylvania (discussed below), we have determined that the best approach to provide an alternative for financial assurances for long-term treatment of pollutional discharges is to allow the permittee to establish a dedicated income-producing account, such as a trust fund or annuity or both, that is held by a third party as trustee for the regulatory authority. The income stream from a fully funded trust fund or annuity will be used to fund treatment of postmining pollutional discharges (including maintenance, renovation, and replacement of treatment and support facilities as needed), the reclamation of the sites upon which treatment facilities are located and areas used in support of those facilities. However, until this rulemaking, our regulations did not provide for a mechanism to accept such accounts in satisfaction of the Tennessee Federal program's bonding requirements. The addition of paragraph (c) to 30 CFR 942.800 now implements our statutory authority and establishes the parameters under which trust funds and annuities must operate.

By adding paragraph (c), we are building on the experience of Pennsylvania, which has successfully implemented similar provisions. Pennsylvania amended its Surface Mining Conservation and Reclamation Act to include the authority to accept trust funds and annuities to fund treatment of postmining discharges. Pennsylvania's statutes allow the complete release of any conventional bonds remaining after land reclamation has been fully completed and the revegetation responsibility period has expired for a site with a pollutional discharge if provisions have been made for sound future treatment of that discharge. 52 Pa. Cons. Stat. Ann. 1396.4(g)(3). Pennsylvania's provisions state that sound future treatment must consist of another approved financial instrument, such as a trust fund, that will fully secure the long-term treatment obligation and is applicable to the area associated with that treatment. 52 Pa. Cons. Stat. Ann. 1396.4(d.2). This rule is not intended to mirror the provisions of the Pennsylvania program, but rather to adapt the concepts behind Pennsylvania's program for use in the Tennessee Federal program.

When Pennsylvania submitted the amendment to its program authorizing the use of trust funds and annuities, it characterized those financial instruments as collateral bonds, and we approved them as such. 70 FR 25472, amended at 70 FR 52916. However, the Federal regulations at 30 CFR 800.11(e) provide another option for approving trust funds and annuities. Those regulations implement the provision in section 509(c) of SMCRA, 30 U.S.C. 1259(c), authorizing OSM and the States to establish an ''alternative system that will achieve the objectives and purposes of the bonding program pursuant to this section.'' The regulations at 30 CFR 800.11(e) require that those alternative systems (1) ''assure that the regulatory authority will have available sufficient money to complete the reclamation plan for any areas which may be in default at any time;'' and (2) ''provide a substantial economic incentive for the permittee to comply with all reclamation provisions.'' As we noted in the proposed rule, establishment of a

trust fund or annuity would satisfy the first criterion, while the permittee's provision of the moneys needed to establish a trust fund or annuity and the express terms of the trust would satisfy the second criterion. 71 FR 17684.

In this rulemaking, we are providing for the use of trust funds and annuities in Tennessee as an alternative bonding system (ABS), as provided for in section 509(c) of the Act. As an ABS, trust funds and annuities are not subject to the provisions of 30 CFR 800.12, 800.20, 800.21, and 800.23 because those provisions pertain only to various types of conventional bonds. Except as otherwise provided in this rule, trust funds and annuities will generally be subject to the other provisions of 30 CFR Part 800. Specific information on the portions of 30 CFR Part 800 that apply to individual trust funds and annuities will be set forth in a formal written trust fund or annuity agreement made between the KFO and the permittee responsible for treating the discharge.

We will allow permittees a reasonable time to fully fund trust funds and annuities rather than requiring a lump-sum deposit as would be required for collateral bonds. We will use the provisions of 30 CFR 800.15(a) on a site-specific basis to establish a schedule for periodic review to ensure that trusts and annuities contain sufficient funds for treatment of the discharge, and maintenance and reclamation of associated facilities.

A permittee with postmining pollutional discharges that establishes a trust fund or annuity to guarantee funding for treatment will be able to secure release of conventional bonds on the portion of their permit that does not support the treatment of the discharge. However, the trust fund or annuity must be fully funded before the permittee qualifies for release of the conventional bond. A fully funded trust fund or annuity would be available to fund treatment and reclamation activities in the event of a permittee's bankruptcy or dissolution.

In implementing this rule, we will first determine whether a postmining pollutional discharge requiring long-term treatment exists. If so, and if the permittee elects to use a trust fund or annuity to satisfy the financial assurance (performance bond) obligation for discharge treatment, we, in consultation with the permittee, will develop a formal written agreement that sets forth the details of the trust fund or annuity. While we will consult in good faith with the permittee on the terms of the trust fund or annuity, including the selection of the trustee, the investment mix making up the trust fund or annuity, and the amount and duration of the trust agreement or annuity, we retain the final authority and responsibility to establish bond amounts, terms, and conditions, as provided by 30 CFR 800.16 and this rule. In determining the amount needed to fully fund the trust fund or annuity, we will consider the quality and quantity of the discharge, anticipated future changes in discharge quantity and quality, treatment options, support facilities needed, treatment facility maintenance, renovation, and replacement intervals, current and projected investment performance, and any other factors necessary to ensure ongoing treatment and reclamation of the discharge. We will use this rule, existing OSM policies, and computer software designed to estimate treatment and associated costs to calculate the amount of funding required to fulfill treatment obligations.

We anticipate that a fully funded trust or annuity may include provisions for payments to the permittee as a mechanism to cover the cost of water treatment, especially for those permittees no longer generating income from the mining of coal. Payments from the income stream of a fully funded trust fund or annuity will not be considered a bond release or a bond forfeiture. This rule establishes an ABS authorizing the establishment of a trust or annuity that produces an income stream that can be transferred to a permittee or other entity to pay for the treatment costs provided for in § 942.800(c)(8). The trust fund or annuity will also include other provisions that provide for the continuation of treatment in the event that the permittee fails to meet its treatment obligations.

This rule does not alter our existing responsibilities or those of permittees or any other Federal or State agency relating to postmining pollutional discharges. Existing treatment requirements and obligations, as well as permitting and enforcement responsibilities, are not affected by this rule.

Because of the adoption of this rule, we will not be pursuing a national rulemaking regarding the use of trust funds and annuities in response to the ANPR that we published in 2002. The successful implementation of trusts and annuities in the Pennsylvania program and our explicit addition of trust funds and annuities as an ABS in Tennessee with this rulemaking demonstrate that adequate authority for the use of trust funds and annuities is already available under SMCRA and its implementing regulations. Therefore, a national rule is not needed.

B. Sections 942.816(f)(3) and (4) and 942.817(e)(3) and (4): Revegetation Success Requirements for Forestry-Related Postmining Land Uses

On April 6, 2006, we proposed revisions to the Tennessee Federal program regulations regarding ground-cover revegetation success standards for reclaimed lands with postmining land uses of wildlife habitat, undeveloped land, recreation, or forestry. In this final rule, we are adopting the revisions as proposed, with one technical correction and minor editorial modifications to reflect plain language principles. The technical correction replaces the term ''mining and reclamation plan'' in the proposed rule with ''reclamation plan'' to be consistent with terminology used elsewhere throughout the Federal regulations.

The revisions modify 30 CFR 942.816(f)(3) and 942.817(e)(3) by eliminating the 80% vegetative ground cover revegetation success standard for reclaimed lands with postmining land uses of wildlife habitat, undeveloped land, recreation, or forestry. The regulations will be changed to state that herbaceous ground cover should be limited to that necessary to control erosion and support the postmining land use and that the permit will specify the ground cover seed mixes and seeding rates to be used. Final §§ 942.816(f)(3) and 942.817(e)(3) read as follows:

> (3) For areas developed for wildlife habitat, undeveloped land, recreation, or forestry, the stocking of woody plants must be at least equal to the rates specified in the approved reclamation plan. To minimize competition with woody plants, herbaceous ground cover should be limited to that necessary to control erosion and support the postmining land use. Seed mixes and seeding rates will be specified in the permit.

Section 515(b)(19) of SMCRA, 30 U.S.C. 1265(b)(19), requires establishment of a diverse, effective, and permanent vegetative cover, at least equal to the premining cover, that is capable of self-regeneration and plant succession. The Federal regulations at 30 CFR 816.116 (for surface mining activities) and 817.117 (for underground mining activities) provide national requirements and parameters for revegetation success standards. Sections 816.116(b)(3) and 817.116(b)(3) establish requirements pertinent to revegetation success standards for areas to be developed for postmining land uses of fish and wildlife habitat, recreation, undeveloped land, or forest products. Those regulations provide that

''success of vegetation shall be determined on the basis of tree and shrub stocking and vegetative ground cover.''

At the time that we promulgated the Federal program for Tennessee, the national rules at §§ 816.116(a)(1) and 817.116(a)(1) required the regulatory authority to select the standards for revegetation success and include them in the regulatory program. 49 FR 38874. Therefore, we included specific standards in the Tennessee Federal program at §§ 942.816(f)(3) and 942.817(e)(3) for areas with postmining land uses of wildlife habitat, recreation, or forest products. Those regulations required a minimum 80% ground cover on mined lands reclaimed for those postmining land uses. In the preamble discussion of those rules, we noted that a minimum level of 80% vegetative coverage was necessary to control erosion on the steep terrain that is common to eastern Tennessee. 49 FR 38888.

In addition, we adopted §§ 942.816(f)(4) and 942.817(e)(4) which prohibit bare areas larger than one-sixteenth of an acre in size and that total more than 10% of the area seeded. We adopted these provisions because we believed that they were necessary to prevent the release of bonds on lands that meet the overall requirements of 80% or 90% ground cover, but still have localized areas that are not yet stabilized with respect to soil erosion. 49 FR 38888.

We have learned much more about reestablishing vegetation, particularly trees, on mined land in the years since we adopted those standards. Permittees generally prefer pasture or grazing land as postmining land uses because they do not require the extra work and expense of planting trees and ensuring successful tree establishment. Thus, the reclamation of mine sites has typically resulted in dense grasslands with few trees. Many trees that were planted had low survival rates and required replanting, while those that survived often did not reach their optimal growth potential, which further discouraged operators from considering a land use that required planting trees.

We recognize the importance and benefits of promoting the reestablishment of forests, especially native hardwood forests, on mined land. Consequently, we have determined that changes to our regulations are necessary to promote and enable the establishment of diverse, vigorous forests on reclaimed mine sites. The conventional method of mine reclamation typically includes using bulldozers to grade and track-in spoil, creating smooth slopes. This method results in a compacted soil surface that not only inhibits root growth of seedlings and planted stock, but also restricts infiltration of precipitation and increases runoff. To prevent erosion from runoff, operators seed the regraded areas with aggressive, quick-growing herbaceous ground covers. This method of reclamation is very effective in producing dense hayland and pastureland. However, it is very detrimental to establishing forested land on mine sites for three reasons. First, the dense herbaceous ground covers used to control erosion compete with newly planted trees and tree seedlings for soil nutrients, water, and sunlight. Second, soil compaction inhibits root growth as well as water infiltration. Third, the dense ground cover provides habitat for rodents and other animals that damage tree seedlings and young trees.

In summarizing research into ground cover and its effects on establishment of trees on mined lands, Jim King and Jeff Skousen of West Virginia University noted in 2003:

> The negative effects of overly abundant and aggressive ground cover on the survival and growth of trees planted on reclaimed mine lands has long been known. Trees planted into introduced, aggressive forages [especially tall fescue and sericea lespedeza] often are overtopped by the grass or legume and are unable to break free (Burger and Torbert, 1992; Torbert et al., 1995). The seedlings are pinned to the ground and have little chance for survival. If it is known that trees are to be planted, a tree-compatible ground cover should be seeded that will be less competitive with trees. Tree-compatible ground cover should be slow growing, sprawling or low growing, not allopathic, and non-competitive with trees (Burger and Torbert, 1992). Plass (1968) reported that after four growing seasons the height growth of sweetgum and sycamore planted into an established stand of tall fescue on spoil banks was significantly retarded. Andersen et al. (1989) found that survival and height growth for red oak and black walnut was significantly greater on sites where ground cover was chemically controlled.[1]

Researchers affiliated with the Virginia Polytechnic Institute and State University also found that:

> The use of tree-compatible ground covers during reclamation can allow seedlings to survive at rates exceeding the 70% that is necessary to achieve regulatory compliance without the expense of follow-up herbicide treatment. Furthermore, our experience indicates that sowing tree-compatible ground covers at reduced rates often allows invasion by woody vegetation from adjacent forests. The results of this study suggest that sowing ground cover at reduced rates achieving 50 to 70% cover, instead of 90% currently required by Virginia's regulations, would also greatly improve the likelihood of hardwood reforestation success.[2]

Researchers from the University of Maine determined that even a small amount of herbaceous ground cover can inhibit tree growth:

> Additional research has found that herbaceous vegetation (grasses and broadleaves) in small amounts (<20% cover) around seedlings immediately after planting will substantially reduce early stand growth.[3]

These researchers are united in their findings that even ground cover significantly less than the 80% ground cover standard in Tennessee's rules would still be detrimental to tree survival and growth.

We have also determined that dense herbaceous ground cover impedes the natural succession of native forest plants, thereby frustrating attainment of the requirement in section 515(b)(19) of SMCRA, 30 U.S.C. 1265(b)(19), for establishment of a diverse, effective, permanent vegetative cover of the same seasonal variety native to the area and capable of self-regeneration and plant succession. As Burger and Zipper noted:

> Another purpose of low ground cover seeding rates is to allow the invasion of native plant species such as yellow poplar, red maple, birches and other light-seeded trees. Dense ground covers prevent the natural seeding-in of native plants.[4]

While excessive herbaceous ground cover is detrimental to tree growth and survival and natural succession, we are cognizant that some vegetative cover is often needed to meet the cover requirements of 30 CFR 816.111(a)(3) and (4) and 817.111(a)(3) and (4). Additional cover may be needed to control erosion on newly reclaimed mine sites, as required by 30 CFR 816.95(a) and 817.95(a), and to prevent the contribution of additional suspended solids to streamflow outside the permit area, as required by 30 CFR 816.45(a) and 817.45(a) and section 515(b)(10)(B)(i) of SMCRA, 30 U.S.C. 1265(b)(10)(B)(i). However, the amount of vegetative ground cover necessary to control erosion on any particular site is

[1] *Tree Survival on a Mountaintop Surface Mine in West Virginia* King, J., J. Skousen, West Virginia University Morgantown, American Society of Mining and Reclamation, 2003.

[2] *Herbaceous Ground Cover Effects on Native Hardwoods Planted on Mined Land* Burger, J.A., D.O. Mitchem, C.E. Zipper, R. Williams, Virginia Polytechnic Institute and State University, American Society of Mining and Reclamation, 2005.

[3] *Top 10 Principles for Managing Competing Vegetation to Maximize Regeneration Success and Long-Term Yields* R.G. Wagner, University of Maine.

[4] *How to Restore Forests on Surface-Mined Land* Burger, J.A., C.E. Zipper, Virginia Polytechnic Institute and State University, Powell River Project, Virginia Cooperative Extension Publication 460–123, Revised 2002.

a function of the site topography, composition of the surface material, precipitation amounts, and the degree of soil compaction. Loosely graded or uncompacted material, particularly if placed on a relatively gentle slope, may have virtually no runoff or erosion and would require little or no herbaceous vegetative ground cover to control erosion. Conversely, highly compacted material placed on a steep slope severely limits infiltration and increases runoff so that a dense vegetative cover may be needed to control erosion.

Researchers have stated:

> Non-compacted mine soils have higher infiltration rates and erode less than graded soils. When using the Forestland Reclamation Approach, less ground cover is needed to prevent erosion and protect water quality, and in the process, diverse mixes of trees are able to survive and grow at rates that will create an economically viable forest.[5]
>
> Third-year results show that intensive grading did not result in better ground cover establishment or erosion control. In fact, erosion was highest on the intensively graded plots.[6]

Loosely grading the topsoil or topsoil substitutes on reclaimed mine sites will result in less compacted growing media, which will increase water infiltration and limit the amount of runoff. This in turn will limit erosion and sedimentation as well as make more water available for tree growth. Limited compaction is also more favorable to tree root growth, which will increase survival and growth rates.

Forestry researchers agree that productive forest land can best be created on reclaimed mine land by using techniques that we will refer to as the Forestry Reclamation Approach (FRA). The FRA is a series of five techniques designed to reestablish healthy productive forests on reclaimed mine lands. These techniques include (1) Creating a suitable rooting medium for tree growth that is no less than four feet deep and that is comprised of topsoil, weathered sandstone and/or the best available material; (2) loosely grading the topsoil or topsoil substitute to create a non compacted growth medium; (3) using herbaceous ground covers that are compatible with growing trees; (4) planting two types of trees—early succession species (for wildlife and soil stability) and commercially valuable crop trees; and (5) using proper tree-planting techniques.

We examined the factors in Federal and State regulations that may act as impediments to implementing the FRA. We determined that there were no regulations regarding backfilling and grading that would act as impediments to implementation of the provisions of the FRA that require a minimum of four feet of topsoil or topsoil substitutes to be loosely graded. Thus, we did not propose any changes in our backfilling and grading regulations as part of this rulemaking.

However, we did identify the ground cover standards and bare area restrictions adopted as part of the Tennessee Federal program on October 1, 1984, as impediments to the FRA and disincentives to forest restoration. Elimination of the 80% vegetative ground cover standard and bare area restrictions will provide us with the flexibility to adjust the amount of vegetative ground cover required on mine sites with postmining land uses related to forestry to levels that are sufficient to control erosion without impairing tree growth and survival. To minimize competition with woody plants while meeting other regulatory requirements, we are revising our rules to specify that herbaceous ground cover should be limited to that amount necessary to control erosion and support the approved postmining land use. We will take into account all site characteristics when determining the level of vegetative ground cover suitable for a mine site and require permittees to specify the ground cover seeding mixes and seeding rates in the permit.

As proposed, we are also expanding the postmining land uses to which the regulations at §§ 942.816(f)(3) and 942.817(e)(3) apply by including undeveloped land and by modifying the postmining land use of forest products to forestry. We made these changes to accurately reflect the postmining land uses that require the establishment of trees and shrubs. The revised version of the national regulations at §§ 816.116(b)(3) and 817.116(b)(3) that we adopted in a separate rulemaking on August 30, 2006, likewise includes undeveloped land as a postmining land use to which its requirements apply. See 71 FR 51695–51697.

SMCRA and its implementing regulations clearly require control of erosion and prevention of additional sedimentation. They also require establishment of a vegetative cover that is capable of stabilizing the soil surface from erosion. See 30 CFR 816.111(a)(4) and 817.111(a)(4). At the same time, research has demonstrated that many types of herbaceous ground cover are detrimental to tree growth and natural succession and thus would impede attainment of the postmining land uses of wildlife habitat, recreation, or forestry. The regulatory modifications that we are adopting in this rule will ensure that the FRA can be effectively implemented in Tennessee.

C. Removal of Restrictions on the Amount of Bare Areas for Postmining Land Uses of Wildlife Habitat, Undeveloped Land, Recreation, or Forestry

As proposed, we are revising the Tennessee Federal program regulations to exempt sites with postmining land uses of wildlife habitat, undeveloped land, recreation, or forestry from the restrictions of §§ 942.816(f)(4) and 942.817(e)(4) concerning bare areas. This change facilitates implementation of the FRA, which requires the use of less competitive herbaceous vegetative ground covers at lower seeding rates, or in some cases no herbaceous ground cover at all. Consequently, some areas may be essentially bare except for tree seedlings and volunteer herbaceous vegetation. As we noted earlier, reduced levels of herbaceous vegetative ground cover are necessary for natural succession of native forest plants and to reduce competition between grasses and legumes and planted tree seedlings for water, nutrients and sunlight. To achieve this goal, some areas must be devoid of herbaceous ground cover because many native woody plants and forbs require bare soil conditions for seed germination. In addition, most traditionally planted herbaceous ground cover species are not expected to be part of the mature forest plant community.

Final §§ 942.816(f)(4) and 942.817(e)(4) reads as follows:

> (4) Bare areas shall not exceed one-sixteenth (1/16) acre in size and total not more than ten percent (10%) of the area seeded, except for areas developed for wildlife habitat, undeveloped land, recreation, or forestry.

Nothing in this rule change should be construed as negating the requirement in 30 CFR 816.111(a)(3) and 817.111(a)(3) that reestablished vegetation on mined lands be at least equal in extent of cover to the natural vegetation of the area. Nor does this change alter the applicability of the erosion control requirement in 30 CFR 816.95(a) and 817.95(a).

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[5] *Herbaceous Ground Cover Effects on Native Hardwoods Planted on Mined Land* Burger, J.A., D.O. Mitchem, C.E. Zipper, R. Williams, Virginia Polytechnic Institute and State University, American Society of Mining and Reclamation, 2005.

[6] *Influence of Grading Intensity on Ground Cover Establishment, Erosion, and Tree Establishment on Steep Slopes* Torbert, J.L., Burger, J.A., Virginia Polytechnic Institute and State University, International Land Reclamation and Mine Drainage Conference and the Third International Conference on the Abatement of Acidic Drainage, 1994.

IV. How did we respond to the comments that we received on the proposed rule?

A. Section 942.800(c), (proposed as § 942.800(b)(4)): Bond and Insurance Requirements for Surface Coal Mining and Reclamation Operations

Of the 13 commenters on the proposed revisions to 30 CFR 942.800(b), which we are adopting as 30 CFR 942.800(c) in this final rule, four were coal companies, two were associations representing the coal industry, two were government agencies, two were environmental groups, one was an association representing mining states, one was an organization that administers trusts in other states, and one was a private citizen.

Seven commenters generally supported the concept of using trust funds and annuities to satisfy financial assurance requirements for treatment of long-term postmining pollutional discharges, but requested that we put more details concerning the creation and administration of those mechanisms in the rule.

We appreciate the support from these commenters. However, we do not find it necessary or appropriate to adopt the suggestions for more specific regulations regarding the creation and administration of trust funds and annuities. The purpose of this rule is to provide us with mechanism to use our statutory authority to accept trust funds and annuities in lieu of conventional performance bond instruments to fund treatment of postmining pollutional discharges. The final rule establishes a framework (with safeguards) within which we will accept trust funds and annuities. It is not, nor was it intended to be, a handbook that specifies all the details of how trust funds or annuities would work. Those details are best worked out on an individual basis, taking into consideration the characteristics of the discharge, the mine site, the investment instrument, and economic projections at the time that the trust or annuity is finalized. The KFO will address the specifics of each trust fund or annuity in formal written agreements with permittees. This approach is consistent with the manner in which conventional bond amounts are calculated, which is left to the discretion of the regulatory authority. In situations where we are the regulatory authority, Directive TSR–1, ''Handbook for Calculation of Reclamation Bond Amounts,'' governs those calculations.

Two commenters requested that we either increase bond amounts or require both bonds and trusts on the same mine site. We find that there is no legal basis or practical reason to do so. Under section 509(a) of SMCRA, ''[t]he amount of the bond shall be sufficient to assure the completion of the reclamation plan if the work had to be performed by the regulatory authority in the event of forfeiture and in no case shall the bond for the entire area under one permit be less than $10,000.'' 30 U.S.C. 1259(a). In addition, section 509(c) specifies that an ABS, such as the trust funds and annuities approved under this rule, must ''achieve the objectives and purposes of the bonding program pursuant to this section.'' 30 U.S.C. 1259(c). Because § 942.800(c)(1) requires the trust fund or annuity to ''be adequate to meet all anticipated treatment needs, including both capital and operating expenses,'' the amount of the trust fund or annuity should be sufficient to meet the requirements of section 509(c) of SMCRA. On a case-by-case basis, depending upon the stage of mining during which a trust fund or annuity is established, a mine may have both conventional bonds and a trust fund or annuity. Requiring multiple bonds in all cases goes beyond the requirements of section 509(c) and would place an unnecessary burden on permittees.

In the remainder of this section of the preamble, we will discuss comments directed at specific sections of our revision to § 942.800, followed by comments of a more general nature that were directed to the use of trust funds and annuities. We will not discuss comments that are beyond the scope of this rulemaking, such as comments that do not pertain to the rule provisions that we proposed to revise on April 6, 2006.

Section 942.800(c)(1), (Proposed as § 942.800(b)(4)(i))

Subsection 942.800(c)(1) provides that we will determine the amount of the trust fund or annuity, which must be adequate to meet all anticipated treatment needs, including both capital and operating expenses.

Five commenters suggested that the method for determining the amount of the trust fund or annuity must be objective and clearly stated in the rule. Two commenters recommend that we use the AMDTreat software (a computer program used to estimate costs associated with treating discharges) or the Pennsylvania law, as a model, to determine the amount needed. One commenter provided two mathematical formulas to calculate the present value of the amount needed to fund the trust, while another commenter noted that historic operating and capital costs for chemical treatment and construction of the treatment systems are important indicators of future costs. Also, a commenter indicated that data from the permittee should be used to determine the amount of the trust fund or annuity because of personal experience with OSM requiring excessive bond amounts based on outdated and erroneous information.

As previously noted, our rule establishes a framework (with safeguards) within which we will accept trust funds and annuities. It is not, nor was it intended to be, a handbook that specifies all the details of how trust funds or annuities would work. Those details are best worked out on an individual basis, taking into consideration the characteristics of the discharge, the mine site, the method of treatment, the investment instruments, and economic projections at the time that the trust or annuity is finalized. Consequently, we are not making the changes sought by the commenters. We do not believe that it is advisable to limit our flexibility by including all the variables that may factor in to the determination of the amount of the trust fund or annuity in the rule. Doing so could restrict our ability to consider the most current information and technology available when determining the amount of money needed to fully fund a trust fund or annuity.

When calculating the amount of a trust fund or annuity, we plan to look at, but are not limited to, the following sources: Historic treatment cost data (if any) supplied by the permittee; existing publicly available software, such as AMDTreat; and publicly available policies and guidelines, such as OSM Directive TSR–1, ''Handbook for Calculation of Reclamation Bond Amounts.'' For instance, the AMDTreat software developed cooperatively by the Pennsylvania Department of Environmental Protection, the West Virginia Department of Environmental Protection, and OSM is one tool available to the KFO to use to estimate the costs of treatment and the costs of constructing and maintaining all associated treatment facilities.

Section 942.800(c)(2), (Proposed as § 942.800(b)(4)(ii))

In subsection 942.800(c)(2), we require that the trust fund or annuity be in a form that we approve and contain all the terms and conditions that we require. We received no comments on this provision.

Section 942.800(c)(3), (Proposed as § 942.800(b)(4)(iii))

In subsection 942.800(c)(3), we require that a trust fund or annuity

irrevocably establish the United States or Tennessee as the beneficiary of the trust fund or of the proceeds from the annuity. This provision is intended to ensure that moneys in the trust fund or annuity will be available to the regulatory authority for treatment regardless of an operator's financial circumstances or business status.

The one commenter on this subsection recommended that the rule be revised to allow trust accounts established for purposes of termination of jurisdiction to name alternative trust beneficiaries, such as the State of Tennessee. We disagree with the commenter's assumption that trust funds or annuities will be established for purposes of termination of jurisdiction. This rulemaking provides for the establishment of a trust fund or annuity as an ABS, which means that we are retaining jurisdiction over the mine site with respect to treatment of the postmining pollutional discharge. However, we are accepting the commenter's suggestion to name the State of Tennessee as an alternative beneficiary. When OSM became the regulatory authority for the State of Tennessee, we stated that the bonds posted for the Federal program for Tennessee would be payable to '''The United States or the State of Tennessee' * * * so as to ease the transition in the event that [Tennessee] reassumes primary regulatory authority.'' 49 FR 38877–38878. Because conventional bonds in Tennessee are payable to the United States and the State of Tennessee, we decided to require trust funds and annuities to be treated in a similar fashion to remain consistent with existing provisions. We have revised § 942.800(c)(3) to include this provision to be consistent with § 942.800(b)(2).

Section 942.800(c)(4), (Proposed as § 942.800(b)(4)(iv))

Subsection 942.800(c)(4) requires that we specify the investment objectives of the trust fund or annuity. Four commenters stated that the investment objectives of the trust fund should be both defined in the rule and spelled out in the trust agreement. The commenters asserted that the permittee should choose the investment objectives subject to approval by the regulatory authority. The commenters opined that if the regulatory authority alone selects the investment objectives, it may use an overly conservative mix of assets that may adversely impact the investment performance of the trust. Additionally, one commenter stated that trusts created under these rules should allow Tennessee law to regulate the duties and obligations of the trustees, which would include making proper investment decisions. Another commenter recommended deleting this subparagraph entirely because OSM is not equipped to control the investment objectives of the trust fund or annuity. The commenter argued that the investment objectives of the trust should be established by the trust agreements themselves and by professionals with experience in managing trust accounts.

We are adopting the rule as proposed because (1) We see no benefit to restricting our flexibility by specifying investment objectives in the rule, and (2) we must retain final control of the investment objectives to protect the assets of the trust or annuity and ensure that sufficient funds will be available for treatment. However, nothing in this rule will prevent us from implementing this provision in a manner consistent with the other comments that we received on this subparagraph, should we determine that it would be appropriate and beneficial to do so. Also, while we retain ultimate control of the investment objectives, which will be defined in the trust or annuity agreement, the trustee will make decisions regarding the investment of the assets of the trust fund or annuity. Trustees have an inherent obligation to comply with Tennessee law, so there is no need for us to add that requirement to this rule.

Section 942.800(c)(5), (Proposed as § 942.800(b)(4)(v))

Subsection 942.800(c)(5) provides that termination of the trust fund or annuity may occur only as specified by OSM upon a determination that no further treatment or other reclamation measures are necessary, that a replacement bond or another financial instrument has been posted, or that the trust fund or annuity can no longer be administered to carry out the purpose for which it was established. As an example of a trust fund or annuity that is terminated because it can no longer carry out the purpose for which it was established, the trust documents may specify that a trust will be terminated if the regulatory authority determines that it is too small to be administered effectively. This provision allows us to keep the trust fund or annuity in place as long as necessary and practical to maintain and reclaim treatment facilities.

Five commenters asserted that the rule should address the duration of the trust and the criteria for termination of the trust fund or annuity. The commenters requested the establishment of objective criteria, based on time or other factors, to establish the point at which the trust fund or annuity must be terminated and the remaining assets of the trust or annuity must be returned to the permittee. One commenter suggests that we modify the rule to require the regulatory authority to make a determination, based on site-specific information, of how long treatment is anticipated. The commenter further suggests that we modify the rule to provide for monitoring of the untreated discharge for a period not to exceed two years after treatment is completed. After two years, the trust should be terminated and the proceeds returned to the operator.

We do not agree that the suggested provisions should be part of the rule. In order to meet the purposes of § 509 of the Act, the alternative system should meet the objectives and purposes of the bonding program established by SMCRA, including the requirement that liability ''be for the duration of the surface coal mining and reclamation operation,'' 30 U.S.C. 1259(b). Consequently, each agreement for a trust fund or annuity will specify the anticipated length of treatment, based on site-specific information. Defining treatment goals is an integral part of determining the funds necessary for sustaining the trust fund or annuity. Furthermore, if appropriate, the formal trust fund or annuity agreement may define a post-treatment monitoring program and the program's anticipated duration. We intend for trust funds and annuities to be an additional option for permittees to fulfill their bonding obligations, while providing greater flexibility than conventional bonds.

It is important to distinguish the duration of the trust or annuity from the duration of the obligation to the permittee to perform treatment of a pollutional discharge. We are providing that a trust fund or annuity may be terminated if replaced by another bond or financial instrument in § 942.800(c)(5), consistent with § 800.30 and other provisions of part 800. Thus, we anticipate that a trust or annuity of limited duration may need to be replaced by another bond or financial instrument if the permittee's obligation to treat a pollutional discharge extends beyond the term of the trust or annuity. Rather than establishing an arbitrary duration in this rule, we have chosen to set the duration of the trust fund or annuity on a case-by-case basis, which will allow us to consider the anticipated need for treatment for each site, the permittee's proposals for meeting the treatment obligations, and other considerations, such as the requirements of Tennessee law.

One commenter noted that the specification of objective performance

standard criteria, such as reestablishment of biologic integrity, would eliminate any potential dispute between the permittee and OSM as to when it is appropriate to terminate the trust fund or annuity. According to the commenter, these types of objective performance standards exist in provisions of the Act detailing when a bond may be released.

In response, we note that the trust or annuity agreement will specify treatment goals and requirements. We see no need or purpose to limit our flexibility by incorporating specific criteria in the rule itself. Indeed, doing so may be impossible or impractical, given the variation in discharges and the treatment standards applicable to those discharges. The KFO will evaluate whether the permittee has met the treatment goals in the agreements before terminating the trust or annuity. In order to provide a structure for how and when a trust fund or annuity will be released, we intend to incorporate the procedures for bond release under 30 CFR 800.40 into the formal agreement creating the trust fund or annuity. This provision will provide a permittee with a mechanism for terminating the trust fund or annuity in the event that the permittee believes that no further treatment or other reclamation measures are necessary. We also intend to incorporate the notification procedures of § 519 of the Act and 30 CFR 800.40 into the trust documents in order to inform the public about any request to release the trust fund or annuity.

Section 942.800(c)(6), (Proposed as § 942.800(b)(4)(vi))

Subsection 942.800(c)(6) provides that the release of money from the trust fund or annuity may be made only upon our written authorization. As discussed below, we have modified this provision to require that release of money from the trust fund or annuity to any source may be made only upon our written authorization or as a disbursement according to a schedule established in the agreement accompanying the trust fund or annuity. As we noted in the preamble to the proposed rule, we included this provision in our rule to ensure that we are aware of all expenditures from the trust fund or annuity and that the disbursements are used for their intended purpose, 71 FR 17684. While we expect that the permittee will be treating the discharge with funds from the trust fund or annuity, we also intend that the trustee have the authority to employ other entities to continue treatment in the event that the permittee cannot or does not undertake the actions required for compliance.

One commenter stated that we should allow withdrawal or release of funds according to the terms of the trust or annuity agreement instead of requiring written authorization to release money from the trust fund or annuity to the permittee. Another commenter suggested that we allow distributions of the funds on an annual basis to reimburse the permittee for capital investments and operating and maintaining treatment facilities. Similarly, another commenter stated that the trust fund or annuity agreements should include specific payment schedules for treatment costs. Finally, one commenter suggested that we modify this subsection to indicate the criteria that we will follow to release funds from the trust fund or annuity and clarify that release of funds to a permittee will not impair the ability of the fund to guarantee treatment.

We have modified the rule to include the option of disbursing funds according to a schedule established in the trust fund or annuity agreement. That schedule could provide for annual payments if desired. Disbursement according to a schedule established in the trust fund or annuity agreement would meet our objective of ensuring that we are aware of withdrawals from the trust fund or annuity and that those funds are disbursed only for legitimate purposes.

However, we do not agree that establishing release criteria in the rules would be beneficial or appropriate. Those details are best determined on a case-by-case basis; they will be set forth in the agreement accompanying the trust fund or annuity. The commenter's concern that release of funds to the permittee may impair the ability of the trust fund or annuity to guarantee treatment is misplaced. We will use our authority under 30 CFR 800.15(a) to periodically evaluate all trust funds and annuities to ensure that sufficient funds will be available to meet the treatment mandate. If that evaluation indicates that a shortfall exists or will develop, we will require that the permittee provide additional funds to supplement the trust fund or annuity.

Section 942.800(c)(7), (Proposed as § 942.800(b)(4)(vii))

In subsection 942.800(c)(7), we specify which financial institutions and companies may serve as trustees or issue annuities. These requirements are intended to ensure that only qualified businesses and institutions administer the trust funds and annuities, thus reducing the possibility that the trust funds and annuities could be mismanaged. In a change from the proposed rule, we are adding insurance companies licensed or authorized to do business in Tennessee to the list of acceptable financial institutions to issue annuities for the treatment of long-term postmining pollutional discharges. This addition reflects the fact that insurance companies are major providers of annuities.

One commenter suggested changing the rule to allow the permittee to pick the trustee subject to OSM approval. In response, we note that nothing in the rule would prohibit this arrangement. We expect to collaborate with a permittee in the establishment of a trust fund or annuity, including the selection of the trustee.

Three commenters suggested that we allow entities organized as non-profit organizations under 26 U.S.C. 501(c)(3), such as The Clean Streams Foundation, Inc. (CSF), to act as trustees through a participation agreement. CSF currently acts as a trustee for trust funds for water treatment systems in Pennsylvania. The commenters were concerned that organizations such as CSF might not meet the requirements of this subsection and would not be eligible to serve as trustees in Tennessee. One commenter stated that organizations like CSF are in a better position to administer trusts because most financial institutions are unwilling to take title to real property or to oversee the operation of treatment facilities. According to the commenter, organizations such as CSF can perform these and other functions that financial institutions are unwilling to undertake. In addition, the commenter recommended that § 942.800(c)(7) (proposed as § 942.800(b)(4)(vii)) be revised to allow any organization to serve as a trustee as long as the custodian of the financial assets of the trust fund is an appropriate financial institution. Another commenter stated that the use of non-profit organizations would provide tax advantages to permittees and noted that Pennsylvania has extensive experience setting up charitable trusts for this purpose.

As we noted in the preamble to our proposed rule, we want to ensure that institutions eligible to serve as trustees or to issue annuities are qualified business institutions capable of administering the trust funds or annuities in a competent manner so that the trust fund or annuity will remain solvent for the long-term treatment of pollutional discharges, 71 FR 17684. We recognize that Pennsylvania's regulations allow for State or Federally regulated trust companies to act as trustees and issue annuities. Finally, 30

CFR 942.800(c)(7) likewise provides that any financial institution or company with trust powers and offices located in Tennessee is eligible to participate in the program as long as the activities of the institution are examined or regulated by a State or Federal agency. This rule does not prohibit non-profit organizations from becoming trustees provided the organization meets the qualifications set forth in the rule. Nor does it prohibit the permittee or the institution acting as the trustee from contracting with a non-profit organization to administer the treatment system if the permittee elects not to operate that system.

Section 942.800(c)(8), (Proposed as § 942.800(b)(4)(viii))

Subsection 942.800(c)(8) provides that trust funds and annuities must be established in a manner that guarantees that sufficient moneys will be available to pay for treatment of postmining pollutional discharges (including maintenance, renovation, and replacement of treatment and support facilities as needed), the reclamation of the sites upon which treatment facilities are located and areas used in support of those facilities. The language of the final rule is more precise than that of the proposed rule, which would have required that ''trust funds and annuities be established to guarantee that funds are available to pay for treatment of postmining pollutional discharges or reclamation of the mine site or both.'' As discussed below, commenters found the proposed rule language too broad.

One commenter stated that the use of trust funds and annuities as an alternative bonding mechanism should be limited to treatment of postmining pollutional discharges exclusively. According to the commenter, the proposed rule would allow us to use moneys from trust funds and annuities on lands that previously met performance standards and have received release of all conventional bonds. Consequently, the commenter recommended deletion of the phrase ''or reclamation of the mine site or both'' from this subsection. Similarly, a different commenter requested that we clarify in the rule that trust funds and annuities are not available to meet general reclamation requirements.

Another commenter stated that we have inconsistently described the scope of activities for which the trust fund or annuity is established. The commenter noted that while proposed § 942.800(b)(4)) states that the scope of the rule is limited to ''treatment of long-term postmining pollutional discharges;'' proposed subparagraph § 942.800(b)(4)(i) references ''all anticipated treatment needs,'' proposed subparagraph § 942.800(b)(4)(v) references ''treatment or reclamation measures,'' and proposed § 942.800(b)(4)(viii) references ''treatment of postmining pollutional discharges or reclamation of the mine site, or both.'' The commenter recommended that we delete the reference to ''reclamation'' in subparagraphs (v) (as proposed) and (viii) (as proposed) and use the term ''long-term postmining pollutional discharge.''

We do not agree with the commenters that the trust fund or annuity should be used exclusively for treatment of long-term postmining pollutional discharges. While that is its primary purpose, we also need to ensure that funds are available for maintenance, renovation, and replacement of the treatment system as necessary and, once there is no longer a need for treatment, for reclamation of the land upon which treatment facilities are sited, together with any areas used to support those facilities, such as access roads. Further, we agree with the commenters that a trust fund or annuity is not intended to be used for the reclamation of portions of the mine site not associated with a treatment facility or used in support of such a facility. We recognize that the proposed language may have been too broad and subject to misinterpretation. Consequently, we have used revised § 942.800(c)(8) to specify the activities which may be funded as treatment and reclamation.

Section 942.800(c)(9), (Proposed as § 942.800(b)(4)(ix))

In subsection 942.800(c)(9), we allow the release of conventional bonds posted for the mine site as a whole if, apart from the pollutional discharge and associated treatment facilities, the permittee has met all applicable reclamation requirements and has fully funded a trust fund or annuity adequate for treatment of long-term postmining pollutional discharges and reclamation of areas associated with that treatment. The establishment of trust funds or annuities for treatment of long-term pollutional discharges will constitute a replacement of bonds under 30 CFR 800.30 for the areas upon which the discharge and treatment and support facilities are located. Once a fully funded trust fund or annuity exists, there is no need to retain bonds for other areas for which all reclamation requirements have been met and the revegetation responsibility period has expired. Conventional bonds for those areas may be released, subject to the requirements of 30 CFR 800.40.

Two commenters requested that we clarify this subsection to emphasize the long-term nature of the problem. These commenters also found our use of the word ''reclamation'' in the final phrase of this subsection confusing. According to the commenters, the term ''reclamation'' should refer only to the removal of the treatment facility and reclamation of the ground where it was located, not mining impacts in the area. The commenters recommend modifying the final part of subparagraph (ix) (as proposed) to state, ''* * * and the sum in the trust fund is sufficient to guarantee the treatment of the pollutional discharges for as long as it will be needed and to reclaim the treatment facilities at the end of that time.''

While we have made minor wording changes in subparagraph (9) for clarity, we do not find it necessary or appropriate to adopt the language proposed by the commenters. Like the proposed rule, the final rule requires that the trust fund or annuity be ''sufficient for treatment of pollutional discharges and reclamation of all areas involved in such treatment.'' This language establishes the appropriate scope of the trust fund or annuity, which includes treatment of the discharge and reclamation of areas upon which treatment facilities are located and areas used in support of those facilities. The language proposed by the commenters would not necessarily include reclamation of areas used in support of treatment facilities. We also find it unnecessary to add the qualifier ''long-term'' before ''pollutional discharge'' in subparagraph (9) because the heading of paragraph (c) clearly states that the entire paragraph applies only to sites with long-term postmining pollutional discharges.

Another commenter requested that we replace the word ''may'' with the word ''shall'' in this subparagraph to remove any uncertainty concerning approval of final bond release once the trust fund or annuity to address long-term pollutional discharges is established. A different commenter stated that the rule should be revised to clarify that the final bond release would occur when the trust fund or annuity was fully funded.

Both section 519(c) of SMCRA, 30 U.S.C. 1269(c), and the Federal regulations regarding approval of bond release applications at 30 CFR 800.40(c) provide that the regulatory authority may release all or part of the bond for the entire permit area or an incremental area if it is satisfied that reclamation has been accomplished. Therefore, a change from ''may'' to ''shall'' in this rule would be inconsistent with the bond

release provisions of both the Act and our bond release rules. Consequently, we are not making the requested change. However, in response to the second comment, we are changing the language of the rule slightly to specify that the trust fund or annuity must be fully funded before conventional bonds may be released and to make it clear that release of the conventional bond will not extend to the treatment of discharges.

Other comments referring to subsection 942.800(c)(9) were primarily concerned with termination of jurisdiction. We discuss the relationship between termination of jurisdiction and this rulemaking in the General Comments on § 942.800(c) below.

General Comments on § 942.800(c), (Proposed as § 942.800(b)(4))

One commenter stated that the proposed rule contained insufficient detail about the mechanics of how trusts will be created and administered. As a result, the commenter argued that he could not adequately comment on the proposal. Additionally, the commenter asserted that by not including those details, we violated the Administrative Procedure Act (APA). The commenter noted that the purpose of the notice requirement in § 553(b) of the APA is to allow potentially affected members of the public to file meaningful comments under § 553(c) of the APA. According to the commenter, it was impossible to submit meaningful comments on the proposed rule because of the lack of detail on how the process would work.

As we noted above and in the preamble to the proposed rule, we proposed the regulations at § 942.800(b)(4) (now § 942.800(c)) to provide the KFO with a mechanism to use our statutory authority to establish trust funds and annuities. 71 FR 17684. The rule included nine criteria that all trust funds and annuities would be required to meet, as well as an extensive preamble discussion. We believe that this information was sufficient to provide a basis for informed comment, both on the concept of trust funds and annuities for the treatment of long-term postmining pollutional discharges and on the criteria for those funding mechanisms. The comments that we received from other persons support that conclusion.

We also complied with the other notice requirements of § 553(b) of the APA by stating the time, place, and nature of public rulemaking proceedings, by referring to the legal authority under which the rule was proposed, and by providing the terms or substance of the proposed rule or a description of the subjects and issues involved. We provided instructions on how to submit comments on the proposed rule, extended the public comment period, and provided notice of a requested public hearing that was held on June 1, 2006. 71 FR 17682; 71 FR 25992.

Two commenters stated a preference for approval of the use of trust funds and annuities as an ABS rather than as a collateral bond. One of those commenters stated that trust instruments are not traditional bonds that would fit the collateral bond provisions of § 800.21. The other commenter noted that although he preferred treating trust accounts as an ABS, they could also qualify as collateral bonds.

As previously stated in this preamble, we are approving trust funds and annuities as an ABS. Trust funds and annuities meet the requirements for an ABS as set forth in 30 CFR 800.11(e) because once they are fully funded, the trust accounts or annuities will ensure that we will have sufficient funds to complete the reclamation plan for any areas on which the permittee may be in default on reclamation obligations at any time. Additionally, the permittee provides the money needed to establish a trust fund or annuity. Thus, the permittee has a substantial economic incentive to comply with all reclamation provisions as required by the second criterion for establishing an ABS under 30 CFR 800.11(e).

Three commenters stated that the rule contained no explanation as to which site-specific circumstances qualify as a long-term pollutional discharge. According to the commenters, failure to define the term ''pollutional discharge'' would allow the rule to be extended to situations beyond its intended scope. Two commenters stated that the term should mean only discharges that will exist after reclamation has been completed and will not meet applicable standards for point-source discharges that are subject to the Clean Water Act (CWA). Another commenter proposed that we define pollutional discharges as ''discharges that cannot meet State water quality standards or approved alternative standards.'' This commenter stated that such a definition would limit the applicability of this rule to the postmining situations for which it was intended.

We do not agree with the commenters that the term ''pollutional discharge'' needs to be defined as part of this regulation, nor do we understand how the lack of a definition could result in misuse of this rule. We have used this term for more than a decade without confusion. Any discharge that is not in compliance with applicable standards is a pollutional discharge.

Three commenters noted that the method of treatment could have a major influence on the amount and terms and conditions of the required trust fund or annuity. According to the commenters, the rule should recognize that multiple upstream discharges can be treated more efficiently with a single downstream treatment facility when circumstances warrant. In addition, four commenters stated that we should address passive treatment systems as an option for treating discharges.

Nothing in the proposed or final rules restricts the type of treatment systems that permittees may use or where they may be located. Consequently, we find that there is no need to revise the rule in response to these comments.

Two commenters stated that we should consider allowing operators to bank credits for water treatment. As an example, operators could treat discharges that are not required by law and then use this treatment as a credit towards any other water treatment obligations that they may have.

This comment is beyond the scope of this rulemaking. We did not propose any changes regarding a permittee's water treatment obligations, nor do we have the authority to do so under SMCRA. Section 702(a) of the Act, 30 U.S.C. 1292(a), in essence provides that nothing in SMCRA (and by extrapolation its implementing regulations) may be construed as superseding, amending, modifying, or repealing the CWA and its implementing regulations.

Two commenters stated that the rule should specify that the trust fund or annuity can be funded over time by the permittee, in some cases over a period of several years.

Nothing in the final rule prohibits the funding of a trust fund or annuity over time. In addition, the preambles to both the proposed and final rules clearly state that we will allow a reasonable amount of time for permittees to fund trust funds and annuities. However, both the proposed and final rules do specify that any conventional bonds for the mine site may not be released until the trust fund or annuity is fully funded.

Two commenters indicated that the rule should be revised to clarify how the trust funds are used, such as allowing the operator to be reimbursed directly from the trust for all expenses of treatment and capital expenditures that are incurred. Additionally, five commenters indicated that the rule should provide for the periodic evaluation of the trust funds or

annuities to ensure that they have the appropriate amount of assets to treat AMD. These commenters also suggested that the rule state how underfunded or overfunded trusts will be adjusted.

Trust funds and annuities can have different disbursement requirements. Therefore, we are not modifying the rule to establish rigid disbursement criteria. We will specify the mechanics of disbursements from the trust fund or annuity in the formal trust agreements with the permittee.

With regard to comments pertaining to the periodic evaluation of the trust fund or annuity amounts, the formal agreement with the permittee will make the trust fund or annuity subject to the provisions of 30 CFR 800.15(a), which require periodic adjustment by the regulatory authority when the cost of future reclamation changes. That paragraph of the bonding regulations further allows the regulatory authority to specify periodic times or set a schedule for reevaluating and adjusting the bond amount. We will set such a schedule in the formal trust or annuity agreement. Therefore, we do not find it necessary to modify the Tennessee Federal program rules in the manner advocated by the commenters.

Four commenters stated that conventional SMCRA reclamation bonds should be released on a schedule according to existing regulations.

We agree, with one caveat. As stated above, the March 31, 1997, policy statement provides that no bond should be released for any permit with a long-term postmining pollutional discharge until there is adequate financial assurance for treatment of that discharge. Therefore, subsection 942.800(c)(9) of this final rule requires that a fully funded trust fund or annuity be in place before conventional bonds for the mine site may be released.

One commenter expressed concern that we intend to keep both a conventional reclamation bond and a trust fund or annuity in place for the same area. Two other commenters stated that it was their understanding that if treatment of a discharge was required before land reclamation was complete, we would require a conventional bond for land reclamation and a trust fund for the discharge.

In response, we note that § 942.800(c) of this final rule authorizes the use of trust funds and annuities only for the treatment of long-term postmining pollutional discharges and reclamation of the areas upon which discharge treatment systems and support facilities are located. Under the Tennessee Federal program regulations at 30 CFR 942.800, the permittee must post conventional performance bonds for all other portions of the mine site and all other reclamation responsibilities. The final rule allows the release of all conventional bonds for a site with a postmining pollutional discharge once a fully funded trust fund or annuity is in place, provided the site otherwise qualifies for bond release under 30 CFR 800.40. There could be a period where both conventional bonds and a partially funded trust fund or annuity exist simultaneously for the same mine site. As examples, if a permittee is funding a trust fund or annuity over time, or if other areas of the mine do not qualify for release under 30 CFR 800.40, then both a conventional bond and a trust fund or annuity could cover the permit.

Three commenters requested that we clarify that the effluent limits of 40 CFR Part 434 are no longer applicable after termination of jurisdiction and bond release and when a trust fund or annuity is fully funded. In contrast, two other commenters expressed concern that treatment to meet the effluent limits in 40 CFR Part 434 may not be sufficient to protect classified uses designated for waters of the State of Tennessee.

In response, we note that, in keeping with section 702(a) of SMCRA, 30 U.S.C. 1292(a), we have no authority to modify discharge treatment standards established under the authority of the CWA or its implementing regulations. Issuance of a National Pollutant Discharge Elimination System (NPDES) permit for point-source discharges and establishment of effluent limits for those discharges is the responsibility of the agency charged with administering the CWA in Tennessee.

Five commenters requested that we add a provision requiring termination of OSM jurisdiction once a fully funded trust fund or annuity has been established. One of those commenters cited the language from the preamble to our termination of jurisdiction rule in support of his argument. 53 FR 44361–62 (November 2, 1988). The commenter asserted that adequate provisions could be made in the trust agreement to provide us with the ability to inspect and monitor the treatment process. Another commenter stated that we should make a distinction between those trust accounts that are posted as alternatives to surety bonds for active permits and those trust accounts that are established in accordance with the preamble to the termination of jurisdiction rule to meet the requirements for ''a contract or other mechanism enforceable under other provisions of law'' to provide financial assurance for long term treatment. This commenter suggested an approach similar to that used by Pennsylvania where consent orders are enforceable agreements that do not depend on the regulatory authority retaining jurisdiction under SMCRA to oversee compliance. The commenter urged us to consider other alternatives to provide financial assurance for purposes of terminating jurisdiction.

For the reasons set forth below, we are not making the changes sought by the commenters. In response to a question about sites with postmining pollutional discharges, the preamble to our termination of jurisdiction rule at 30 CFR 700.11(d) discussed the possibility of full bond release (and hence termination of jurisdiction) if there are ''assurances which provide through a contract or other mechanism enforceable under other provisions of law to provide, for example, long term treatment of an alternative water supply or acid discharge.'' 53 FR 44361, November 2, 1988. We have not determined whether trust funds and annuities could be structured to qualify for full bond release and termination of jurisdiction. We do not find such a determination necessary because termination of jurisdiction is a discretionary action on the part of the regulatory authority. As provided in 30 CFR 700.11(d)(1), a ''regulatory authority *may* terminate its jurisdiction under the regulatory program over the reclaimed site of a completed surface coal mining and reclamation operation, or increment thereof * * * .'' (emphasis added.)

We have elected not to exercise that discretion with respect to postmining pollutional discharges and associated treatment facilities and support areas. We believe that our decision to classify trust funds and annuities established for the long-term treatment of postmining pollutional discharges as an ABS and to retain jurisdiction over the treatment site is a superior means of achieving the purpose of SMCRA set forth at section 102(a) of the Act. 30 U.S.C. 1202(a) (''to protect society and the environment from the adverse effects of surface coal mining operations''). By retaining jurisdiction over the discharge and associated treatment and support facilities, we can monitor the site, its treatment needs, and the adequacy of the trust fund or annuity. Contrary to the commenters' assertions, we would have no such authority if we terminated jurisdiction. Similarly, because we have classified trust funds and annuities as an ABS, we have authority under the bond adjustment provisions of 30 CFR 800.15(a) to order the permittee to contribute more funds if the assets of the trust fund or annuity require

adjustment to reflect changes in discharge quality or quantity or investment performance or projections. We could not do so if we terminated jurisdiction. Indeed, in the absence of complaints from the public, we probably would not be aware of the situation because we would have no inspection or monitoring authority.

Our decision to retain jurisdiction and classify trust funds and annuities as an ABS avoids these problems. However, nothing in this rule would prohibit us from terminating jurisdiction over the portion of the mine site that is not involved with treatment of the discharge once the requirements of § 942.800(c)(9) are met and bond is fully released on that portion of the mine site.

One commenter suggested that the proposed rule should not be applied retroactively, but prospectively only. The commenter reasoned there is currently no requirement for bond or other financial assurances for treatment of AMD. The commenter cited *Bowen* v. *Georgetown University Hospital*, 488 U.S. 204 (1988) and *NMA* v. *DOI*, 177 F. 3d 1 (D.C. Cir. 1999), for the proposition that retroactive application of rulemaking is prohibited unless specifically authorized by Congress.

As explained at length in the preamble to both this rule and the proposed rule, we disagree with the commenter's assertion that there is no existing Federal regulation requiring bond or financial assurances for treatment of postmining pollutional discharges. We interpret the 1983 changes to the Federal bonding regulations in 30 CFR Part 800 as confirming that requirement. The final rule that we are adopting today does not alter that requirement or otherwise modify the national bonding regulations. Instead, it merely provides permittees in Tennessee with the option of replacing conventional bonds with trust funds or annuities as a means of satisfying the bonding requirements for treatment of long-term postmining pollutional discharges.

Five commenters stated that the rule must specify standards for termination of the trust fund or annuity, such as requiring that the untreated discharge meet Tennessee water quality standards or approved alternative standards, thus demonstrating that no further treatment is necessary.

In response, we note that § 942.800(c)(5) of this rule provides that, apart from replacement with a different financial assurance or administrative necessity, termination may only occur if we determine ''that no further treatment or other reclamation measures are necessary.'' This rule language should be sufficient to ensure that premature termination does not occur. The formal trust fund or annuity agreement will contain specific treatment standards for each discharge, which will reflect the standards in the NPDES permit. Under section 702(a) of SMCRA, 30 U.S.C. 1292, we have no authority to deviate from those standards. The formal agreement also will specify the steps that must be taken to demonstrate that treatment is no longer needed, which may vary with site conditions and the nature of the discharge.

Two commenters stated that the proposed rule failed to address formal participation by the permittee. According to the commenters, the rule should require that we provide notice to the permittee under the permit revision provisions of section 511(c) of SMCRA, 30 U.S.C. 1261(c), when we determine that a long-term postmining pollutional discharge exists.

We find that no rule change is needed in response to these comments. Whenever an unanticipated postmining pollutional discharge develops, we will order the permittee to revise the reclamation plan to address the discharge. In those cases, the permit revision notification requirements of the Act and regulations will apply.

Two commenters noted that because the Tennessee Department of Environment and Conservation (TDEC) has primary authority to regulate discharges to waters of Tennessee under the CWA as well as State law, there is overlapping jurisdiction between OSM and TDEC. The commenters found the rule to be unclear on how the proposed trust funds would mesh with TDEC's responsibilities. The commenters requested that decisions regarding the terms of the trust be made jointly with TDEC and OSM. Specifically, the commenters request that the proposed rule be changed to indicate that TDEC's approval is needed for the determinations made under our proposal at § 942.800(b)(4)(i), (v), (vi), and (viii) (now designated as § 942.800(c)(1), (5), (6), and (8)).

We can find no reason to modify the rule in the manner that the commenters advocate. Discharge treatment standards will be established based upon the permits issued by TDEC as the CWA authority. Under section 702(a) of SMCRA, 30 U.S.C. 1292(a), we have no authority to establish different treatment standards or requirements for point-source discharges regulated under the CWA. Conversely, TDEC has no jurisdiction over the bonding of surface coal mining operations in Tennessee under SMCRA. Therefore, there is no need to seek TDEC approval for actions related to trust funds and annuities, which we are approving as an ABS under section 509(c) of SMCRA, 30 U.S.C. 1259(c).

Another commenter expressed concerns about the workload that the rule would impose on the Tennessee's CWA authority and the State's ability to meet those demands. As we explained in the preceding paragraph, this rule places no demands upon Tennessee's CWA authority.

Two commenters stated that the rule appears to be internally inconsistent about who is responsible for treatment of pollutional discharges and how the funds are to be released for treatment. The commenters point out that proposed 30 CFR 942.800(b)(4)(vi) allows funds from the trust to be released to the permittee, while proposed 30 CFR 942.800(b)(4)(viii) provided that the trust fund or annuity must guarantee that moneys are available for OSM to pay for treatment. Two commenters also stated that the rule should specify that the permittee remains liable for the costs of the long-term treatment. According to the commenters, this clarification would diminish any incentive to underfund the trust.

We understand why the commenters described a potential internal inconsistency, but we do not agree that proposed subsections (b)(4)(vi) and (viii) (final subparagraphs (c)(6) and (8)) are, in fact, inconsistent. However, we have made minor revisions to address the commenters' concern. Final subparagraph (c)(6) allows release of funds for treatment purposes (but only according to a set schedule or when authorized by OSM), while final subparagraph (c)(8) requires that the trust fund or annuity be structured in a manner that guarantees that sufficient funds will be available for treatment and reclamation needs. We removed the phrase ''to the permittee'' from (c)(6) (proposed as § 942.800(b)(4)(vi)) so now this provision requires our written authorization for release of funds from the trust fund or annuity to any entity. We also removed the unnecessary reference to OSM in subparagraph (c)(8) that appeared in the proposed rule.

Nothing in this rule alters a permittee's responsibility for the treatment of discharges under SMCRA or the Federal regulations. Permittees are responsible for reclamation obligations under their permits, including treatment of discharges, regardless of whether those obligations are secured by a bond, a trust fund, or an annuity. In the event the permittee defaults on those reclamation obligations, we will use the bond, trust

fund, or annuity to fulfill the reclamation obligation. Therefore, there is no incentive for the trust to be underfunded.

Two commenters inquired whether OSM, Tennessee or the trustee would be responsible for complying with NPDES permit provisions if the permittee failed to do so. In response, we note that the formal trust fund or annuity agreement will set forth the procedure to be followed in the event that the permittee does not fulfill its obligations, which, at a minimum, will include ensuring that funds are available to continue treatment of the discharge. That is one of the purposes of establishing a trust fund or annuity, which is structured to provide an income stream and continuation of treatment in the event the permittee fails to fulfill its treatment obligations. If we are required to forfeit a trust fund or annuity, we are acting in our capacity as the regulatory authority. However, that is the extent of our responsibility under SMCRA and these rules. We are not the permittee, and we do not become the permittee when the permittee defaults on reclamation obligations, which means that we do not assume the permittee's NPDES compliance duties. The State of Tennessee is not a party to these trust funds and annuities, so it would not have any NPDES compliance duties if the permittee defaults on reclamation obligations.

Two commenters asserted that OSM should consult with the Environmental Protection Agency (EPA) with regard to the proposed rule because EPA has designated coal mining as a primary industry. The commenters stated that another reason for consulting with EPA is that EPA must approve all NPDES permits for coal mining prior to issuance by TDEC.

This rule pertains only to the means by which permittees may comply with the bonding requirements of SMCRA and the Tennessee Federal regulatory program with respect to funding the treatment of postmining pollutional discharges. EPA has no jurisdiction over performance bond requirements under SMCRA, nor does SMCRA require consultation with EPA on regulations concerning those requirements.

Two commenters suggested that the wording of the proposed rule might unintentionally create a broader exception from bonding requirements than we intended. The commenters noted that 30 CFR 942.800(a) states that the general rules for bond and insurance requirements apply ''except as provided in paragraph (b) of this section * * * .'' The commenters assert that the addition of proposed subparagraph (b)(4) (now designated as paragraph (c)) would expand the situations in which the bonding requirements do not apply and appears to exempt the entire mine site from the bonding requirements, rather than just the pollutional discharge. The commenters suggested moving our proposed requirements for trust funds and annuities from subparagraph (b)(4) to a new paragraph (c) and modifying the first two sentences to read, ''If OSM makes a determination that a site will need to have long-term treatment of pollutional discharges, it may require the permittee to establish a trust fund to guarantee such treatment will be provided as long as it is necessary.''

The commenters raise a potentially valid point, in part. All three subparagraphs of existing paragraph (b) refer to the transition from the defunct Tennessee State regulatory program to the current Federal regulatory program for Tennessee. Consequently, the provisions of proposed 30 CFR 942.800(b)(4) do not logically belong in paragraph (b). Therefore, in the final rule, we are codifying proposed subparagraph (b)(4) as paragraph (c) and slightly revising paragraph (a) to incorporate the new paragraph (c). We are also adding language that clarifies that the provisions of paragraph (c) may be used in lieu of posting one of the forms of conventional bonds listed in 30 CFR 800.12. We have revised proposed § 942.800(b)(4)(viii) (now § 942.800(c)(8)) to avoid any possibility that paragraph (c) could be construed as applying to the entire mine site. We also revised proposed § 942.800(b)(4)(ix) (now § 942.800(c)(9)) to make it clear that the treatment and reclamation obligation on the portion of the mine site associated with treatment of the discharges remains secured under the trust fund or annuity in the event conventional bonds for the permit are released. These changes should remedy the potential problem identified by the commenters.

One commenter requested that we add a provision to prescribe a process for transferring responsibilities under a trust agreement to another permittee, a landowner, or a lessee. The commenter stated that the provisions of 30 CFR 942.774 regarding revision, renewal and transfer, assignment, or sale of permit rights do not cover or relate to situations where another permittee, the landowner, or a subsequent lessee desires to assume the permittee's responsibilities under an existing trust agreement.

We do not interpret SMCRA or our regulations as allowing the transfer of reclamation liability from the permittee to other persons by any mechanism other than transfer of the permit itself in accordance with the process established at 30 CFR 774.17 for the transfer, assignment or sale of permit rights. Paragraphs (b)(3) and (d)(2) of that section require that any successor to a permit submit a bond or other guarantee or obtain the bond coverage of the original permittee before the regulatory authority can approve the transfer, assignment, or sale of the permit. Those regulations also apply in situations in which the bond takes the form of trust funds and annuities approved as an ABS. However, if a landowner, lessee, or another permittee wishes to assume the permittee's responsibilities under the trust fund or annuity agreement, nothing in the rule that we are adopting today would prohibit the permittee and that person from entering into a contractual agreement separate from the trust or annuity agreement, although ultimate responsibility would still reside with the permittee in accordance with the terms of the trust or annuity document.

A commenter suggested that we might want to require permittees to provide rights to the real property needed to facilitate water treatment as part of the trust. According to the commenter, the rights to real property may be necessary to ensure successful treatment of discharges.

The acquisition of property rights may or may not be required in every trust situation. In general, the rights that allow mining provide access to the site for reclamation. In the event a right-of-entry issue arises, it can be addressed in the individual trust agreement.

One commenter stated that trust funds are unlikely to generate enough capital to meet all SMCRA reclamation requirements.

We agree that there may be some situations in which the permittee is unable to obtain the capital needed to establish a trust fund or annuity. However, that fact should not operate to preclude the establishment of trust funds or annuities in situations in which the permittee can obtain the necessary capital. Furthermore, trust funds and annuities are not intended to meet all SMCRA reclamation requirements as this commenter suggests. Rather, we are approving the use of these mechanisms as a means of providing financial assurance for the long-term treatment of postmining pollutional discharges and reclamation of associated facilities. The regulations continue to require the posting of a conventional bond for land reclamation on the remainder of the site.

One commenter noted that the adequacy of the bond is more important than the bonding instrument.

We agree that adequacy of the bond is important, but we cannot discount the importance of the instrument to secure long-term treatment of postmining pollutional discharges. An income-producing financial instrument, such as a trust fund or annuity, is a more appropriate method of funding treatment of these discharges than a conventional bond.

One commenter stated that we need to increase bonds because bond forfeitures have allowed mining companies to avoid their reclamation obligations and have placed those obligations on OSM. The commenter argued that permittees should post both bonds and annuities because annuities based on stock market performance can shrink as well as grow. Thus, if the annuities shrink, they may not be funded sufficiently to provide the necessary treatment.

We disagree that permittees should be required to post both conventional bonds and trust funds or annuities for the same reclamation liability. Under section 509 of SMCRA, 30 U.S.C. 1259, and 30 CFR 800.14, we have no basis for requiring bond amounts in excess of the amount that we determine may reasonably be needed if the permittee defaults on reclamation obligations and we need to contract with a third party to complete the reclamation plan. We recognize that investment performance is subject to fluctuations that may adversely impact the assets of trust funds and annuities. Consequently, like Pennsylvania, we will structure trust funds and annuities to maintain a cushion against those times when investment performance does not approach the target rate. In addition, as authorized by 30 CFR 800.15(a) and incorporated by the trust documents, we will conduct periodic reviews of trust funds and annuities and require that the permittee make additional contributions if the cushion proves to be an inadequate safeguard against market fluctuations.

B. Sections 942.816(f)(3) and 942.817(e)(3): Revegetation Success Standards What Are the Revisions to §§ 942.816(f)(3) and 942.817(e)(3)

Of the 56 commenters submitting comments on the proposed revisions to 30 CFR 942.816(f)(3) and 942.817(e)(3), twenty-three were from environmental groups, one was from an association representing the coal industry, two were from coal companies, two were from government agencies, one was from an association representing mining states, and 27 did not provide an affiliation. While six of the comments were favorable, fifty commenters were opposed to what the commenters viewed as a weakening of the revegetation success standards of the Tennessee Federal program.

Numerous commenters expressed their opposition to changes in the shrub and tree stocking standards, even though the proposed rules did not alter the existing tree and shrub stocking standards under the Tennessee Federal program. The modified revegetation requirements that we proposed on April 6, 2006, apply only to vegetative ground cover on sites with a postmining land use requiring the planting of trees, *i.e.*, wildlife habitat, undeveloped land, recreation, or forestry. The regulations at 30 CFR 942.816(f)(3)(i) and (ii) and 942.817(e)(3)(i) and (ii), which address the stocking levels of woody plants for those postmining land uses, are not affected by these changes.

Twenty-six commenters expressed concern that the proposed rules would ''waive'' the revegetation requirements for postmining land uses of wildlife habitat, undeveloped land, recreation, or forestry. The commenters generally suggest that we specify minimal planting requirements for trees and shrubs, require that trees and shrub plantings be species native to the area, and require that functional tests measuring the number of trees and shrubs that must survive be conducted years after planting and prior to any bond release.

As we have noted, the only changes regarding revegetation in this rulemaking are the elimination of the 80% ground cover requirement from 30 CFR 942.816(f)(3) and 942.817(e)(3) for postmining land uses of wildlife habitat, undeveloped land, recreation, or forestry. In addition, we are eliminating the bare area restriction of 30 CFR 942.816(f)(4) and 942.817(e)(4) for those lands with a forestry-related postmining land use.

We did not propose to modify the tree and shrub stocking and planting arrangement requirements of the Tennessee Federal program at §§ 942.816(f)(3)(i)–(ii) and 942.817(e)(3)(i)–(ii). Therefore, comments regarding tree and shrub planting standards are outside the scope of this rulemaking, which means we will not discuss them.

Additionally, the elimination of the 80% vegetative ground cover standard does not constitute a ''waiver'' of the ground cover vegetation success standards. We are retaining the ground cover success standards of the Tennessee Federal program at 30 CFR 942.816(f)(3)(iii) and 30 CFR 942.817(e)(3)(iii), which provide that vegetative ground cover must not be less than that required to achieve the postmining land use. That requirement is the same as the one found in our national regulations at 30 CFR 816.116(b)(3)(iii) and 817.116(b)(3)(iii) regarding vegetative ground cover success standards for areas with postmining land uses requiring the planting of trees and shrubs. Removing the 80% vegetative ground cover requirement from 30 CFR 942.816(f)(3) and 30 CFR 942.817(e)(3) is consistent with our national regulations at 816.116(b)(3)(iii) and 817.116(b)(3)(iii), which do not require a fixed percentage of vegetative ground cover. Instead, the national rules, and now the Tennessee Federal program rules, provide that, to achieve revegetation success, vegetative ground cover must not be less than that required to achieve the approved postmining land use.

One commenter argued that the scientific studies cited in the proposed rule to justify elimination of the 80% vegetative ground cover requirement mistakenly identify ground cover density as the cause of forest regeneration failure. According to the commenter, the altered hydrology and soil conditions of reclaimed mine sites, not excessive ground cover, prevent long-term survival of trees. The commenter notes that any area receiving sufficient precipitation in eastern Tennessee will proceed by secondary succession from grassland to forest regardless of the amount of herbaceous ground cover. However, the commenter also asserts that mined mountaintops, which have no forested slopes above them to provide a seed source, would require human seeding or tree planting.

The research we cited does not identify vegetative ground cover density alone as the cause of tree growth failure and mortality, but rather identifies it as a significant contributing factor. Because traditional mine reclamation typically includes compacting surface soil materials, application of fertilizers and other soil amendments at high rates, and then seeding the site with quick-growing, aggressive grasses and legumes, the resulting vegetative ground cover is so dense that most tree seedlings and newly planted trees cannot compete effectively for nutrients, water and sunlight. In addition, the dense herbaceous cover provides favorable habitat for small mammals that eat tree seeds and damage tree seedlings and saplings.

We agree with the commenter that trees will eventually volunteer on mine sites, but dense vegetative ground covers will inhibit their growth and

increase mortality. Our objective is to establish, as quickly as practicable, vigorous and healthy forests of native species on reclaimed mine lands. Our removal of the 80% ground cover success standard eliminates one of the regulatory barriers that we have determined inhibits the reestablishment of high-quality hardwood forests.

In addition to reducing competition from aggressive herbaceous ground covers, loosely graded surface soil materials increase water infiltration and make more water available for tree growth as well as providing a favorable medium for root growth and development. While we agree with the commenter's views on how hydrology and soil conditions affect tree growth on conventionally reclaimed mines, mine sites with reduced compaction and less aggressive ground cover are more likely to overcome these obstacles.

One commenter agreed that some types of herbaceous ground covers inhibit tree seedling growth less than others do. However, the commenter stated that, rather than relaxing vegetative ground cover standards, we should study the types of ground covers and specify which herbaceous ''tree-friendly'' ground covers should be used to balance erosion control and tree establishment.

As previously discussed in this preamble, we have found that the 80% ground cover success requirement is not only in conflict with tree establishment and regeneration, it also interferes with the statutory requirement to establish a diverse, effective, permanent vegetative cover comprised of species native to the area. In addition, in most cases, it is not needed to control erosion if the FRA is followed. Our rules at 30 CFR 816.111(a)(4) and 817.111(a)(4) continue to provide that vegetative ground cover must be sufficient to control erosion and to maintain soil stability. We will continue to encourage the use of those types of ground cover that achieve that requirement without substantially inhibiting the growth, survival, and regeneration of trees and shrubs.

One commenter expressed concern that the proposed rule language was vague and that we did not provide substitute requirements for the 80% ground cover rule or the bare area restrictions. The commenter suggested that we incorporate guidelines for tree planting or monitoring of natural succession to achieve tree coverage goals before bond release. The commenter also requested that we include specific runoff-monitoring procedures. Other commenters stated that the regulations should specify the number of trees, shrubs, and other vegetation that must be planted on reclaimed mine sites, including the number of species to be planted and the survival rate by which success will be judged.

The existing regulations for the Tennessee Federal program at 30 CFR 942.816(f)(3)(i) and 942.817(e)(3)(i), which were not affected by this rulemaking, provide that we must specify stocking levels and planting arrangements on the basis of local and regional conditions after consultation with the State agencies responsible for the administration of forestry and wildlife programs. Subparagraph (ii) of those rules contains standards for evaluating the success of tree and shrub growth and survival. Our surface water monitoring requirements are found at 30 CFR 780.21(j), 784.14(i), 816.41(e), and 817.41(e). We do not agree that separate runoff monitoring is needed to evaluate the requirement that ground cover be adequate to control erosion. Visual inspection of the site for rills and gullies will suffice.

A commenter characterized the rule as promoting ''patchwork'' revegetation upon a larger-scale mining site. The commenter expresses a belief that we should focus on reforestation of the entire mine site as was intended by SMCRA.

First, SMCRA does not allow us to require that mined lands be returned to forest conditions. Section 515(b)(2), 30 U.S.C. 1265(b)(2), requires that mined lands be reclaimed to a condition capable of supporting the uses that they were capable of supporting prior to mining or to higher or better uses. Consequently, the regulations that we are adopting in this rulemaking only apply to mine sites with a postmining land use requiring the planting of trees and shrubs. For those mine sites, the rule eliminates the arbitrary 80% ground cover requirement and the limitation on the maximum amount of bare area. The revised regulations seek to encourage tree growth and survival by limiting competition from excessive herbaceous ground cover. Research and an examination of reclaimed mine sites has demonstrated that competition from herbaceous ground cover, along with excessive soil compaction during backfilling, regrading, and topsoiling, has resulted in the creation of grasslands with few trees on most reclaimed mine sites. We believe that adoption of this rule, which removes requirements that make it difficult to establish woody plants, will increase the probability that permittees will return mined lands to forestry-related postmining land uses.

In Tennessee, most mine sites were originally forested prior to mining and the surrounding land is, for the most part, still forested. Conventional reclamation has resulted in forest fragmentation and the ''patchwork'' revegetation that is the subject of the commenter's concern. We anticipate that adoption of the rule changes discussed in this preamble will lessen the occurrence of ''patchwork'' revegetation by creating more favorable conditions in which mine sites can and will be returned to healthy, productive forests consistent with surrounding lands.

One commenter stated that we have not identified how past hardwood tree-planting failures can be avoided in the future.

We disagree with this comment. In our April 6, 2006, notice, we identified the major factors that negatively affect tree growth on reclaimed mine lands, such as compaction and competition from grasses. We also explained that forestry researchers have agreed that productive forestland can best be created on reclaimed mine land by using the FRA. Specific comments regarding the FRA are discussed under the General Comments section below.

A commenter expressed concern that implementation and enforcement of compaction requirements would no longer be a priority on reclaimed landforms where compaction is necessary to stabilize the backfilled spoils or to prevent settlement-related highwall exposure.

The regulations we are approving in this rulemaking do not replace or supersede any existing stability or highwall elimination requirements. Mined-out areas must still be backfilled in a manner that meets all stability and highwall elimination requirements.

One commenter stated that the proposed rule changes fail to provide information on tree-compatible groundcover species and do not require the use of low levels of nitrogen fertilizer (to avoid stimulating overly lush herbaceous vegetation).

We believe that these details are best addressed through the permit application submission and review process rather than in our regulations.

A commenter stated that if OSM intends to leave all or part of mine sites devoid of vegetation, the reclamation plan should specify how the resultant increase in sediment will be controlled. Alternatively, we should produce credible models demonstrating that an increase in sedimentation will not occur. According to the commenter, failure to do so will cause pollution to Tennessee's waters.

As discussed earlier in this preamble, non-compacted mine soils have higher infiltration rates and erode less than graded soils, which generally translates to lower runoff rates. Thus, when using the FRA, less ground cover is needed to prevent erosion and protect water quality. Regardless, nothing in the rules that we are adopting today supersedes the existing regulations at 30 CFR 816.45(a) and 817.45(a), which require the use of appropriate sediment control measures that prevent, to the extent possible, using the best technology currently available, additional contributions of sediment to streamflow or to runoff outside the permit area. Also, under 30 CFR 816.42 and 817.42, point-source discharges must comply with applicable State or Federal effluent limitations.

Many commenters referred to removal of the 80% requirement as a ''waiver'' of revegetation ground cover success standards. As we noted earlier, we are not promulgating regulations that create a ''waiver'' of revegetation ground cover success standards. Instead, we are revising the vegetative ground cover success standards for mine sites where the postmining land uses are related to forestry. These revisions will support the growth and survivability of trees on those postmining land uses. The rule that we are adopting today does not alter the existing ground cover requirements in our revegetation rules at 30 CFR 816.111(a)(3), 817.111(a)(3), 942.816(f)(3)(iii), and 942.817(e)(3)(iii), which remain in effect.

Several commenters mentioned that we should ensure that native trees, shrubs, and other vegetation were planted to help the revegetation of mine sites. For example, one commenter recommended that we require revegetation using native grasses, forbs, shrubs, and trees because these would likely not be as competitive with native trees and they would have beneficial effects on wildlife. Another commenter requested that we specify in the regulations that the permittee must plant a diverse mix of trees, shrubs, and herbs native to the area to qualify for the new revegetation requirements.

Our regulations at 30 CFR 816.111 and 817.111 provide that the species planted must be native to the area and that introduced species are only allowed where necessary to achieve the approved postmining land use when authorized by the regulatory authority. Therefore, it would be redundant to include a requirement for native species selection as part of this rulemaking.

One commenter asked whether the removal of the 80% ground cover standard would apply to existing sites where the fill was compacted and the site could not meet the prior 80% ground cover success standard or whether it would only apply to new mines that are permitted after the rule is in effect.

The revised regulations will apply to existing or future permits approved with postmining land uses of wildlife habitat, undeveloped land, recreation, or forestry, but existing mines must conform to the requirements in their reclamation plans. If an existing permit's reclamation plan incorporates or adopts the 80% ground cover success standard or limits the amount of bare area, the permittee must either comply with the existing permit requirements or seek a permit revision under 30 CFR 942.774 to modify those requirements.

C. Sections 942.816(f)(4) and 942.817(e)(4): Revegetation Success Standards—Bare Area Restrictions

We received nine comments on our proposal to exempt mine sites reclaimed for the purposes of wildlife habitat, undeveloped land, recreation, or forestry from the bare area limitation requirements of 30 CFR 942.816(f)(4) and 942.817(e)(4). Seven of these comments were unfavorable and two comments were favorable. Of the nine commenters, three were from environmental groups, three were from academic institutions, one was from an association representing mining States, one was from a government agency, and one was from industry. The seven unfavorable comments were primarily concerned about the potential for erosion from the bare areas that the revised rules allow on reclaimed mine sites. The commenters suggested that eliminating this standard for mine sites reclaimed for forestry-related postmining land uses would allow permittees to completely forego revegetation on mine sites.

We exempted mine sites with postmining land uses related to forestry from the bare area limitation requirements of §§ 942.816(f)(4) and 942.817(e)(4) because portions of mine sites reclaimed using the FRA may have sparse vegetative ground cover. These potential bare areas are desirable because they allow planted trees to grow without the threat of competition from aggressive ground covers. Bare areas also allow native grasses, shrubs, and trees from surrounding areas to voluntarily reseed the reclaimed mine site.

With respect to the commenters' concerns over increased erosion and sedimentation, our regulations will not allow reclaimed mine sites to be completely devoid of vegetation. While the change we are making as part of this rulemaking may result in some portions of mine sites without vegetation, the reclamation plan and the permittee will still have to comply with all existing regulations, including 30 CFR 816.111(a)(4) and 817.111(a)(4), which state that permittees must establish a vegetative cover that is capable of stabilizing the soil surface from erosion; 30 CFR 816.116(a)(3) and 817.116(a)(3), which require that the extent of cover be at least equal in extent of cover to the natural vegetation of the area, and 30 CFR 816.95(a) and 817.95(a), which require control of erosion on exposed surfaces.

Additionally, our bond release regulations at 30 CFR 800.40(c)(2) provide that ''[n]o part of the bond or deposit shall be released under this paragraph so long as the lands to which the release would be applicable are contributing suspended solids to streamflow or runoff outside the permit area in excess of the requirements set by section 515(b)(1)) of the Act * * *.''

One commenter noted that the proposed rule would allow bare areas not just on sites developed for forestry, but also for wildlife habitat, undeveloped land, and recreation. According to the commenter, it is not clear that trees would be used in the latter three land uses. Consequently, the commenter recommended that all three of those uses be deleted from the regulations.

We disagree with the commenter's premise that trees would not be a part of the reclamation plan for postmining land uses of wildlife habitat, undeveloped land, and recreation. By including these land uses in 30 CFR 942.816(f)(3) and 942.817(e)(3), we are requiring that the revegetation success standards for those land uses be based primarily on the establishment of trees and shrubs. In addition, our regulations at 30 CFR 816.111 and 817.111 require, among other things, the establishment of a diverse, effective, permanent vegetative cover that is at least equal in extent of cover to the natural vegetation of the area and capable of stabilizing the soil surface from erosion. Those requirements apply to all mined lands regardless of the postmining land use.

One commenter recommended that the exemption from the restriction on bare areas be limited to those lands where trees or shrubs will ultimately provide the majority of the ground cover.

The change in our regulations removing the bare area restriction applies only to those postmining mine uses for which we anticipate that trees and shrubs will provide the majority of

the ground cover. Therefore, there is no need to modify the rule as the commenter suggested.

Our experience has shown that plants and trees will voluntarily germinate on any bare areas. In fact, sites mined prior to the passage of the Act before revegetation requirements were in effect have reverted to forest from volunteer reseeding. Consequently, we anticipate that bare areas will encourage natural succession, which will assist in fulfilling the requirement of § 515(b)(19) of the Act, 30 U.S.C. 1265(b)(19), to establish a diverse, effective, permanent vegetative cover of the seasonal variety native to the land to be affected and capable of self-regeneration and plant succession.

D. General Comments on the Proposed Revisions to the Tennessee Revegetation Requirements

We received numerous comments that did not address the specific changes to the revegetation portion of the Tennessee Federal program that we set forth in our April 6, 2006, proposed rule. Many of these comments focused on aspects of FRA other than the ground cover change contained in this rulemaking. While these comments are not directly responsive to this rulemaking, we have decided to respond.

The use of the FRA is voluntary in Tennessee. However, through the Appalachian Regional Reforestation Initiative, we are encouraging the use of the FRA in reclaiming mine sites that include planting trees. We believe that as more operators become aware of the effectiveness of the FRA, an increasing number of operators will use the method to successfully restore forests.

Several commenters stated that we are implementing the FRA without providing any specifics about how it should be considered in the reclamation plan, or which standards apply to lands reclaimed under the FRA. These commenters requested that the rule include such details as the amount and type of grading and compaction, the type and number of trees species planted, which sites or types of mines would qualify for the FRA, and other criteria the commenters deemed necessary for successful implementation of the FRA.

For example, one commenter generally supported the attempt to promote reforestation on reclaimed mine sites, but expressed concern that we were revising our rules to adopt the FRA. The commenter pointed out that we neither defined the FRA in the rule nor defined what constitutes successful implementation of the FRA as a mine reclamation practice. The commenter asserted that the rule should set forth performance standards that must be attained in order to determine if the FRA was implemented successfully. The commenter also suggested that we establish performance standards that include a ''minimum stand density'' of trees and shrubs growing with sufficient vigor to demonstrate long-term survival and regeneration. Furthermore, the commenter opined that the bond release term for forestry-related reclamation should be increased to allow more time to determine whether the reclaimed mine site has met the performance standards.

The purpose of this rulemaking is to remove regulatory barriers to effective tree establishment and growth for those areas where trees will be planted as part of the reclamation. With the exception of the changes being made by this final rule, the reclamation practices advocated by the FRA can be implemented within existing regulations. Whether the other aspects of FRA are or are not implemented as a part of tree planting is beyond the scope of this rulemaking since those other aspects are within the existing performance standards related to backfilling, grading, and revegetation. For example, the Tennessee Federal program at 30 CFR 942.816(f)(3)(i) and (ii) and 30 CFR 942.817(e)(3)(i) and (ii) already provides that revegetation success standards for postmining land uses involving woody plants must include stocking and planting arrangement requirements. Additionally, section 515(b)(20) of SMCRA, 30 U.S.C. 1265(b)(20), establishes the revegetation responsibility period at five years after the last year of augmented seeding, fertilizing, irrigation, or other work (excluding normal husbandry practices).

Several commenters noted that the FRA and the changes made by this rulemaking should be conducted first as a pilot program. Specifically, one commenter stated that this rule should be considered experimental and provisionally implemented only on a predetermined, relatively small area until its feasibility and efficacy can be documented. Similarly, another commenter stated that permits should only be granted when a permittee can demonstrate that the proposed reclamation techniques have proven successful on mine sites with similar characteristics. In addition, another commenter suggested that we should reevaluate whether any mine can comply with SMCRA's revegetation requirements rather than embark upon another unproven experiment. The commenter noted that some permittees have previously attempted reforestation of postmining land and have either failed or met with something far less than success.

The benefits of reduced ground cover for tree seedling establishment and growth have been demonstrated by research conducted by major universities throughout the United States. In further support of our conclusion, one commenter submitted additional research in support of the FRA's techniques. The research provided by the commenter indicates that native trees often show poor growth in areas with heavy ground cover and that the use of less-competitive native grasses can aid in forest succession.

Various commenters expressed their opinions regarding aspects of the potential effects of reduced compaction. Some commenters expressed concerns that the language of the rule did not address compaction and grading and suggested that we promulgate new regulations specific to the reduced grading and compaction of the soil under the FRA. One commenter asserted that the preamble to our proposed rule created a hidden rule setting forth guidance for grading and reduced compaction of soil on mine sites.

Our revision to these rules only removes regulatory barriers that impede successful establishment of trees. While minimizing compaction is a critical part of successful forest restoration, there is sufficient flexibility within existing rules to provide for it. Our existing rules provide specific standards addressing erosion control, sedimentation, water quality, and other related issues that are not affected by this rulemaking. Further, the rule promulgated here is designed to address variations in compaction. As compaction is reduced, infiltration is increased and runoff is reduced. This rule requires that ground cover in areas where trees are planted be limited to that necessary to control erosion and support the postmining land use. Therefore, where compaction and runoff are high, more ground cover will be required. Where compaction and runoff are low, less ground cover will be required.

Some commenters expressed concerns that loose grading of the topsoil or topsoil substitute would cause erosion and sedimentation, especially on steep slopes. One commenter, for example, expressed concerns that the rule change would allow placement of loose or uncompacted soil on mine sites with steep slopes, which would cause high levels of erosion. The commenter noted that nothing in the rule requires mine operators to increase the capacity of

erosion and sedimentation controls to accommodate the increased sedimentation.

Again, there is nothing in this rule that modifies existing regulatory requirements related to compaction and the rule continues to require ground cover sufficient to control erosion.

Another commenter expressed concerns about the effects that sedimentation from mining will have on populations of rare and endangered species in streams. In response, we note that this rule still requires control of erosion and that nothing in this rule alters our regulations concerning protection of fish and wildlife, including threatened and endangered species. See 30 CFR 780.16, 784.21, 816.97 and 817.97. All operations must continue to comply with those regulations. Furthermore, this rule will promote more rapid restoration of forest cover on mined lands, which will benefit stream quality and associated wildlife.

Another commenter suggested that the provisions of the FRA for loose grading of topsoil or topsoil substitutes would lead to more water infiltration into reclaimed backfill areas and that excessive water in the backfill would contribute to landslides.

In response, we again note that this rule does not alter existing stability requirements, including the regulations related to backfilling and grading. For example, 30 CFR 816.102(c) requires spoils to be compacted where advisable to ensure stability.

One commenter expressed concerns about the difference in sedimentation between tree-only plantings versus plantings with a more diverse cover. In addition, the commenter questioned how these differences in cover related to sequestering nutrients, controlling flooding, capturing water for recharging aquifers, and developing fertile soils.

Our changes to the ground cover standards in the Tennessee Federal program do not alter any regulations regarding soil erosion. The regulations at 30 CFR 816.45(a) and 30 CFR 817.45(a) require the use of appropriate sediment control measures to prevent, to the extent possible, additional contributions of suspended solids to streamflow or to runoff outside the permit area. Additionally, the regulations at 30 CFR 816.111(a)(4) and 30 CFR 817.111(a)(4) require all permittees to establish a vegetative cover on all reclaimed areas that is capable of stabilizing the soil surface from erosion. All Tennessee mine sites must still comply with these regulations.

One commenter also suggested that permittees might not adopt the FRA because they would have to dispose of the extra spoil resulting from not compacting soil materials. Again, there is nothing in this rulemaking that alters backfilling or compaction standards. This rulemaking is limited to the ground cover aspect of FRA.

Several commenters suggested types of materials that could be used to provide or enhance a tree-friendly growing medium. For example, one commenter recommended that we require permittees to gather fallen leaves from urban areas to amend soils on reclaimed surface mines. Another commenter advocated the use of biosolids for reclaiming mine lands. The commenter noted that biosolids counteract the sulfur and other pyrite and acidic materials in mine spoils, bring the pH back to neutral, and provide large amounts of organic materials. Another commenter advocated requiring permittees to improve mine soils.

We acknowledge that the soil supplements advocated by the commenters may have value, but these comments are outside the scope of this rulemaking.

One commenter advocated saving all the topsoil or organic matter on mine sites. In response, we note that the Federal regulations at 30 CFR 816.22 and 30 CFR 817.22 already require the salvage of topsoil, including the organic layer, unless the regulatory authority approves the use of a topsoil substitute that is equal to or more suitable for sustaining vegetation than the original topsoil.

One commenter requested increased permittee maintenance of sites after planting because animals and landslides destroy trees and shrubs.

Our existing regulations provide sufficient safeguards to ensure the stability of the land and the adequacy of revegetation on reclaimed mine sites. At 30 CFR 942.816(f)(3) and 942.817(e)(3), the Tennessee Federal program provides success standards for trees and shrubs on sites with a postmining land use of wildlife habitat, undeveloped land, recreation, or forestry. These regulations require that at least 80% of trees and shrubs have been in place for at least three growing seasons and that the trees and shrubs must be healthy. According to those regulations, no trees and shrubs in place for less than two growing seasons may be counted in determining stocking adequacy. Those regulations also provide that vegetative ground cover must not be less than that required to achieve the approved postmining land use. In addition, under 30 CFR 816.116(c) and 817.116(c), the revegetation responsibility period in Tennessee extends for five full years after the last year of augmented seeding, fertilization, irrigation or work other than normal husbandry practices. This rulemaking does not affect any of these rules.

One commenter expressed concern that mining operations would cause the death of small animals. The commenter noted, for example, that there are genetically isolated, evolutionarily distinct, and unique species of amphibians and reptiles in the Cumberland Mountains. The commenter stated that OSM needs to consider the effect of mining on the biological heritage of animals as well as plants.

While these comments are outside the scope of this rulemaking, the existing Federal regulations at 30 CFR 780.16 and 784.21 provide that applications for surface coal mining operations must include a fish and wildlife protection and enhancement plan. This plan must include a description of how, to the extent possible, using the best technology currently available, the operator will minimize disturbances and avoid adverse impacts on fish and wildlife and related environmental values, including compliance with the Endangered Species Act, during the operations and how enhancement of these resources will be achieved where practicable.

A commenter suggested that we require public review of reclamation plans and regular inspections of mine sites.

Again, while this comment is outside the scope of today's rule, existing Federal regulations and the Tennessee Federal program already provide for public review. Sections 30 CFR 773.6 and 942.773 provide for public participation in the permitting process including procedures for filing objections to applications. In addition, 30 CFR 842.11 and 942.842 set forth procedures for periodic Federal inspections and monitoring.

Two commenters suggested that the rules would result in degraded water quality at mine sites.

This rule, which limits excess ground cover where trees are planted, still requires ground cover sufficient to control erosion. Further, existing Federal regulations regarding control of sediment from mine sites require prevention, to the extent possible, of additional contributions of suspended solids to streamflow. Additionally, under 30 CFR 816.42 and 817.42, discharges from mine sites must comply with all applicable State and Federal water quality laws and regulations and

with the effluent limitations for coal mining promulgated by the EPA as set forth in 40 CFR Part 434. The regulations at 30 CFR 780.21 provide for the assessment of water quality prior to mining and require a ground and surface water monitoring plan and a hydrologic reclamation plan. This information is to be used to minimize disturbance to the hydrologic balance, prevent material damage outside the permit area, and to protect the rights of present water users.

One commenter stated that the proposed amendments to the Tennessee Federal program constitute a major Federal action that requires detailed cumulative impact analysis and preparation of an environmental impact statement (EIS) under the National Environmental Policy Act (NEPA). The commenter stated that the proposed rule or an EIS should have better addressed reforestation and revegetation reclamation concerns and provided evidence that the proposed actions will not affect Tennessee's watersheds, reservoirs and water resources.

We disagree with the commenter's assertions. Section 702(d) of SMCRA specifies that the promulgation of a Federal regulatory program for a State under section 504 of SMCRA does not constitute a major action within the meaning of § 102(2)(C) of NEPA. Therefore, there is no need to prepare an EIS for those programs. Consequently, the adoption of amendments to the Tennessee Federal program, which we adopted under section 504 of SMCRA, 30 U.S.C. 1254, does not constitute a major action within the meaning of § 102(2)(C) of NEPA and does not require preparation of an EIS.

The commenter also stated that OSM must determine the effects of the proposed rules on the Tennessee Valley Authority's recent Programmatic EIS and the U.S. Army Corps of Engineers' Floodplain Management Program in Tennessee's coalfields and consult with those agencies before enacting this rule. The commenter also stated that the results of any consultation with various government agencies and with individuals and organizations having an interest in the proposed amendment are missing.

In response, we note that there is no requirement that we address the effect of the rule on documents prepared by other agencies, and we have addressed any comments that we received from State and Federal agencies.

One commenter stated that the revisions to the rules give the KFO too much discretion in determining the appropriate herbaceous vegetative ground cover success standards.

While the revisions in this rulemaking do provide discretion to the KFO to approve ground cover success standards, that discretion is tempered with the existing regulations that require control of erosion. The KFO cannot approve a reclamation plan that does not provide for adequate erosion control from the site. For mine sites with postmining land uses related to forestry, the KFO will require that the permittee's reclamation plans carefully balance the need for erosion control with a vegetative ground cover that does not interfere with tree growth and survival.

Other commenters discussed a wide range of issues that are unrelated to the proposed rule. We are not addressing those comments because they are beyond the scope of this rulemaking.

V. Procedural Determinations

Executive Order 12866—Regulatory Planning and Review

This document is not a significant rule and is not subject to review by the Office of Management and Budget under Executive Order 12866.

a. This rule will not have an effect of $100 million or more on the economy. The revisions to the bonding requirements and revegetation standards 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.

As discussed in the preamble to the proposed rule and the preamble to the final rule, the bonding provisions should benefit coal operators who experience unanticipated pollutional discharges by providing them with an alternative financial mechanism for the treatment of AMD. The bonding revisions will not add to the operator's cost of doing business since the existing regulations in 30 CFR 942.800 and 30 CFR Part 800 already require that a bond amount be adequate for the cost of reclamation and, when necessary, be adjusted to insure that adequate funds are available. The trust funds or annuities will allow continued treatment of postmining pollutional discharges by the operator and will assist in preventing bankruptcies and potential bond forfeitures since sureties will not likely fund treatment. There are approximately 52 mining operations in Tennessee with AMD problems that may avail themselves of the new bonding provisions.

Our estimates have found that approximately 10 companies will take advantage of the rule that eliminates the arbitrary ground cover requirements on mine sites to be reclaimed for wildlife habitat, undeveloped land, recreation, or forestry. Approximately 1000–1500 acres are eligible for Phase III bond release annually in Tennessee. The changes to the rules will encourage reforestation of this acreage and provide the basis for healthy, vigorous tree growth. While economic benefits of reforestation to mine operators are limited, the benefits to the environment are numerous and include: Creating diverse, productive forests that provide watershed protection, wildlife habitat, recreational opportunities, and remove carbon dioxide from the air. Additionally, there are economic benefits of reforested sites because forests can offer substantial revenue for landowners who own the trees and job opportunities for local residents who harvest the trees and use the lumber.

b. This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency.

c. This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs or the rights or obligations of their recipients.

d. This rule does not raise novel legal or policy issues.

Regulatory Flexibility Act

The Department of the Interior certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). As previously stated, the revisions to the existing regulations may benefit the regulated industry by allowing an alternative source of bonding. Further, the rule produces no adverse effects on competition, employment, investment, productivity, innovation, or the ability of United States enterprises to compete with foreign-based enterprises in domestic or export markets.

Small Business Regulatory Enforcement Fairness Act

For the reasons previously stated, this rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

a. Does not have an annual effect on the economy of $100 million or more.

b. Will not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions.

c. Does not have significant adverse effects on competition, employment, investment, productivity, innovation, or the ability of U.S.-based enterprises to

compete with foreign-based enterprises for the reasons stated above.

Unfunded Mandates

This rule does not impose an unfunded mandate on State, Tribal, or local governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, Tribal, or local governments or the private sector. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1501 *et seq.*) is not required.

Executive Order 12630—Takings

The revisions to the Tennessee Federal program governing the use of trust funds or annuities to fund treatment of postmining pollutional discharges and the changes to the revegetation success standards do not have any significant takings implications under Executive Order 12630. Therefore, a takings implication assessment is not required.

Executive Order 12988—Civil Justice Reform

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.

Executive Order 13132—Federalism

In accordance with Executive Order 13132, the rule does not have significant Federalism implications to warrant the preparation of a Federalism Assessment for the reasons discussed above.

Executive Order 13175—Consultation and Coordination With Indian Tribal Governments

In accordance with Executive Order 13175, we have evaluated the potential effects of this rule on Federally-recognized Indian tribes. We have determined that the revisions would not have substantial direct effects 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.

Executive Order 13211—Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use

This rule is not considered a significant energy action under Executive Order 13211. The revisions to the Tennessee Federal program that govern use of trust funds or annuities to fund treatment of postmining pollutional discharges and the changes to the revegetation success standards will not have a significant effect on the supply, distribution, or use of energy.

Paperwork Reduction Act

This rule does not contain collections of information which require approval by the Office of Management and Budget under 44 U.S.C. 3501 *et seq.*

National Environmental Policy Act

This rule does not require an environmental impact statement because section 702(d) of SMCRA (30 U.S.C. 1292(d)) provides that promulgation of Federal programs do not constitute major Federal actions within the meaning of section 102(2)(C) of the NEPA (42 U.S.C. 4332(2)(C)). This rulemaking was promulgated under section 504 of SMCRA, 30 U.S.C. 1254, and therefore is not subject to NEPA requirements.

List of Subjects in 30 CFR Part 942

Intergovernmental relations, Surface mining, Underground mining.

Dated: February 21, 2007.

C. Stephen Allred,

Assistant Secretary, Land and Minerals Management.

■ Accordingly, we are amending 30 CFR Part 942 as set forth below.

PART 942—TENNESSEE

■ 1. The authority citation for 30 CFR Part 942 continues to read as follows:

Authority: 30 U.S.C. 1201 *et seq.*

■ 2. Amend § 942.800 by revising paragraph (a) and adding paragraph (c) to read as follows:

§ 942.800 Bond and insurance requirements for surface coal mining and reclamation operations.

(a) Except as provided in paragraphs (b) and (c) of this section, part 800 of this chapter, Bond and Insurance Requirements for Surface Coal Mining and Reclamation Operations Under Regulatory Programs, shall apply to any person conducting surface mining and reclamation operations.

(b) * * *

(c) *Special consideration for sites with long-term postmining pollutional discharges.* With the approval of the Office, the permittee may establish a trust fund, annuity or both to guarantee treatment of long-term postmining pollutional discharges in lieu of posting one of the bond forms listed in § 800.12 of this chapter for that purpose. The trust fund or annuity will be subject to the following conditions:

(1) The Office will determine the amount of the trust fund or annuity, which must be adequate to meet all anticipated treatment needs, including both capital and operational expenses.

(2) The trust fund or annuity must be in a form approved by the Office and contain all terms and conditions required by the Office.

(3) The trust fund or annuity must provide that the United States or the State of Tennessee is irrevocably established as the beneficiary of the trust fund or of the proceeds from the annuity.

(4) The Office will specify the investment objectives of the trust fund or annuity.

(5) Termination of the trust fund or annuity may occur only as specified by the Office upon a determination that no further treatment or other reclamation measures are necessary, that a replacement bond or another financial instrument has been posted, or that the administration of the trust fund or annuity in accordance with its purpose requires termination.

(6) Release of money from the trust fund or annuity may be made only upon written authorization of the Office or according to a schedule established in the agreement accompanying the trust fund or annuity.

(7) A financial institution or company serving as a trustee or issuing an annuity must be one of the following:

(i) A bank or trust company chartered by the Tennessee Department of Financial Institutions;

(ii) A national bank chartered by the Office of the Comptroller of the Currency;

(iii) An operating subsidiary of a national bank chartered by the Office of the Comptroller of the Currency;

(iv) An insurance company licensed or authorized to do business in Tennessee by the Tennessee Department of Commerce and Insurance or designated by the Commissioner of that Department as an eligible surplus lines insurer; or

(v) Any other financial institution or company with trust powers and with offices located in Tennessee, provided that the institution's or company's activities are examined or regulated by a State or Federal agency.

(8) Trust funds and annuities, as described in this paragraph, must be established in a manner that guarantees that sufficient moneys will be available to pay for treatment of postmining pollutional discharges (including maintenance, renovation, and replacement of treatment and support facilities as needed), the reclamation of the sites upon which treatment facilities are located and areas used in support of those facilities.

(9) When a trust fund or annuity is in place and fully funded, the Office may approve release under § 800.40(c)(3) of this chapter of conventional bonds posted for a permit or permit increment, provided that, apart from the pollutional discharge and associated treatment facilities, the area fully meets all applicable reclamation requirements and the trust fund or annuity is sufficient for treatment of pollutional discharges and reclamation of all areas involved in such treatment. The portion of the permit required for postmining water treatment must remain bonded. However, the trust fund or annuity may serve as that bond.

■ 3. In § 942.816, revise paragraph (f)(3) introductory text and paragraph (f)(4) as follows:

§ 942.816 Performance standards—Surface mining activities.

* * * * *

(f) * * *

(3) For areas developed for wildlife habitat, undeveloped land, recreation, or forestry, the stocking of woody plants must be at least equal to the rates specified in the approved reclamation plan. To minimize competition with woody plants, herbaceous ground cover should be limited to that necessary to control erosion and support the postmining land use. Seed mixes and seeding rates will be specified in the permit.

* * * * *

(4) Bare areas shall not exceed one-sixteenth (1/16) acre in size and total not more than ten percent (10%) of the area seeded, except for areas developed for wildlife habitat, undeveloped land, recreation, or forestry.

■ 4. In § 942.817, revise paragraph (e)(3) introductory text and paragraph (e)(4) as follows:

§ 942.817 Performance standards—Underground mining activities.

* * * * *

(e) * * *

(3) For areas developed for wildlife habitat, undeveloped land, recreation, or forestry, the stocking of woody plants must be at least equal to the rates specified in the approved reclamation plan. To minimize competition with woody plants, herbaceous ground cover should be limited to that necessary to control erosion and support the postmining land use. Seed mixes and seeding rates will be specified in the permit.

* * * * *

(4) Bare areas shall not exceed one-sixteenth (1/16) acre in size and total not more than ten percent (10%) of the area seeded, except for areas developed for wildlife habitat, undeveloped land, recreation, or forestry.

[FR Doc. E7–3649 Filed 3–1–07; 8:45 am]

BILLING CODE 4310–05–P

Federal Register

Friday,
March 2, 2007

Part III

The President

Proclamation 8108—American Red Cross Month, 2007

Proclamation 8109—Women's History Month, 2007

Notice of February 28, 2007—Continuation of the National Emergency With Respect to Zimbabwe

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Title 3—

The President

Proclamation 8108 of February 27, 2007

American Red Cross Month, 2007

By the President of the United States of America

A Proclamation

The American Red Cross demonstrates the power of human compassion and embodies the capacity for kindness and generosity of this great Nation. This month, we honor the men and women of the American Red Cross who exhibit the spirit and character of America by serving others in need.

Since its founding in 1881, the American Red Cross has helped millions of individuals overcome the effects of natural disasters and emergencies by providing shelter, food, counseling, and other assistance. It plays an important role in our communities by helping maintain our country's blood supply, offering programs for youth and the elderly, supporting members of the military and their families, and promoting health and emergency preparedness. This inspiring organization helps improve the lives of those in need and continues to assist in the recovery efforts in the Gulf Coast.

The humanitarian mission of the American Red Cross extends around the world. My Administration is proud to work with it to support efforts to combat malaria, measles, HIV/AIDS, and other diseases that affect millions of people each year in Africa and throughout the world. The American Red Cross is committed to helping improve the prevention and treatment of diseases and is working to strengthen community health programs in developing areas of the world. These efforts help save lives and show the strength and generosity of America.

We are grateful for the tireless work of the volunteers and staff of the American Red Cross. During this month, we pay tribute to this remarkable organization and all those who have answered the call to serve a cause greater than self and offered support and healing in times of need.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America and Honorary Chairman of the American Red Cross, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim March 2007 as American Red Cross Month. I commend the good work of the American Red Cross, and I encourage all Americans to help make our world a better place by volunteering their time, energy, and talents for others.

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

[FR Doc. 07–999
Filed 3–1–07; 8:49 am]
Billing code 3195–01–P

Presidential Documents

Proclamation 8109 of February 27, 2007

Women's History Month, 2007

By the President of the United States of America

A Proclamation

Throughout our history, the vision and determination of women have strengthened and transformed America. As we celebrate Women's History Month, we recognize the vital contributions women have made to our country.

The strong leadership of extraordinary women has altered our Nation's history. Sojourner Truth, Alice Stone Blackwell, and Julia Ward Howe opened doors for future generations of women by advancing the cause of women's voting rights and helping make America a more equitable place. In 1855, Dr. Mary E. Walker became one of the first female physicians in the country. Dr. Walker volunteered her medical services during the Civil War and became the only woman in United States history to receive the Medal of Honor. Vivian Malone Jones stood her ground in the face of a great injustice and helped integrate the University of Alabama, breaking down racial barriers to higher education and becoming the school's first African-American graduate.

Our Nation is a land of great opportunity, and women are seizing that opportunity and shaping the future of America in all walks of life. A record number of women are serving in the halls of Congress, and the number of women-owned businesses continues to grow. The women of our Armed Forces are making a vital contribution to our Nation's security by serving the cause of freedom and peace around the world. And by giving care and guidance, America's mothers are helping to build the foundation for the success of our Nation's children and strengthening the character of our country. This month, we honor the spirit, leadership, and hard work of American women.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim March 2007 as Women's History Month. I call upon the people of the United States to observe this month with appropriate programs, ceremonies, and activities that honor the history, accomplishments, and contributions of American women.

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

[FR Doc. 07–1000
Filed 3–1–07; 8:49 am]
Billing code 3195–01–P

Presidential Documents

Notice of February 28, 2007

Continuation of the National Emergency With Respect to Zimbabwe

On March 6, 2003, by Executive Order 13288, I declared a national emergency and blocked the property of persons undermining democratic processes or institutions in Zimbabwe, pursuant to the International Emergency Economic Powers Act (50 U.S.C. 1701–1706). I took this action to deal with the unusual and extraordinary threat to the foreign policy of the United States constituted by the actions and policies of certain members of the Government of Zimbabwe and other persons to undermine Zimbabwe's democratic processes or institutions. These actions have contributed to the deliberate breakdown in the rule of law in Zimbabwe, politically motivated violence and intimidation, and political and economic instability in the southern African region. On November 22, 2005, I issued Executive Order 13391 to take additional steps with respect to the national emergency declared in Executive Order 13288 by ordering the blocking of the property of additional persons undermining democratic processes or institutions in Zimbabwe.

Because the actions and policies of these persons continue to pose an unusual and extraordinary threat to the foreign policy of the United States, the national emergency declared on March 6, 2003, and the measures adopted on that date and on November 22, 2005, to deal with that emergency, must continue in effect beyond March 6, 2007. Therefore, in accordance with section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)), I am continuing for 1 year the national emergency with respect to the actions and policies of certain members of the Government of Zimbabwe and other persons to undermine Zimbabwe's democratic processes or institutions.

This notice shall be published in the **Federal Register** and transmitted to the Congress.

THE WHITE HOUSE,
February 28, 2007.

[FR Doc. 07–1001
Filed 3–1–07; 8:49 am]
Billing code 3195–01–P

Federal Register

Friday,
March 2, 2007

Part IV

The President

Proclamation 8110—Save Your Vision Week, 2007

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Presidential Documents

Title 3—

The President

Proclamation 8110 of February 28, 2007

Save Your Vision Week, 2007

By the President of the United States of America

A Proclamation

Across our Nation, millions of Americans suffer from eye diseases and vision loss. During Save Your Vision Week, we reinforce the importance of proper eye care and raise awareness about how to protect and prolong healthy vision.

By taking simple preventative steps such as wearing sunglasses and using protective goggles while exposed to hazardous objects or environments, Americans can help maintain their eyesight. Regular eye exams are also key to safeguarding healthy vision. As a result of the Medicare Modernization Act, Medicare may pay the cost of exams for those who are eligible and have a high risk of diabetic eye disease or glaucoma. More information about healthy vision and eye care can be found by visiting nei.nih.gov. My Administration is committed to helping Americans lead better, healthier lives. By working with community organizations, eye care professionals, and compassionate citizens, we can increase awareness of the importance of regular and diligent eye care and encourage people to takes steps to maintain eye health and keep the precious gift of sight.

The Congress, by joint resolution approved December 30, 1963, as amended (77 Stat. 629; 36 U.S.C. 138), has authorized and requested the President to proclaim the first week in March of each year as ''Save Your Vision Week.''

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim March 4 through March 10, 2007, as Save Your Vision Week. I encourage all Americans to learn more about eye care and eye safety, and take measures to help ensure a lifetime of healthy vision.

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

[FR Doc. 07–1004
Filed 3–1–07; 11:35 am]
Billing code 3195–01–P

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The text of laws is not published in the **Federal Register** but may be ordered in "slip law" (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

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