6–8–07 Friday
Vol. 72 No. 110 June 8, 2007

Pages 31711–31968

Federal Register

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

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9:00 a.m.–Noon

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Conference Room, Suite 700
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Washington, DC 20002

RESERVATIONS: (202) 741–6008

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Presidential Documents

Title 3—

The President

Presidential Determination No. 2007–22 of June 5, 2007

Partial Resumption of Travel to Lebanon To Promote Peace and Security

Memorandum for the Secretary of Transportation

By virtue of the authority vested in me by 49 U.S.C. 40106(b) and for the purpose of promoting peace and security in Lebanon, I hereby determine that the prohibition of transportation services to Lebanon established by Presidential Determination 85–14 of July 1, 1985, as amended by Presidential Determination 92–41 of August 17, 1992, and Presidential Determination 98–32 of June 19, 1998, is hereby further amended to permit U.S. air carriers under contract to the United States Government to engage in foreign air transportation to and from Lebanon of passengers, including U.S. and non-U.S. citizens, and their accompanying baggage; of goods for humanitarian purposes; and of any other cargo or materiel.

All other prohibitions set forth in the above-referenced Presidential determinations remain in effect.

You are directed to implement this determination immediately.

You are authorized and directed to publish this determination in the **Federal Register**.

[FR Doc. 07–2886
Filed 6–7–07; 8:45 am]
Billing code 4910–62–M

Rules and Regulations

Federal Register
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Friday, June 8, 2007

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.

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DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 1

[Docket No. FAA–2007–27160; Amendment No. 1–56]

RIN 2120–AI97

Changes to the Definition of Certain Light-Sport Aircraft

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Disposition of comments on direct final rule; confirmation of effective date.

SUMMARY: On April 19, 2007, the FAA published a Direct Final Rule to amend the definition of a light-sport aircraft (LSA) in two areas. The changes permit development of lighter-than-air (LTA) LSA, and allow retractable landing gear for LSA intended for operation on water.

ADDRESSES: The complete docket for the Direct Final Rule on the LSA definition may be examined through the Department of Transportation's Docket Management System at *http://www.dms.dot.gov*. Use the Simple Search selection and type in the docket number, 27160.

FOR FURTHER INFORMATION CONTACT: Larry Werth, ACE–114, Small Airplane Directorate, Aircraft Certification Service, Federal Aviation Administration, 901 Locust, Room 301, Kansas City, MO 64106; telephone (816) 329–4147; fax: 816–329–4090; e-mail: *larry.werth@faa.gov*.

SUPPLEMENTARY INFORMATION:

Background

On July 27, 2004, the FAA issued the ''Certification of Aircraft and Airmen for the Operation of Light-Sport Aircraft'' final rule (69 FR 44772). That rule established a definition for the term ''Light-Sport Aircraft'' (LSA). Since we adopted that rule, the FAA has been working with the LSA industry in evaluating the overall LSA program. The past two years have seen remarkable growth in the overall LSA program. Over 600 new factory-built airplanes, powered parachutes, and weight-shift control aircraft have received airworthiness certificates. The exceptions to this rapid growth are lighter-than-air (LTA) LSA and LSA intended for operation on water.

In the first area, the FAA determined the current LTA LSA maximum takeoff weight (MTW) of 660 pounds (300 kilograms) precluded the desired effect of industry design and development of safe LTA LSA. The Direct Final Rule increased the LTA MTW to 1,320 pounds. In the second area, the FAA determined the physical differences between LSA intended for operation on water (amphibious LSA) and land-based LSA justify allowing retractable landing gear for amphibious LSA.

The Direct Final Rule containing these changes were issued April 9, 2007, and was published on April 19, 2007 (72 FR 19661). The public comment period closed May 21, 2007.

Discussion of Comments

The FAA received two comments from individuals in response to the Direct Final Rule.

One commenter suggested the regulation be amended to restrict the use of LSA to only unpopulated areas. This rulemaking is limited to the definition of LSA and changing the areas where LSA may operate is clearly beyond the scope of the Direct Final Rule.

The other commenter fully supports the revised definition and recommended consideration of design changes to facilitate egress from LSA should they crash and submerge inverted. The FAA has determined that this comment has merit; however, it is also beyond the scope of this rulemaking.

Committee F37 of ASTM International (originally formed as the American Society for Testing and Materials) developed the LSA design consensus standards. We will share the commenter's design change recommendations with the LSA industry through Committee F37 which has an ongoing responsibility to continually review LSA consensus standards.

Conclusion

After consideration of the comments submitted in response to the Direct Final Rule, the FAA has determined that no further rulemaking action is necessary. Amendment 1–56 remains in effect as adopted and is effective June 4, 2007.

Issued in Washington, DC, on June 4, 2007.

John J. Hickey,

Director, Aircraft Certification Service.

[FR Doc. 07–2835 Filed 6–7–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 158

[Docket No. FAA–2006–23730; Amendment No. 158–4]

RIN 2120–AI68

Passenger Facility Charge Program, Debt Service, Air Carrier Bankruptcy, and Miscellaneous Changes

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule; correction.

SUMMARY: When the FAA issued a final rule which amended FAA regulations dealing with the Passenger Facility Charge (PFC) program to add more eligible uses for revenue, protect such revenue in bankruptcy proceedings, and eliminate charges to passengers on military charters, we erroneously stated a paragraph reference in the regulatory text. This correction removes the erroneous paragraph reference and replaces it with the correct paragraph reference.

DATES: This correction is effective June 22, 2007.

FOR FURTHER INFORMATION CONTACT: For technical questions concerning this final rule, contact Sheryl Scarborough, Airports Financial Analysis and Passenger Facility Charge Branch, APP–510, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8825; facsimile: (202) 267–5302; e-mail: *sheryl.scarborough@faa.gov*. For legal questions concerning this final

rule, contact Beth Weir, Airports Law Branch, AGC–610, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone (202) 267–5880; facsimile: (202) 267–5769; e-mail: *beth.weir@faa.gov*.

SUPPLEMENTARY INFORMATION:

On May 23, 2007, the FAA published the final rule, ''Passenger Facility Charge Program, Debt Service, Air Carrier Bankruptcy, and Miscellaneous Changes.'' (72 FR 28837) In it, we revised section 158.53 to incorporate procedures that were established for the FAA to periodically review and set the air carrier collection compensation level. Upon review of the regulatory text on page 28851, first line, of this final rule, we discovered an incorrect paragraph reference in Section 158.53. This correction removes the incorrect paragraph reference and inserts the correct paragraph reference.

Correction

PART 158—[AMENDED]

■ In final rule FR Doc. FAA–2006–23730, published on May 23, 2007 (72 FR 28837), make the following correction:

§ 158.53 [Corrected]

■ On page 28851, in the first column, line one, remove the phrase ''paragraph (b)(2) of this section will'' and add in its place paragraph (c)(2) of this section will''.

Issued in Washington, DC, on June 1, 2007.

Pamela Hamilton-Powell,

Director, Office of Rulemaking Aviation Safety.

[FR Doc. 07–2836 Filed 6–7–07; 8:45 am]

BILLING CODE 4910–13–M

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 71

[Docket No. FAA–2006–25852; Airspace Docket No. 06–AAL–29]

RIN 2120–AA66

Modification to the Norton Sound Low, Woody Island Low, Control 1234L and Control 1487L Offshore Airspace Areas; Alaska

AGENCY: Federal Aviation Administration (FAA), DOT.

ACTION: Final rule.

SUMMARY: This action amends the following four Offshore Airspace Areas in Alaska: Norton Sound Low, Woody Island Low, Control 1234L and Control 1487L. This action describes the airspace west of 160° W. longitude as it is currently depicted on aeronautical charts. Some of the existing controlled airspace is described as domestic Class E5 airspace around Kodiak, AK. This airspace instead will be listed within the Woody Island Low Offshore Airspace Area. The FAA is taking this action to provide additional controlled airspace for aircraft instrument flight rules (IFR) operations, and to correctly describe the existing offshore airspace areas in FAA Order 7400.9P, Airspace Designations and Reporting Points, dated September 1, 2006, and effective September 15, 2006.

EFFECTIVE DATE: 0901 UTC, August 30, 2007. The Director of Federal Register approves this incorporation by reference action under 1 CFR part 51, subject to the annual revision of FAA Order 7400.9 and publication of conforming amendments.

FOR FURTHER INFORMATION CONTACT: Ken McElroy, Airspace and Rules, Office of System Operations Airspace and AIM, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–8783.

SUPPLEMENTARY INFORMATION:

History

On Tuesday, March 13, 2007, the FAA published in the **Federal Register** a notice of proposed rulemaking to modify four Alaskan Offshore Airspace Areas: Norton Sound Low, Woody Island Low, Control 1234L and Control 1487L (72 FR 11305). Interested parties were invited to participate in this rulemaking effort by submitting written comments on the proposal. No comments were received.

These airspace areas are published in paragraph 6007 of FAA Order 7400.9P, dated September 1, 2006, and effective September 15, 2006, which is incorporated by reference in 14 CFR 71.1. The Offshore Airspace Areas listed in this document will be published subsequently in the Order.

The Rule

This action amends Title 14 Code of Federal Regulations (14 CFR) part 71 to modify the Norton Sound Low, Woody Island Low, and Control 1487L Offshore Airspace Areas, AK, by lowering the floor to 1,200 feet mean sea level (MSL) within a 45-mile radius of Hooper Bay Airport, within an 81.2-mile radius of Perryville Airport, within a 73-mile radius of Homer Airport, and within a 73-mile radius of St. Michael Airport. This action also modifies Control 1234L Offshore Airspace Area, AK, by lowering the floor to 1,200 feet above the surface within an 81.2-mile radius of Perryville Airport, AK. Additionally, this action establishes controlled airspace to support IFR operations at the Hooper Bay, Perryville, Homer and St. Michael Airports, AK. Additionally, controlled airspace extending upward from the surface, from 700 feet above the surface, and from 1,200 feet above the surface, is established in Control 1234L Offshore Airspace Area. The following will correct an error in the Control 1234L Offshore Airspace description in FAAO 7400.9N. The Offshore Airspace Area Control 1234L begins at and extends west of 160°00′00″ W. longitude. This airspace covers all the land west of this longitude including the Aleutian Island chain and the Pribilof Islands. Control 1234L Offshore Airspace around or near the Alaskan airports of Adak, Atka, Cold Bay, Dutch Harbor (Unalaska), Nelson Lagoon, Sand Point, Eareckson Air Station, St. George, Port Heiden, Homer, and Chignik, is being lowered from the current 2,000 feet AGL floor to incorporate Class E domestic airspace. This action is concurrent with Airspace Docket No. 06–AAL–34, revoking the domestic airspace descriptions for these airports. Additionally, the airspace description in FAA Order 7400.9P for Control 1234L referring to altitudes the airspace associated with Chignik Airport, AK, is amended to describe it from 1200 feet ''above the surface.'' Additionally, some of the current Class E5 controlled airspace around Kodiak Airport, AK, will be listed within Woody Island Offshore Airspace in order to be correctly described.

Offshore Airspace Areas are published in paragraph 6007 of FAA Order 7400.9P, dated September 1, 2006, and effective September 15, 2006, which is incorporated by reference in 14 CFR 71.1. The Offshore Airspace Areas listed in this document will be published subsequently in the Order.

The FAA has determined that this regulation only involves an established body of technical regulations for which frequent and routine amendments are necessary to keep them operationally current. Therefore, this regulation: (1) Is not a ''significant regulatory action'' under Executive Order 12866; (2) is not a ''significant rule'' under Department of Transportation (DOT) Regulatory Policies and Procedures (44 FR 11034; February 26, 1979); and (3) does not warrant preparation of a regulatory evaluation as the anticipated impact is so minimal. Since this is a routine matter that will only affect air traffic procedures and air navigation, it is

certified that this rule, when promulgated, will not have a significant economic impact on a substantial number of small entities under the criteria of the Regulatory Flexibility Act.

ICAO Considerations

As part of this action relates to navigable airspace outside the United States, this notice is submitted in accordance with the International Civil Aviation Organization (ICAO) International Standards and Recommended Practices.

The application of International Standards and Recommended Practices by the FAA, Office of System Operations Airspace and AIM, Airspace & Rules, in areas outside the United States domestic airspace, is governed by the Convention on International Civil Aviation. Specifically, the FAA is governed by Article 12 and Annex 11, which pertain to the establishment of necessary air navigational facilities and services to promote the safe, orderly, and expeditious flow of civil air traffic. The purpose of Article 12 and Annex 11 is to ensure that civil aircraft operations on international air routes are performed under uniform conditions.

The International Standards and Recommended Practices in Annex 11 apply to airspace under the jurisdiction of a contracting state, derived from ICAO. Annex 11 provisions apply when air traffic services are provided and a contracting state accepts the responsibility of providing air traffic services over high seas or in airspace of undetermined sovereignty.

A contracting state accepting this responsibility may apply the International Standards and Recommended Practices that are consistent with standards and practices utilized in its domestic jurisdiction.

In accordance with Article 3 of the Convention, state-owned aircraft are exempt from the Standards and Recommended Practices of Annex 11. The United States is a contracting state to the Convention. Article 3(d) of the Convention provides that participating state aircraft will be operated in international airspace with due regard for the safety of civil aircraft. Since this action involves, in part, the designation of navigable airspace outside the United States, the Administrator has consulted with the Secretary of State and the Secretary of Defense in accordance with the provisions of Executive Order 10854.

Environmental Review

The FAA has determined that this action qualifies for categorical exclusion under the National Environmental Policy Act in accordance with FAA Order 1050.1E, paragraph 311(a), and paragraph 311(p), ''Policies and Procedures for Considering Environmental Impacts.'' This airspace action is not expected to cause any potentially significant environmental impacts, and no extraordinary circumstances exist that warrant preparation of an environmental assessment.

List of Subjects in 14 CFR Part 71

Airspace, Incorporation by reference, Navigation (air).

Adoption of the Amendment

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

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

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

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

§ 71.1 [Amended]

■ 2. The incorporation by reference in 14 CFR 71.1 of Federal Aviation Administration Order 7400.9P, Airspace Designations and Reporting Points, dated September 1, 2006, and effective September 15, 2006, is amended as follows:

Paragraph 6007 Offshore Airspace Areas.

The Class E airspace areas listed below extend upward from a specified altitude to, but not including 18,000 feet MSL and are designated as offshore airspace areas. These areas typically provide controlled airspace beyond 12 miles from the coast of the United States in those areas where there is a requirement to provide IFR en route ATC services and within which the United States is applying domestic ATC procedures. In Alaska, Control 1234L also covers the land masses of the Aleutian Island chain, west of 160° W. longitude, and the Pribilof Islands.

* * * * *

Norton Sound Low, AK [Amended]

That airspace extending upward from 14,500 feet MSL within an area bounded by a line beginning at lat. 56°42′59″ N., long. 160°00′00″ W., thence east and north by a line 12 miles from and parallel to the shoreline to the intersection with a point 12 miles from the U.S. coastline and lat. 68°00′00″ N., to lat. 68°00′00″ N., long. 168°58′23″ W., to lat. 65°00′00″ N., long. 168°58′23″ W., to lat. 62°35′00″ N., long. 175°00′00″ W., to lat. 59°59′57″ N., long. 168°00′08″ W., to lat. 57°45′57″ N., long. 161°46′08″ W., to lat. 58°06′57″ N., long. 160°00′00″ W., to the point of beginning; and that airspace extending upward from 1,200 feet MSL within 13 miles west and 4 miles east of the Port Heiden NDB, AK, 339° bearing extending from the Port Heiden NDB, AK, to 25 miles northwest of the Port Heiden NDB, AK, and within 9 miles north of the Port Heiden NDB, AK, 248° bearing extending from the Port Heiden NDB, AK, to 24 miles west of the Port Heiden NDB, AK, and north of the Alaska Peninsula and east of 160° W. longitude within an 81.2-mile radius of Perryville Airport, AK, and north of the Alaska Peninsula and east of 160° W. longitude within a 72.8-mile radius of Chignik Airport, AK, and within a 35-mile radius of lat. 60°21′17″ N., long. 165°04′01″ W., and within a 45-mile radius of Hooper Bay Airport, AK, and within a 73-mile radius of St. Michael Airport, AK, and within a 77.4-mile radius of the Nome VORTAC, AK, and within a 30-mile radius of lat. 66°09′58″ N., long. 166°30′03″ W., and within a 30-mile radius of lat. 66°19′55″ N., long. 165°40′32″ W., and within a 45-mile radius of Deering Airport, AK; and that airspace extending upward from 700 feet MSL within 8 miles west and 4 miles east of the 339° bearing from the Port Heiden NDB, AK, extending from the Port Heiden NDB, AK, to 20 miles northwest of the Port Heiden NDB, AK, and within a 25-mile radius of Nome Airport, AK.

* * * * *

Woody Island Low, AK [Amended]

That airspace extending upward from 14,500 feet MSL within the area bounded by a line beginning at lat. 53°30′00″ N., long. 160°00′00″ W., to lat. 56°00′00″ N., long. 153°00′00″ W., to lat. 56°45′42″ N., long. 151°45′00″ W., to lat. 58°19′58″ N., long. 148°55′07″ W., to lat. 59°08′34″ N., long. 147°16′06″ W., then clockwise via the 149.5-mile radius from the Anchorage, VOR/DME, AK, to the intersection with a point 12 miles from and parallel to the U.S. coastline, then southwest by a line 12 miles from and parallel to the U.S. coastline to the intersection with long. 160°00′00″ W., to the point of beginning; and that airspace extending upward from 700 feet above the surface within 5 miles south and 9 miles north of the 070° radial of the Kodiak VORTAC, AK, extending to 17 miles northeast of the Kodiak VORTAC, AK, and within 8 miles north and 4 miles south of the Kodiak, AK, localizer front course extending to 20.3 miles east of Kodiak Airport, AK; and that airspace extending upward from 1,200 feet MSL, within 27 miles of the Kodiak VORTAC, AK, extending from the 023° radial clockwise to the 088° radial and within 8 miles north and 5 miles south of the Kodiak localizer front course extending to 32 miles east of Kodiak Airport, AK, and that airspace extending south and east of the Alaska Peninsula within a 72.8-mile radius of Chignik Airport, AK, and outside (south) of the 149.5-mile radius of the Anchorage VOR/DME, AK, within a 73-mile radius of Homer Airport, AK, and south and east of the Alaska Peninsula within an 81.2-mile radius of Perryville Airport, AK.

* * * * *

Control 1234L [Amended]

That airspace extending upward from 2,000 feet above the surface within an area bounded by a line beginning at lat. 58°06′57″ N., long. 160°00′00″ W., then south along long. 160°00′00″ W. until it intersects the Anchorage Air Route Traffic Control Center (ARTCC) boundary; then southwest, northwest, north, and northeast along the Anchorage ARTCC boundary to lat. 62°35′00″ N., long. 175°00′00″ W., to lat. 59°59′57″ N., long. 168°00′08″ W., to lat. 57°45′57″ N., long. 161°46′08″ W., to the point of beginning; and that airspace extending upward from the surface within a 4.6-mile radius of Cold Bay Airport, AK, and within 1.7 miles each side of the 150° bearing from Cold Bay Airport, AK, extending from the 4.6-mile radius to 7.7 miles southeast of Cold Bay Airport, AK, and within 3 miles west and 4 miles east of the 335° bearing from Cold Bay Airport, AK, extending from the 4.6-mile radius to 12.2 miles northwest of Cold Bay Airport, AK and that airspace extending upward from 700 feet above the surface within a 6.9-mile radius of Eareckson Air Station, AK, and within a 7-mile radius of Adak Airport, AK, and within 5.2 miles northwest and 4.2 miles southeast of the 061° bearing from the Mount Moffett NDB, AK, extending from the 7-mile radius of Adak Airport, AK, to 11.5 miles northeast of Adak Airport, AK and within a 6.5-mile radius of King Cove Airport, and that airspace extending 1.2 miles either side of the 103° bearing from King Cove Airport from the 6.5-mile radius out to 8.8 miles; and within a 6.4-mile radius of the Atka Airport, AK, and within a 6.9-mile radius of Eareckson Air Station, AK, and within a 6.3-mile radius of Nelson Lagoon Airport, AK and within a 6.4-mile radius of Sand Point Airport, AK, and within 3 miles each side of the 172° bearing from the Borland NDB/DME, AK, extending from the 6.4-mile radius of Sand Point Airport, AK, to 13.9 miles south of Sand Point Airport, AK, and within 5 miles either side of the 318° bearing from the Borland NDB/DME, AK, extending from the 6.4-mile radius of Sand Point Airport, AK, to 17 miles northwest of Sand Point Airport, AK, and within 5 miles either side of the 324° bearing from the Borland NDB/DME, AK, and within a 6.6-mile radius of St. George Airport, AK, and within an 8-mile radius of St. Paul Island Airport, AK, and 8 miles west and 6 miles east of the 360° bearing from St. Paul Island Airport, AK, to 14 miles north of St. Paul Island Airport, AK, and within 6 miles west and 8 miles east of the 172° bearing from St. Paul Island Airport, AK to 15 miles south of Paul Island Airport, AK, and within a 6.4-mile radius of Unalaska Airport, AK, and within 2.9 miles each side of the 360° bearing from the Dutch Harbor NDB, AK, extending from the 6.4-mile radius of Unalaska Airport, AK, to 9.5 miles north of Unalaska Airport, AK; and that airspace extending upward from 1,200 feet above the surface within a 26.2-mile radius of Eareckson Air Station, AK, within an 11-mile radius of Adak Airport, AK, and within 16 miles of Adak Airport, AK, extending clockwise from the 033° bearing to the 081° bearing from the Mount Moffett NDB, AK, and within a 10-mile radius of Atka Airport, AK, and within a 10.6-mile radius from Cold Bay Airport, AK, and within 9 miles east and 4.3 miles west of the 321° bearing from Cold Bay Airport, AK, extending from the 10.6-mile radius to 20 miles northwest of Cold Bay Airport, AK, and 4 miles each side of the 070° bearing from Cold Bay Airport, AK, extending from the 10.6-mile radius to 13.6 miles northeast of Cold Bay Airport, AK, and within a 26.2-mile radius of Eareckson Air Station, AK, and west of 160° west longitude within an 81.2-mile radius of Perryville Airport, AK, and within a 10-mile radius of St. George Airport, AK, and within a 73-mile radius of St. Paul Island Airport, AK, and within a 20-mile radius of Unalaska Airport, AK, extending clockwise from the 305° bearing from the Dutch Harbor NDB, AK, to the 075° bearing from the Dutch Harbor NDB, AK, and west of 160° longitude within a 25-mile radius of the Borland NDB/DME, AK, and west of 160°W. longitude within a 72.8-mile radius of Chignik Airport, AK.

* * * * *

Control 1487L [Amended]

That airspace extending upward from 8,000 feet MSL within 149.5 miles of the Anchorage VOR/DME clockwise from the 090° radial to the 185° radial of the Anchorage VOR/DME, AK; and that airspace extending upward from 5,500 feet MSL within the area bounded by a line beginning at lat. 58°19′58″ N., long. 148°55′07″ W.; to lat. 59°08′35″ N., long. 147°16′04″ W.; thence counterclockwise via the 149.5-mile radius of the Anchorage VOR/DME, AK, to the intersection with a point 12 miles from and parallel to the U.S. coastline; thence southeast 12 miles from and parallel to the U.S. coastline to a point 12 miles offshore on the Vancouver FIR boundary; to lat. 54°32′57″ N., long. 133°11′29″ W.; to lat. 54°00′00″ N., long. 136°00′00″ W.; to lat. 52°43′00″ N., long. 135°00′00″ W.; to lat. 56°45′42″ N., long. 151°45′00″ W.; to the point of beginning; and that airspace extending upward from 1,200 feet MSL within the area bounded by a line beginning at lat. 59°33′25″ N., long. 141°03′22″ W.; thence southeast 12 miles from and parallel to the U.S. coastline to lat. 58°56′18″ N., long. 138°45′19″ W.; to lat. 58°40′00″ N., long. 139°30′00″ W.; to lat. 59°00′00″ N., long. 141°10′00″ W.; to the point of beginning, and within an 85-mile radius of the Biorka Island VORTAC, AK, and within a 42-mile radius of the Middleton Island VOR/DME, AK, and within a 30-mile radius of the Glacier River NDB, AK; and within a 149.5-mile radius of the Anchorage VOR/DME, AK, within the 73-mile radius of Homer Airport, AK; and that airspace extending upward from 700 feet MSL within 14 miles of the Biorka Island VORTAC, AK, and within 4 miles west and 8 miles east of the Biorka Island VORTAC 209° radial extending to 16 miles southwest of the Biorka Island VORTAC, AK.

* * * * *

Issued in Washington, DC, on May 29, 2007.

Paul Gallant,

Acting Manager, Airspace and Rules Group.

[FR Doc. E7–11061 Filed 6–7–07; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF COMMERCE

Bureau of Industry and Security

15 CFR Part 736

[Docket No. 070523152–7153–01]

RIN 0694–AD99

Amendment to General Order No. 3: Expansion of the General Order and Addition of Certain Persons

AGENCY: Bureau of Industry and Security, Commerce.

ACTION: Final rule.

SUMMARY: The Bureau of Industry and Security is revising the Export Administration Regulations (EAR) by amending a general order published in the **Federal Register** on June 5, 2006 and later amended on September 6, 2006 to add nine additional persons. The general order imposed a license requirement for exports and reexports of all items subject to the EAR where the transaction involved Mayrow General Trading (''Mayrow'') or entities related, as specified in that general order. The order also prohibited the use of License Exceptions for exports or reexports of any items subject to the EAR involving such entities.

This rule will expand the general order and add sixteen additional persons to it. Pursuant to the expansion, the general order will cover: (i) Persons regarding whom the U.S. Government possesses information of affiliation or relationship to Mayrow; and (ii) other persons regarding whom the U.S. Government possesses information concerning the acquisition or attempted acquisition of commodities capable of being used to construct IEDs, as well as persons who are related to or affiliated with such persons. The order will apply to persons specifically listed who fit within either of these two groups. To reflect this expansion, this rule will update the heading of the general order to use the term ''persons''.

In total, pursuant to this expansion, this rule will add the following sixteen persons to the general order, listed in alphabetical order: Al-Faris; Ali Akbar Yahya; Amir Mohammad Zahedi; EKT Electronics; Encyclopedia Electronics Center; Frank Lam; GBNTT; Majid Seif; Mohammed Katranji; Neda Industrial Group; Nedayeh Micron Electronics; Sayed-Ali Hosseini; Speedy Electronics Ltd.; United Sources Industrial Enterprises; Vast Solution Sdn Bhd.; and Y-Sing Components Limited.

EFFECTIVE DATE: This rule is effective June 8, 2007. Although there is no formal comment period, public

comments on this regulation are welcome on a continuing basis.

ADDRESSES: You may submit comments, identified by RIN 0694–AD99, by any of the following methods:

E-mail: publiccomments@bis.doc.gov. Include ''RIN 0694–AD99'' in the subject line of the message.

Fax: (202) 482–3355. Please alert the Regulatory Policy Division, by calling (202) 482–2440, if you are faxing comments.

Mail or Hand Delivery/Courier: Timothy Mooney, U.S. Department of Commerce, Bureau of Industry and Security, Regulatory Policy Division, 14th St. & Pennsylvania Avenue, NW., Room 2705, Washington, DC 20230, *Attn:* RIN 0694–AD99.

Send comments regarding the collection of information associated with this rule, 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 Regulatory Policy Division, Bureau of Industry and Security, Department of Commerce, P.O. Box 273, Washington, DC 20044. Comments on this collection of information should be submitted separately from comments on the final rule (*i.e.* RIN 0694–AD99)—all comments on the latter should be submitted by one of the three methods outlined above.

FOR FURTHER INFORMATION CONTACT: John Sonderman, Assistant Director for Operations, Office of Export Enforcement, Bureau of Industry and Security, Department of Commerce, P.O. Box 273, Washington, DC 20044; Phone: (202) 482–1208, x 3; E-mail: *rpd2@bis.doc.gov;* Fax: (202) 482–0964.

SUPPLEMENTARY INFORMATION:

Background

Expansion of the General Order

Pursuant to 15 CFR parts 736 and 744 (2006), General Order No. 3, which was published on June 5, 2006 and subsequently amended on September 6, 2006, imposed a license requirement for exports and reexports of all items subject to the EAR (15 CFR parts 730–774) where the transaction involved Mayrow or related entities.

Prior to this rule, the general order listed persons who were related to Mayrow and concerning whom the U.S. Government possessed information regarding the acquisition or attempted acquisition by them of electronic components and devices (''commodities'') capable of being used in the construction of Improvised Explosive Devices (''IEDs''). These commodities have been, and may continue to be, employed in IEDs or other explosive devices used against Coalition Forces in Iraq and Afghanistan.

In light of additional information that the U.S. Government has received regarding continuing activity relating to commodities that are capable of use in the construction of IEDs, as well as a broader concern relating to the risk of diversion of commodities for such a purpose, this rule will expand the scope of the general order.

First, the general order will cover persons whom the U.S. Government, including the U.S. Department of Commerce, has reason to believe, based on specific and articulable facts, are affiliated with or related to Mayrow. Inclusion of such persons will guard against the risk that persons may attempt to evade the general order's bar on unlicensed exports or reexports to Mayrow by diverting commodities to Mayrow or to persons who are affiliated with or related to Mayrow. The general order will cover such persons by specifically listing them.

Second, the general order will cover persons whom the U.S. Government, including the U.S. Department of Commerce, has reason to believe, based on specific and articulable facts, have acquired or attempted to acquire commodities that are capable of being used in the construction of IEDs. These commodities have been, and may continue to be, employed in IEDs or other explosive devices used against Coalition Forces in Iraq and Afghanistan. The general order will cover such persons by specifically listing them. To guard against the risk of diversion of such commodities for IED-related purposes, the order will also specifically list the persons who are affiliated with or related to such persons.

To reflect this expansion, this rule will update the heading of the general order. This rule will use the term ''persons,'' as defined in 15 CFR 772.1, rather than ''entities,'' as the term ''persons'' covers individuals, organizations and entities. Pursuant to this rule, the general order will list alphabetically all of the persons subject to the order. For each person, the order will indicate the date on which the person was added to the order. All of the persons will be listed in paragraph (a). All of the persons listed will be subject to the same license requirements and limitations on the use of license exceptions. License applications involving these persons will be subject to a general policy of denial.

Addition of Certain Persons

Specifically, pursuant to the expansion described above, this rule adds sixteen additional persons, listed in alphabetical order, to General Order No. 3 as follows:

Al-Faris, RAK Free Zone, P.O. Box 10559, Ras Al Khaimah, U.A.E.;

Ali Akbar Yahya, 505 Siraj Building 17B Street, Mankhool, Dubai, U.A.E.;

Amir Mohammad Zahedi, RAK Free Zone, P.O. Box 10559, Ras Al Khaimah, U.A.E.;

EKT Electronics, 1st floor, Abbasieh Building, Hijaz Street, P.O. Box 10112, Damascus, Syria; and 1st floor, Hujij Building, Korniche Street, P.O. Box 817 No. 3, Beirut, Lebanon;

Encyclopedia Electronics Center, Musalam Al-Baroudi Street, Halbouni, Damascus, Syria;

Frank Lam, 1206–7, 12/F New Victory House, Hong Kong;

GBNTT, No. 34 Mansour Street, Tehran, Iran;

Majid Seif, 27–06 Amcorp Building, Jalan 18, Persiaran Barat 46050 Petaling Jaya, Selangor, Malaysia;

Mohammed Katranji, 1st floor, Abbasieh Building, Hijaz Street, P.O. Box 10112, Damascus, Syria; and 1st floor, Hujij Building, Korniche Street, P.O. Box 817 No. 3, Beirut, Lebanon;

Neda Industrial Group, No. 10 and 12, 64th St. Jamalodin Asadabadi Avenue, Tehran, Iran;

Nedayeh Micron Electronics, No. 34 Mansour St., Tehran, Iran;

Sayed-Ali Hosseini, 201 Latifah Building, Al Maktoum St., Dubai, U.A.E.;

Speedy Electronics Ltd., 1206–7, 12/F New Victory House, Hong Kong;

United Sources Industrial Enterprises, 11/F, Excelsior Building, 68–76 Sha Tsui Road, Hong Kong;

Vast Solution Sdn Bhd., 27–06 Amcorp Building, Jalan 18, Persiaran Barat, 46050 Petaling Jaya, Selangor, Malaysia; and

Y-Sing Components Limited, Unit 401, Harbour Ctr., Tower 2, 8 Hok Cheung Street, Hung Hom, Kowloon, Hong Kong.

Under this order, a BIS license is required for the export or reexport of any item subject to the EAR to any of the above-named persons, including any transaction in which any of the above-named persons will act as purchaser, intermediate consignee, ultimate consignee, or end-user of the items. This order also prohibits the use of License Exceptions (see part 740 of the EAR) for exports and reexports of items subject to the EAR involving such persons.

Consistent with section 6 of the Export Administration Act of 1979, as

amended (50 U.S.C. app. 2401–2420) (2000) (the ''Act''), a foreign policy report was submitted to Congress on June 6, 2007, notifying Congress of the expansion of the general order and the imposition of a control in the form of a licensing requirement for exports and reexports of all items subject to the EAR destined to the persons listed in the order. The report also notified Congress that sixteen additional persons are added to General Order No. 3 with this final rule.

On June 5, 2007, BIS published a proposed rule in the **Federal Register** titled, ''Authorization to Impose License Requirements for Exports or Reexports to Entities Contrary to the National Security or Foreign Policy Interests of the United States''. RIN 0694–AD92. That proposed rule, among other proposed changes related to the Entity List (Supplement No. 4 to Part 744 of the EAR), would create a new § 744.11 to authorize BIS to add to the Entity List entities that BIS has reasonable cause to believe, based on specific and articulable facts, have been, are or pose a risk of being involved in activities that are contrary to the national security or foreign policy interests of the United States or those acting on behalf of such entities. If that rule is published as a final rule, it may provide a basis for adding persons such as those listed in this expanded General Order No. 3 to the Entity List. Interested parties may include references to this final rule, RIN 0694–AD99, in their public comments submitted for RIN 0694–AD92, as outlined in that proposed rule under the Request for Comments section of the preamble.

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)), as extended most recently by the Notice of August 3, 2006 (71 FR 44551 (August 7, 2006)), has continued the EAR in effect under the International Emergency Economic Powers Act (50 U.S.C. 1701–1706 (2000)) (''IEEPA''). 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 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 be subject to a penalty for failure to comply with a collection of information, subject to the requirements of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*) (PRA), unless that collection of information displays a currently valid Office of Management and Budget (OMB) Control Number. This regulation involves collections previously approved by the OMB under control numbers 0694–0088, ''Multi-Purpose Application,'' which carries a burden hour estimate of 58 minutes to prepare and submit form BIS–748. Miscellaneous and recordkeeping activities account for 12 minutes per submission. Total burden hours associated with the Paperwork Reduction Act and Office and Management and Budget control number 0694–0088 are expected to increase slightly as a result of this rule.

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

4. The provisions of the Administrative Procedure Act (5 U.S.C. 553) requiring notice of proposed rulemaking, the opportunity for public participation, and a delay in effective date, are inapplicable because this regulation involves a military or foreign affairs function of the United States. (*See* 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 rule. Because a notice of proposed rulemaking and an opportunity for public comment are not required to be given for this rule by 5 U.S.C. 553, or by any other law, the analytical requirements of the Regulatory Flexibility Act, 5 U.S.C. 601 *et. seq.,* are not applicable.

List of Subjects in 15 CFR Part 736

Exports, foreign trade.

■ Accordingly, part 736 of the Export Administration Regulations (15 CFR part 736) is amended as follows:

PART 736—[AMENDED]

■ 1. The authority citation for 15 CFR part 736 continues to read as follows:

Authority: 50 U.S.C. app. 2401 *et seq.*; 50 U.S.C. 1701 *et seq.*; 22 U.S.C. 2151 (note), Pub. L. 108–175; E.O. 12938, 59 FR 59099, 3 CFR, 1994 Comp., p. 950; E.O. 13020, 61 FR 54079, 3 CFR, 1996 Comp. p. 219; E.O. 13026, 61 FR 58767, 3 CFR, 1996 Comp., p. 228; E.O. 13222, 66 FR 44025, 3 CFR, 2001 Comp., p. 783; E.O. 13338, 69 FR 26751, May 13, 2004; Notice of August 3, 2006, 71 FR 44551 (August 7, 2006); Notice of October 27, 2006, 71 FR 64109 (October 31, 2006).

■ 2. General Order 3 to Supplement No. 1 to part 736, is revised to read as follows:

Supplement No. 1 to Part 736—General Orders

* * * * *

General Order No. 3 of June 5, 2006, as amended on September 6, 2006 and June 8, 2007; Imposition of license requirement for exports and reexports of items subject to the EAR to persons, including persons affiliated with or related to such persons, as designated in paragraph (a) of this general order.

(a) *License requirements.* A license is required to export or reexport any item subject to the EAR to the persons listed in paragraph (a) of this general order. This license requirement also applies to specifically listed affiliated and related persons. This license requirement is effective for each listed person on the date that person was added to the general order, as specified in paragraph (a).

(1) A license is required to export or reexport any item subject to the EAR to these persons as follows: A.H. Shamnad (added on September 6, 2006); Akbar Ashraf Vaghefi (added on September 6, 2006); Al-Faris (added on June 8, 2007); Ali Akbar Yahya (added on June 8, 2007); Amir Mohammad Zahedi (added on June 8, 2007); Atlinx Electronics (added on June 5, 2006); EKT Electronics (added on June 8, 2007); Encyclopedia Electronics Center (added on June 8, 2007); Farrokh Nia Yaghmaei, a.k.a., Farrokh Nia Yaghmayi (added on June 5, 2006); Frank Lam (added on June 8, 2007); GBNTT (added on June 8, 2007); H. Ghasir (added on June 5, 2006); Hamed Athari (added on September 6, 2006); IKCO Trading GmbH (added on September 6, 2006); Majid Seif (added on June 8, 2007); Majidco Micro Electronics (added on June 5, 2006); Mayrow General Trading (added on June 5, 2006); Mayrow Technics Co. (added on September 6, 2006); Micatic General Trading (added on June 5, 2006); Micro Middle East Electronics (added on June 5, 2006); Mohammed Katranji (added on June 8, 2007); Mostafa Salehi (added on September 6, 2006); Narinco (added on June 5, 2006); Neda Industrial Group (added on June 8, 2007); Neda Overseas Electronics L.L.C. (added on September 6, 2006); Nedayeh Micron Electronics (added on June 8, 2007); Pyramid Technologies (added on September 6, 2006); S. Basheer (added on September 6, 2006); Sayed-Ali Hosseini (added on June 8, 2007); Speedy Electronics Ltd. (added on June 8, 2007); United Sources Industrial Enterprises (added on June 8, 2007); Vast Solution Sdn Bhd. (added on June 8, 2007); and Y-Sing Components Limited (added on June 8, 2007). This license requirement applies with respect to any transaction in which any of the above-named persons will act as purchaser, intermediate consignee, ultimate consignee, or end-user of the items.

(2) All persons described in paragraph (a) are located in Dubai, United Arab Emirates, except for Akbar Ashraf Vaghefi (located in Germany and Dubai, United Arab Emirates); EKT Electronics (located in Syria and Lebanon); Encyclopedia Electronics Center (located in Syria); Frank Lam (located in Hong Kong); GBNTT (located in Iran); IKCO Trading GmbH (located in Germany); Majid Seif (located in Malaysia); Mohammed

Katranji (located in Syria and Lebanon); Neda Industrial Group (located in Iran); Nedayeh Micron Electronics (located in Iran); Speedy Electronics Ltd. (located in Hong Kong); United Sources Industrial Enterprises (located in Hong Kong); Vast Solution Sdn Bhd. (located in Malaysia); and Y-Sing Components Limited (located in Hong Kong).

(b) *License Exceptions.* No License Exceptions are available for exports or reexports involving the persons described in paragraph (a) of this General Order.

(c) *Licensing Policy.* License applications involving the persons described in paragraph (a) of the General Order will be subject to a general policy of denial.

Dated: June 5, 2007.

Christopher A. Padilla,

Assistant Secretary for Export Administration.

[FR Doc. E7–11126 Filed 6–7–07; 8:45 am]

BILLING CODE 3510–33–P

DEPARTMENT OF HOMELAND SECURITY

Customs and Border Protection

DEPARTMENT OF THE TREASURY

19 CFR Parts 24, 113, and 128

[CBP Dec. 07–29; USCBP–2006–0015]

RIN 1505–AB39

Fees for Customs Processing at Express Consignment Carrier Facilities

AGENCIES: U.S. Customs and Border Protection, Department of Homeland Security; Department of the Treasury.

ACTION: Final rule.

SUMMARY: This document amends title 19 of the Code of Federal Regulations (19 CFR) to reflect changes to the customs user fee statute made by section 337 of the Trade Act of 2002 and section 2004(f) of the Miscellaneous Trade and Technical Corrections Act of 2004. The statutory amendments made by section 337 concern the fees payable for customs services provided in connection with the informal entry or release of shipments at express consignment carrier facilities and centralized hub facilities, and primarily serve to replace the annual lump sum payment procedure with a quarterly payment procedure based on a specific fee for each individual air waybill or bill of lading. Section 2004(f) amended the user fee statute by authorizing the assessment of both the merchandise processing fee and a reimbursable fee assessed on each air waybill or bill of lading for merchandise that is formally entered at these sites and valued at $2,000 or less. In addition, pursuant to the authority established in 19 U.S.C. 58c(b)(9)(B)(i), this document raises the existing $0.66 fee assessed on individual air waybills or bills of lading to $1.00 to more equitably align it with the actual costs incurred by CBP in processing these items.

EFFECTIVE DATE: July 9, 2007.

FOR FURTHER INFORMATION CONTACT: Michael L. Jackson, Office of Field Operations, Cargo Control, Tel.: (202) 344–1196.

SUPPLEMENTARY INFORMATION:

Background

On July 28, 2006, CBP published in the **Federal Register** (71 FR 42778) a proposal to reflect the changes to the customs user fee statute made by section 337 of the Trade Act of 2002 and section 2004(f) of the Miscellaneous Trade and Technical Corrections Act of 2004, as well as to raise the existing $0.66 fee assessed on individual air waybills or bills of lading to $1.00.

Statutory Changes Made by Section 337(a) of the Trade Act of 2002

On August 6, 2002, the President signed into law the Trade Act of 2002, Public Law 107–210, 116 Stat. 933. Section 337(a) of the Trade Act of 2002 amended section 13031(b)(9) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)) by adding new requirements for the payment of user fees for customs services provided by CBP to express consignment carrier facilities and centralized hub facilities in connection with imported letters, documents, shipments or other merchandise to which informal entry procedures apply. The statutory amendments made by section 337 replaced the annual lump sum payment procedure with a quarterly payment procedure based on a specific fee for each individual air waybill or bill of lading. In addition, section 337(a) amended 19 U.S.C. 58c(b)(9)(B)(i) to authorize the Secretary of the Treasury to adjust the $0.66 fee prescribed in 19 U.S.C. 58c(b)(9)(A)(ii) to an amount that is not less than $0.35 and not more than $1.00 per individual air waybill or bill of lading.

Statutory Changes Made by Section 2004(f) of the Miscellaneous Trade and Technical Corrections Act of 2004

The Miscellaneous Trade and Technical Corrections Act of 2004 (''Trade Act of 2004'') was signed into law by the President on December 3, 2004 (Pub. L. 108–429, 18 Stat. 2593). Section 2004(f) of the Trade Act of 2004 made further amendments to section 13031(b)(9) of the Consolidated Omnibus Budget Reconciliation Act of 1985 (19 U.S.C. 58c(b)(9)) and authorized the assessment of merchandise processing fees provided for in 19 U.S.C. 58c(a)(9), as well as the fees that are currently assessed on individual air waybills or bills of lading, for merchandise that is formally entered at express consignment carrier facilities and centralized hub facilities and valued at $2,000 or less.

Notice of Proposed Rulemaking

In the Notice of Proposed Rulemaking published in the **Federal Register** (71 FR 42778) on July 28, 2006, CBP proposed amendments to its regulations to conform to the statutory changes described above. In addition, pursuant to the authority established in 19 U.S.C. 58c(b)(9)(B)(i), that document set forth a proposed adjustment by the Secretary of the Treasury to increase the $0.66 reimbursable fee prescribed by 19 U.S.C. 58c(b)(9)(A)(ii) and payable to CBP by express consignment carrier facilities and centralized carrier facilities to $1.00. The fee increase is necessary to adequately reimburse CBP for the actual costs incurred by the agency in processing individual air waybills and bills of lading at these sites. The only mechanism for reimbursing CBP for these relocation expenses is through the established fee, which does not sufficiently cover CBP's regular expenses at these sites.

CBP solicited comments on these proposals.

Discussion of Comments

Five commenters responded to the solicitation of public comment in the proposed rule. A description of the comments received, together with CBP's analyses, is set forth below.

Comment: Four commenters expressed the view that proposed § 24.23(b)(1)(i)(A), which states, in part, that ''merchandise that is formally entered is subject to a $1.00 per individual air waybill or bill of lading fee * * *'' does not accurately reflect section 2004(f) of the Miscellaneous Trade and Technical Corrections Act of 2004. The commenters uniformly interpret section 2004(f) as authorizing the assessment of both the merchandise processing fee (MPF) and a reimbursable fee for each air waybill or bill of lading *only* for formal entries valued at $2,000 or less.

CBP's Response: CBP agrees. The final rule will clarify that only those formal entries valued at $2,000 or less are subject to both the merchandise processing fee and the reimbursable fee assessed per individual air waybill or bill of lading.

Comment: Four commenters stated that the explanation of actual costs incurred by CBP in connection with the processing of an individual air waybill or bill of lading is legally insufficient, unsubstantiated, and fails to justify an increase in the individual airway bill or bill of lading fee.

CBP's Response: CBP has met the statutory requirement set forth in 19 U.S.C. 58c(b)(9)(B)(i) which requires that, ''[T]he Secretary shall provide notice in the **Federal Register** of a proposed adjustment [of the fee assessed per individual air waybill or bill of lading] * * * and the reasons therefore and shall allow for public comment on the proposed adjustment.'' CBP published notice in the **Federal Register** of the proposed adjustment and presented both collections received and aggregate costs incurred (*see* 71 FR 42778). The shortfall in collections versus actual costs justifies the increase in the fee rate assessed for each individual air waybill or bill of lading. CBP is entitled to recover both direct and indirect costs (salaries and benefits, support, overhead, etc.) incurred in connection with the processing of an individual air waybill or bill of lading.

Regarding the commenters' claims that the cost/collection data presented in 71 FR 42778 as the basis for the proposed fee increase are unsubstantiated or otherwise insufficient, it is noted that the data were generated by the Cost Management Information System (CMIS), an agency-wide cost accounting system implemented by CBP in 1998. CMIS uses an Activity Based Costing (ABC) methodology, whereby data are collected from various CBP sources and compiled in CMIS for a cost-of-operations perspective of the organization. Under CMIS, user fee costs are segregated from all other costs and collections are deposited in distinct accounts and can only be used to cover costs authorized by their respective legislation. CMIS uses distinct codes to identify the hours and activities performed by a CBP Officer at an express facility. CBP views the production of CMIS-generated data set forth in the proposed rule as a valid and accurate method of substantiating the agency's claim that actual costs incurred by CBP in processing individual air waybills and bills of lading at express consignment and carrier hub facilities exceed collections.

The table, set forth below, is updated in this final rule to set forth the finance data associated with CBP's processing of individual air waybills and bills of lading at express consignment facilities and centralized hub facilities for FY's 2004, 2005 and 2006. This table updates and clarifies the table published in 71 FR 42778 to reflect that: (1) The data set forth below for FY 2006 are based on actual data, not estimated projections; (2) the heading text describing ''Estimated Package Volume'' has been replaced with the more accurate heading, ''Individual Air Waybills or Bills of Lading''; and (3) certain CBP cost/deficit amounts for FY 2005 have been corrected to rectify a typographical error in the proposed rule in which CBP Costs were identified as $21,393,520.

Fiscal year	Individual Air waybills or bills of lading	*Total collections (based on $.66 cents per bill)	CBP's retained portion of collected amount (based on $.33 cents per bill)	**CBP costs	CBP cost per bill	CBP deficit
2004	47,243,205	$31,180,516	$15,590,258	$19,945,704	0.42	($4,355,446)
2005	45,364,139	29,940,332	14,970,166	***21,939,520	***0.48	***(6,969,354)
2006	48,038,188	31,705,204	15,852,602	26,659,626	0.55	(10,807,024)

* Collection information from the Automated Commercial System Monthly Report of Collections (ACSR–CL 134).
** All cost information from the Cost Management Information System.
*** These numbers correct typographical errors in 71 FR 42778 for FY 2005.

Comment: One commenter questioned CBP's requirement, as described in 71 FR 42778, that the fee be paid on the ''lowest level'' air waybill or bill of lading contained in a consolidated shipment rather than on the master bill that represents the actual shipping document. It was also suggested that the ''lowest level'' concept was a means to elevate the bill count to increase fees.

CBP's Response: CBP disagrees. The implementation of the fee was to replace the direct reimbursement mechanism by which CBP was reimbursed for services provided in the processing of letters, documents, records, shipments, merchandise, or any other item. Section 58c(b)(9)(A)(II)(ii) states that the fee is assessed ''per individual air waybill or bill of lading.'' CBP believes the use of the word ''individual'' indicates that applying the fee to a bill at the lowest level is appropriate, as opposed to applying the fee to a master bill that covers numerous and separate individual bills.

Comment: Four commenters view the assessment of 19 U.S.C. 1592 penalties for the underpayment or failure to pay reimbursement fees, as prescribed in § 24.23(b)(4)(iv) of title 19 of the CFR, as inappropriate because 1592 penalties apply to fraud, gross negligence and negligence.

CBP's Response: Penalties assessed pursuant to 19 U.S.C. 1592 may be applied when a false and material statement or omission occurs by reason of negligence, gross negligence or fraud in connection with the entry or introduction of merchandise into the commerce of the United States. Consequently, CBP believes it may be appropriate to apply these penalties in cases where a false and material statement or omission is made by negligence, gross negligence or fraud regarding the number of air waybills subject to the fee. CBP acknowledges that clerical errors or mistakes of fact are not violations unless they are part of negligent conduct.

Comment: Two commenters viewed as excessive the provision in § 113.64(a) of title 19 of the CFR that provides that a late payment is subject to liquidated damages equal to two times the fee not paid.

CBP's Response: The failure to pay the required fee within the prescribed time frame is a breach of the international carrier bond conditions resulting in liquidated damages. The standard for liquidated damages set forth in § 113.64(a) is two times the processing fees not timely paid. The proposed rule did not change that standard; it merely expands it to include the fees for processing letters, documents, records, shipments, merchandise, or other items.

Comment: Two commenters expressed the opinion that assessment of 19 U.S.C. 1592 penalties and liquidated damages constitutes double penalization.

CBP's Response: CBP disagrees. As indicated above, 19 U.S.C. 1592

penalties apply to false and material statements or omissions made by fraud, gross negligence and negligence, while liquidated damages result under 19 CFR 113.64(a) for the breach of bond conditions, *i.e.*, for breach of contract. Thus, liquidated damages are the result of a breach of a contract and are not penalties and there is no ''double penalization''.

Comment: Three commenters stated that CBP needs to establish a means to protest and appeal decisions regarding the underpayment or overpayment of reimbursable fees.

CBP's Response: CBP believes there are adequate administrative review processes available to challenge decisions regarding the underpayment or overpayment of the fee. Initially, the Express Consignment operator calculates the number of individual air waybills or bill of ladings processed for the required calendar quarter and remits a payment equal to that number multiplied by the set fee. Section 24.23(b)(4)(iii)(A) of title19 of the CFR contains a mechanism for challenging an overpayment by providing up to one year to request a refund for overpayment. In addition, if CBP assesses a charge or exaction, the assessment is subject to an administrative challenge through the filing of a protest under 19 U.S.C. 1514.

Comment: One commenter stated that CBP should address whether there were periods when CBP's collections exceeded costs and whether any such surplus had occurred.

The commenter also stated that surplus funds should be carried over from one period to another.

CBP's Response: Since the enactment of the Trade Act of 2002 and the implementation of the provisions of 19 U.S.C. 58c, CBP has not had a surplus of funds (see collection/cost table in CBP's response to second comment, set forth above). However, in the event a surplus should occur, CBP will maintain the surplus funds in the user fee account for providing services to express consignment operations. The funds will remain until expended.

Comment: One commenter stated that CBP's analysis of costs failed to include the collection of fees under the provisions of 19 U.S.C. 58c(a)(9), *i.e.*, merchandise processing fees (MPF), from many of the same shipments subject to the fees of 19 U.S.C. 58c(b)(9).

CBP's Response: CBP disagrees. The commenter is correct in that shipments formally entered and valued at $2,000 or less are subject to both the air waybill or bill of lading fee as well as the MPF. However, CBP did not include the MPF funds as part of its financial analysis as those funds are not available for express consignment operations. MPF is collected under 19 U.S.C. 58c(a)(9). Fees collected under that paragraph are deposited, by virtue of 19 U.S.C. 58c(f)(1), into the Customs User Fee Account. Express consignment fees are excluded from collection under 19 U.S.C. 58c(a) by section 58c(a)(10) and 58c(b)(9)(B). Instead, express consignment fees are collected under 19 U.S.C. 58c(b)(9).

Comment: One commenter suggested that if proposed § 128.11(b)(7)(iv) of title 19 of the CFR requires Express Consignment Carrier Facilities operators to report users of the facility on a quarterly basis, then the application procedures should include similar language.

CBP's Response: CBP agrees. Section 128.11(b) is amended in this final rule to include the requirement to identify prospective users.

Comment: Two commenters question whether proposed § 24.23(b)(1)(i)(A) is accurate in requiring that the 0.21 percent *ad valorem* fee be paid by the carrier as the MPF is the responsibility of the importer.

CBP's Response: CBP concurs. The last sentence in § 24.23(b)(1)(i)(A) will be modified by deleting the phrase, ''by the carrier'' so as to clarify that the importer of record is the party responsible for paying the 0.21 *ad valorem* fee. Corresponding changes will be made elsewhere to the final regulatory text as necessary.

Comment: One commenter suggested that the proposed fee increase of 50% is out of line with federal pay increases for the same period.

CBP's Response: In August, 2002 the pay grade for journeyman CBP officers was elevated to the General Schedule (GS) − 11 level. The difference between the Fiscal Year (FY) 2002 GS–9 Step 1 and FY 2006 GS–11 Step 1 was $14,544 or a 38.9% increase. (GS–9/1=$37,428, GS–11/1=$51,972). Based on these figures, CBP does not view the increase as unduly disproportionate.

Comment: One commenter stated that CBP should detail the cost of hiring the 27 new CBP officers mentioned in the notice of proposed rulemaking.

CBP's Response: The hiring costs cited in the proposed rule were projected costs for anticipated positions based on resource requests. Additional resources are contingent on funding availability. As such, these costs have been removed from the footnotes in the collection/cost table set forth above.

Comment: One commenter stated that CBP has, without justification, concluded that express consignment operators will simply pass the increased per item air waybill and bill of lading fee costs along to their customers.

CBP's Response: CBP noted in the proposed rule that small business entities will ''likely pass the costs of the increased fee on to their customers to the extent that they are able.'' CBP remains of the view that this is the likely option for many of the impacted parties.

Comment: Two commenters mentioned the CBP employee relocation costs associated with a Midwest hub relocation as a contributing factor for the fee increase, and further noted that these events are infrequent and do not impose regularly recurring costs on CBP.

CBP's Response: CBP's costs include relocation expenses as authorized by law. As such expenses are episodic in nature and vary from year to year, CBP does not incur relocation expenses at the same rate annually. To the extent that CBP incurs relocation expenses in a given fiscal year, such costs will be accounted for in the agency's subsequent fiscal year cost analysis.

Comment: One commenter stated that CBP's ''estimated average annual burden per respondent/recordkeeper'' for complying with fee reporting requirements is low and requests that CBP explain what data it relied upon for these estimates.

CBP's Response: In the proposed rule, CBP reported the following estimated average annual burden per respondent associated with the proposed fee reporting requirements:
§ 24.23(b)(4)(ii)—8 hours;
§ 24.23(b)(4)(iii)—1 hour; and
§ 128.11(b)—2 hours. Proposed § 24.23(b)(4)(ii) requires a respondent to report to CBP the identity of the calendar quarter to which the payment relates, the identity of the facility to which the payment is made and the applicable port code (and, if multiple facilities are used, the identity of each facility, its port code and the portion of the payment that pertains to each code). Proposed § 24.23(b)(4)(iii) requires the respondent to provide CBP with an explanation of any overpayment or underpayment accrued in a previous quarter. Proposed § 128.11(b), in pertinent part, requires the respondent to provide CBP with a list of all carriers or operators that intend to use the facility, are currently using the facility, or have ceased to use the facility. CBP is of the view that the normal business records already maintained by affected business entities provide the basis to calculate and transmit the required information and these regulations do not require the creation of any new data elements. For this reason, CBP believes

the information collection burden reported in the proposed rule represents a realistic estimate of the recordkeeping burden associated with these regulations.

Comment: Two commenters stated that CBP did not show fiscal year 2002 and 2003 volumes in its analysis.

CBP's Response: In the proposed rule, CBP presented the costs and collections for Fiscal Years (FY) 2004 and 2005, and set forth projected costs for FY 2006. The FY 2003 data are not readily available. The figures covering FY 2002 are irrelevant as there was a different reimbursement structure in place at the time.

Comment: One commenter stated that CBP needs to confirm whether the cost of data transmission lines are included in the reimbursable cost calculation as opposed to separate billings.

CBP's Response: The data transmission lines are not included in nor covered by the reimbursable fee and these costs are not included in CBP's costs calculation. CBP currently bills for data transmission lines pursuant to authority granted by 19 U.S.C. 58c(b)(9)(B)(ii).

Comment: One commenter noted that proposed § 24.23(b)(4) should be clarified to state that only *import* shipments are subject to the reimbursable fee, *i.e.*, those shipments from a foreign shipper to a U.S. consignee.

CBP's Response: The reimbursable fee applies to the processing of airway bills for shipments arriving in the U.S., and not for shipments leaving the U.S. The regulatory text set forth in § 24.23(b)(4) will be clarified accordingly.

Comment: One commenter stated that CBP needs to confirm that none of the costs are associated with the new class of CBP officers referred to as CBP Agriculture Specialists.

CBP's Response: None of the costs shown in the proposed rule are associated with the CBP Agriculture Specialists. There are distinct codes within CMIS for the CBP officer and the CBP Agriculture Specialist.

Comment: One commenter noted that the collection/cost table set forth in the proposed rule (71 FR 42778) included a column entitled ''Estimated Package Volume'' with numbers for FY 2004 and FY 2005, and estimated numbers for FY 2006. As the statutory provisions for the reimbursable fee are based on individual air waybills or bills of lading rather than individual shipping pieces, the commenter suggests that CBP should revise the table to accurately reflect estimated shipment volume, and CBP should also adjust the numbers to reflect the actual number of shipments with individual air waybills or bills of lading subject to the fee. In addition, it is suggested that CBP verify that the subsequent numbers in the ''Total Collections'' column are accurate, as they are derived from the numbers in the previously published column entitled ''Estimated Package Volume''.

CBP's Response: CBP agrees that clarification of the table is necessary. In this regard, it is noted that the number under the erroneous header entitled ''Estimated Package Volume'' was, in fact, describing air waybills and bills of lading—not packages. The header is correctly named in the table set forth in this document.

Comment: One commenter notes that, based on the figures provided in the collection/cost table set forth in the proposed rule, CBP claims its costs have increased by 7.3% and 5.4% while its workload has dropped 4% in each of the past two fiscal years. Additionally, a footnote to the cost table set forth in the proposed rule states that CBP anticipated adding 27 new CBP Officer positions in FY 2006. The commenter requests that CBP detail the facilities to which the 27 new CBP officer positions are assigned.

CBP's Response: The collection/cost table set forth in the proposed rule indicates workload decreases for each of years FY 2004 and 2006. The FY 2006 figures were based on projected estimates. When CBP received the actual numbers, the only workload decrease occurred in FY 2005. The reference to the 27 new employees was based on a hiring projection that did not occur.

An increase in volume will cause an increase in revenue. A decrease in volume may not actually result in a decrease in costs. CBP hub employees continue to work 8 hours a day regardless of volume; however, a decrease in volume could reduce the demand for overtime resulting in reduced costs at hub facilities. In either event, pursuant to 19 U.S.C. 58c(b)(9)(B)(i), the Secretary of the Treasury may once per fiscal year adjust the fee to an amount not less than $0.35 and not more than $1.00 per individual air waybill or bill of lading. In the event that collections begin to exceed costs CBP may, pursuant to the authority cited above, analyze and adjust the fee downward.

Comment: Two commenters stated that CBP should clarify the language used to describe the unit of measure relevant to this reimbursable process and that actual data, rather than estimates, should be provided.

CBP's Response: As noted above, the titles used in the collection/cost table have been modified to more accurately reflect the nature of the program (*i.e.*, individual air waybills or bills of lading). Actual data volumes are reflected in the table set forth in this document.

Conclusion

After analysis of the comments and further review of the matter, CBP has determined to adopt as a final rule, with the changes mentioned in the comment discussion and with additional non-substantive editorial changes, the proposed rule published in the **Federal Register** (71 FR 42778) on July 28, 2006.

The Regulatory Flexibility Act

CBP examined the impacts of the proposed rule on small entities as required by the Regulatory Flexibility Act (Pub. L. No. 96–354, 94 Stat. 1164, codified at 5 U.S.C. chapter 6) and prepared an Initial Regulatory Flexibility Act Analysis (IRFA) in the NPRM published in the **Federal Register** (71 FR 42778) on July 28, 2006. Based on annual data collected by CBP and set forth in that document, there are 22 businesses that will be affected by this rule. Of these, 10 are large businesses, 11 are small businesses, and 1 is a small, foreign-owned business. The 12 small business entities affected by this rule are either courier services (NAICS code 492110) or arrange freight transportation (NAICS code 488510). Sixteen of these companies (both large and small) are members of an association that owns and operates a consignment facility. That association acts as a single respondent for its members.

For this Final Regulatory Flexibility Act analysis, CBP analyzed annual revenue data for the 12 small businesses affected. To determine the impact of the proposed rule on annual revenues, CBP calculated the projected difference in costs between the old and proposed fee and compared that (as a percentage) to average annual revenues. Based on these calculations, CBP estimates that the rule will have a 5-percent impact or less on annual revenues for 5 of the small businesses. The rule will have a 5- to 10-percent impact on one of the companies and a greater than 10-percent impact on four companies. CBP could not find data for one small business, and one was foreign-owned. In the course of CBP's examination of the impacts on annual revenues for these small businesses, CBP determined that these entities may pass the cost of the increased fee on to their customers to the extent that they are able.

CBP concluded that the proposed rule set forth in 71 FR 42778 could have a

significant impact on a substantial number of small entities. CBP solicited comments on any of the regulatory requirements that could minimize the cost to small businesses.

One comment was received that pertains specifically to the IRFA set forth in the proposed rule. That comment, addressed above in the ''comments'' section of this document, noted that CBP concluded, without justification, that express consignment operators will pass the increased cost of the fee along to their customers to the extent possible. As set forth above, CBP remains of the view that the impacted business entities are likely to pass along the increased fee to their customers to the extent that they are able. The agency acknowledges, however, that the mechanism by which an individual express consignment operator adjusts to the proposed fee increase is an internal business decision and, therefore, no definitive conclusion regarding the passing along of costs can be made.

Reporting and Recordkeeping

This rule will change current paperwork requirements. No new professional skills will be necessary for the preparations of the reports and records. For more detail, see PAPERWORK REDUCTION ACT below.

Other Federal Rules

This rule does not duplicate, overlap, or conflict with other federal regulations.

Regulatory Alternatives

CBP did not consider any alternatives to the rule.

Conclusions

Based on the above analysis, CBP concludes that the final rule may have a significant economic impact on a substantial number of small entities.

Paperwork Reduction Act

The collections of information in this document are contained in §§ 24.23 and 128.11 (19 CFR 24.23 and 128.11). This information is used by CBP to determine whether user fees required by statute have been properly paid. The likely respondents are business organizations including importers and air carriers.

The collections of information for paying fees for customs services provided in connection with the informal entry or release of shipments at express consignment carrier facilities and centralized hub facilities was previously approved by the Office of Management and Budget under control number 1651–0052. In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3507), CBP has submitted to OMB for review the following adjustments to the information provided to OMB for the previously approved OMB control number to account for the changes in this rule. An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a valid control number assigned by OMB.

The following is a breakdown of the estimated annual burden per respondent associated with the collection of information in this final rule:

- An express consignment operator (courier) will incur an estimated annual burden of 8 hours to prepare the quarterly payment report as per § 24.23(b)(4)(ii).
- An express consignment courier facility operator, as per § 128.11(b), will incur an estimated annual burden of 2 hours to prepare a quarterly list of all carriers or operators currently using an express consignment courier facility.
- An express consignment operator (courier) will incur an estimated annual burden of 1 hour to prepare a request for a refund of an overpayment as per § 24.23(b)(4)(iii).

Comments concerning the accuracy of this burden estimate and suggestions for reducing this burden should be sent to U. S. Customs and Border Protection, Information Services Group, Office of Finance, 1300 Pennsylvania Avenue, NW., Washington, DC 20229, and to OMB, Attention: Desk Officer for the Department of the Treasury, Office of Information and Regulatory Affairs, Washington, DC 20503. A copy should also be sent to the Trade and Commercial Regulations Branch, Office of International Trade, U.S. Customs and Border Protection, 1300 Pennsylvania Avenue, NW. (Mint Annex), Washington, DC 20229.

Executive Order 12866

This amendment does not meet the criteria for a ''significant regulatory action'' as specified in Executive Order 12866.

Signing Authority

This document is being issued in accordance with § 0.1(a)(1) of the CBP regulations (19 CFR 0.1(a)(1)) pertaining to the authority of the Secretary of the Treasury (or his/her delegate) to approve regulations related to certain customs revenue functions.

List of Subjects

19 CFR Part 24

Accounting, Claims, Customs duties and inspection, Exports, Imports, Interest, Reporting and recordkeeping requirements, Taxes, User fees, Wages.

19 CFR Part 113

Air carriers, Bonds, Customs duties and inspection, Exports, Freight, Imports, Reporting and recordkeeping requirements, Surety bonds.

19 CFR Part 128

Administrative practice and procedure, Carriers, Couriers, Customs duties and inspection, Entry, Express consignments, Freight, Imports, Informal entry procedures, Reporting and recordkeeping requirements.

Amendments to the Regulations

■ For the reasons set forth in the preamble, parts 24, 113, and 128 of title 19 of the CFR (19 CFR Parts 24, 113, and 128), are amended as set forth below.

PART 24—CUSTOMS FINANCIAL AND ACCOUNTING PROCEDURE

■ 1. The authority citation for part 24 continues to read in part as follows:

Authority: 5 U.S.C. 301; 19 U.S.C. 58a–58c, 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1505, 1520, 1624; 26 U.S.C. 4461, 4462; 31 U.S.C. 9701; Pub. L. 107–296, 116 Stat. 2135 (6 U.S.C. 1 *et. seq.*).

* * * * *

Section 24.17 also issued under 19 U.S.C. 261, 267, 1450, 1451, 1452, 1456, 1524, 1557, 1562; 46 U.S.C. 2110, 2111, 2112;

Section 24.23 also issued under 19 U.S.C. 3332;

* * * * *

§ 24.17 [Amended]

■ 2. In § 24.17:

■ a. The section heading is revised to read as follows: ''Reimbursable services of CBP employees.'';

■ b. Paragraphs (a) through (d) are amended by removing the words ''Customs employee'' where they appear and adding in each place the term ''CBP employee''; and

■ c. Paragraphs (a)(12) and (a)(13) are removed and paragraph (a)(14) is redesignated as paragraph (a)(12).

■ 3. In § 24.23:

■ a. Paragraph (a) is amended by removing the word ''Customs'' each place that it appears and adding the term ''CBP'';

■ b. Paragraphs (b)(1)(i)(A) and paragraph (b)(2) are revised;

■ c. New paragraphs (b)(3) and (b)(4) are added;

■ d. The introductory text of paragraph (c)(1) is amended by removing the reference ''(b)(2)(i)'' and adding, in its place, the reference ''(b)(2)'';

■ e. Paragraph (c)(2)(i) is amended by removing the reference ''(b)(2)(i)'' and adding, in its place, the reference ''(b)(2)'';

■ f. The first sentence of paragraph (c)(3) is amended by removing the reference ''(b)(2)(i)'' and adding, in its place, the reference ''(b)(2)''; and

■ g. Paragraph (c)(5) is amended by removing the reference ''(b)(2)(i)'' and adding, in its place, the reference ''(b)(2)''.

The revisions and additions read as follows:

§ 24.23 Fees for processing merchandise.

* * * * *

(b) *Fees*—(1) *Formal entry or release*—(i) *Ad valorem fee*—(A) *General.* Except as provided in paragraph (c) of this section, merchandise that is formally entered or released is subject to the payment to CBP of an *ad valorem* fee of 0.21 percent. The 0.21 *ad valorem* fee is due and payable to CBP by the importer of record of the merchandise at the time of presentation of the entry summary and is based on the value of the merchandise as determined under 19 U.S.C. 1401a. In the case of an express consignment carrier facility or centralized hub facility, each shipment covered by an individual air waybill or bill of lading that is formally entered and valued at $2,000 or less is subject to a $1.00 per individual air waybill or bill of lading fee and, if applicable, to the 0.21 percent *ad valorem* fee in accordance with paragraph (b)(4) of this section. * * *

* * * * *

(2) *Informal entry or release.* Except in the case of merchandise covered by paragraph (b)(3) or paragraph (b)(4) of this section, and except as otherwise provided in paragraph (c) of this section, merchandise that is informally entered or released is subject to the payment to CBP of a fee of:

(i) $2 if the entry or release is automated and not prepared by CBP personnel;

(ii) $6 if the entry or release is manual and not prepared by CBP personnel; or

(iii) $9 if the entry or release, whether automated or manual, is prepared by CBP personnel.

(3) *Small airport or other facility.* With respect to the processing of letters, documents, records, shipments, merchandise, or any other item that is valued at $2,000 or less, or any higher amount prescribed for purposes of informal entry in § 143.21 of this chapter, a small airport or other facility must pay to CBP an amount equal to the reimbursement (including overtime) which the facility is required to make during the fiscal year under § 24.17.

(4) *Express consignment carrier and centralized hub facilities.* Each carrier or operator using an express consignment carrier facility or a centralized hub facility must pay to CBP a fee in the amount of $1.00 per individual air waybill or individual bill of lading for the processing of airway bills for shipments arriving in the U.S. In addition, if merchandise is formally entered and valued at $2,000 or less, the importer of record must pay to CBP the *ad valorem* fee specified in paragraph (b)(1) of this section, if applicable. An individual air waybill or individual bill of lading is the individual document issued by the carrier or operator for transporting and/or tracking an individual item, letter, package, envelope, record, document, or shipment. An individual air waybill is the bill at the lowest level, and is not a master bill or other consolidated document. An individual air waybill or bill of lading is a bill representing an individual shipment that has its own unique bill number and tracking number, where the shipment is assigned to a single ultimate consignee, and no lower bill unit exists. Payment must be made to CBP on a quarterly basis and must cover the individual fees for all subject transactions that occurred during a calendar quarter. The following additional requirements and conditions apply to each quarterly payment made under this section:

(i) The quarterly payment must conform to the requirements of § 24.1, must be mailed to Customs and Border Protection, Revenue Division/Attention: Reimbursables, 6650 Telecom Drive, Suite 100, Indianapolis, Indiana 46278, and must be received by CBP no later than the last day of the month that follows the close of the calendar quarter to which the payment relates.

(ii) The following information must be included with the quarterly payment:

(A) The identity of the calendar quarter to which the payment relates;

(B) The identity of the facility for which the payment is made and the port code that applies to that location and, if the payment covers multiple facilities, the identity of each facility and its port code and the portion of the payment that pertains to each port code; and

(C) The total number of individual air waybills and individual bills of lading covered by the payment, and a breakdown of that total for each facility covered by the payment according to the number covered by formal entry procedures, the number covered by informal entry procedures specified in §§ 128.24(e) and 143.23(j) of this chapter, and the number covered by other informal entry procedures.

(iii) Overpayments or underpayments may be accounted for by an explanation in, and adjustment of, the next due quarterly payment to CBP. In the case of an overpayment or underpayment that is not accounted for by an adjustment of the next due quarterly payment to CBP, the following procedures apply:

(A) In the case of an overpayment, the carrier or operator may request a refund by writing to Customs and Border Protection, Revenue Division/Attention: Reimbursables, 6650 Telecom Drive, Suite 100, Indianapolis, Indiana 46278. The refund request must specify the grounds for the refund and must be received by CBP within one year of the date the fee for which the refund is sought was paid to CBP; and

(B) In the case of an underpayment, interest will accrue on the amount not paid from the date payment was initially due to the date that payment to CBP is made.

(iv) The underpayment or failure of a carrier or operator using an express consignment carrier facility or a centralized hub facility to pay all applicable fees owed to CBP pursuant to paragraph (b)(4) of this section may result in the assessment of penalties under 19 U.S.C. 1592, liquidated damages, and any other action authorized by law.

* * * * *

PART 113—CUSTOMS BONDS

■ 4. The authority citation for part 113 continues to read in part as follows:

Authority: 19 U.S.C. 66, 1623, 1624.

* * * * *

■ 5. In § 113.64, paragraph (a) is amended by adding a new sentence at the end to read as follows:

§ 113.64 International carrier bond conditions.

* * * * *

(a) * * * If the principal (carrier or operator) fails to pay the fees for processing letters, documents, records, shipments, merchandise, or other items on or before the last day of the month that follows the close of the calendar quarter to which the processing fees relate pursuant to § 24.23(b)(4) of this chapter, the obligors (principal and surety, jointly and severally) agree to pay liquidated damages equal to two times the processing fees not timely paid to CBP as prescribed by regulation.

* * * * *

PART 128—EXPRESS CONSIGNMENTS

■ 6. The authority citation for part 128 is revised to read as follows:

Authority: 19 U.S.C. 58c, 66, 1202 (General Note 3(i), Harmonized Tariff Schedule of the United States), 1321, 1484, 1498, 1551, 1555, 1556, 1565, 1624.

■ 7. In § 128.11:

■ a. Paragraphs (b)(2) and (b)(7)(ii)–(v) are revised; and

■ b. Paragraph (c) is amended, in the first sentence, by removing the word ''shall'' and adding in its place the word ''must'' and, in the second sentence, by removing the word ''Customs'' and adding in its place the term ''CBP''.

The revisions read as follows:

§ 128.11 Express consignment carrier application process.

* * * * *

(b) * * *

(2) A statement of the general character of the express consignment operations that includes, in the case of an express consignment carrier facility, a list of all carriers or operators that intend to use the facility.

* * * * *

(7) * * *

(ii) Sign and implement a narcotics enforcement agreement with U.S. Immigration and Customs Enforcement (ICE).

(iii) Provide, without cost to the Government, adequate office space, equipment, furnishings, supplies and security as per CBP's specifications.

(iv) If the entity is an express consignment carrier facility, provide to Customs and Border Protection, Revenue Division/Attention: Reimbursables, 6650 Telecom Drive, Suite 100, Indianapolis, Indiana 46278, at the beginning of each calendar quarter, a list of all carriers or operators currently using the facility and notify that office whenever a new carrier or operator begins to use the facility or whenever a carrier or operator ceases to use the facility.

(v) If the entity is a hub facility or an express consignment carrier, timely pay all applicable processing fees prescribed in § 24.23 of this chapter.

* * * * *

Deborah J. Spero,

Acting Commissioner, U.S. Customs and Border Protection.

Approved: June 4, 2007.

Timothy E. Skud,

Deputy Assistant Secretary of the Treasury.

[FR Doc. E7–11071 Filed 6–7–07; 8:45 am]

BILLING CODE 9111–14–P

DEPARTMENT OF HOMELAND SECURITY

Coast Guard

33 CFR Part 117

[CGD01–07–056]

Drawbridge Operation Regulations; Raritan River, Arthur Kill, and Their Tributaries, NJ

AGENCY: Coast Guard, DHS.

ACTION: Notice canceling temporary deviation from regulations; notice of temporary deviation from regulations; request for comments.

SUMMARY: The Coast Guard is canceling the temporary deviation concerning the test operating schedule governing the AK Railroad Bridge across Arthur Kill at mile 11.6 between Staten Island, New York and Elizabeth, New Jersey. This deviation is canceled because the test schedule proved ineffective. In addition, the Commander, First Coast Guard District, has issued a new temporary deviation from the regulation governing the operation of the AK Railroad Bridge. This new temporary deviation requires the AK Railroad Bridge to remain in the open position at all times, except that, the draw would close for the passage of trains for two daily thirty minute closure periods within a designated one hour time frame on a fixed schedule with a one hour adjustment whenever high water occurs during or up to one hour after the applicable closure period. In addition, a number of unscheduled requests for thirty minute closure periods may be granted by the Coast Guard within one to three hours of receipt of the request. The purpose of this deviation is to test a new temporary change to the drawbridge operation schedule to help determine the most equitable and safe solution to facilitate the present and anticipated needs of navigation and rail traffic.

DATES: The temporary deviation published on March 20, 2007 in 72 FR 12981 is cancelled as of midnight on June 8, 2007. The revised deviation is effective 12:01 a.m. on June 8, 2007 until November 23, 2007. Comments must be received by October 15, 2007.

ADDRESSES: You may mail comments and related material to Commander (dpb), First Coast Guard District Bridge Branch, One South Street, Battery Park Building, New York, New York, 10004, or deliver them to the same address between 7 a.m. and 3 p.m., Monday through Friday, except, Federal holidays. The telephone number is (212) 668–7165. The First Coast Guard District, Bridge Branch, maintains the public docket for this deviation. Comments and material received from the public, as well as documents indicated in this notice as being available in the docket, will become part of this docket and will be available for inspection or copying at the First Coast Guard District, Bridge Branch, 7 a.m. to 3 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Mr. Joe Arca, Project Officer, First Coast Guard District, Bridge Branch, at (212) 668–7165.

SUPPLEMENTARY INFORMATION:

Request For Comments

We encourage you to participate in evaluating this test schedule by submitting comments and related material. If you do so, please include your name and address, identify the docket number for this deviation (CGD01–07–056), 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. Comments must be received by October 15, 2007, prior to the end of the deviation period so that adjustments to the tested operating schedule may be made, if necessary.

Background and Purpose

On March 20, 2007, we published a temporary deviation entitled ''Drawbridge Operation Regulations; Raritan River, Arthur Kill, and Their Tributaries, NJ'' in the **Federal Register** (72 FR 12981). The temporary deviation concerned a test operating schedule for the bridge needed to help determine a bridge operating schedule that will accommodate present and anticipated rail operations while continuing to provide for the present and anticipated needs of navigation. Background about the AK Railroad Bridge and the bridge owner's rehabilitation efforts may be found at 72 FR 12981. This deviation from the operating regulations was authorized under 33 CFR 117.35.

Beginning on April 9, 2007, the bridge operated in accordance with the test schedule approved by the Coast Guard in the above referenced notice. Actual rail operations, however, have been such that shifting the scheduled bridge closure times to occur between 9 a.m.

and 10 a.m. and 12 p.m. to 1 p.m. would more efficiently accommodate all rail and marine transportation needs.

The purpose of this new temporary deviation is to help determine a bridge operating schedule that will accommodate both Conrail's proposed train schedule, future rail operations, and the present and anticipated needs of navigation.

This deviation will test a new alternate drawbridge operation schedule designed to help facilitate the safe coordination of vessel and rail traffic. A variety of factors, such as daily tide variations, the present and anticipated needs of navigation, and train scheduling, will be evaluated during this temporary test deviation.

The schedule considered in this notice would provide two daily thirty minute bridge closures within designated one hour periods with a one hour adjustment during certain high tides, as predicted at the Battery, New York. Also, unscheduled bridge closure requests may be granted by the Coast Guard within one to three hours of receipt of the request for bridge closure.

Being able to predict bridge closure periods each day in advance would enable both rail and marine interests to schedule accordingly, obviating the need to adjust to different bridge closure times each day. The ability to obtain unscheduled bridge closures will offer flexibility in rail operations.

This temporary deviation requires the AK Railroad Bridge to remain in the open position at all times except during periods when it is allowed to remain in the closed position for the passage of rail traffic for two thirty minute periods between 9 a.m. and 10 a.m., and 12 p.m. and 1 p.m., daily. The only exception is when high tide occurs during or within one hour after the scheduled closed period. When high tide occurs during the bridge closure period the thirty minute bridge closure will occur between 10 a.m. and 11 a.m., and 1 p.m. and 2 p.m., i.e. one hour later; when high tide occurs within one hour after the scheduled closure period the thirty minute bridge closure will occur between 8 a.m. and 9 a.m., 11 a.m. and 12 p.m., i.e. one hour earlier. A schedule of bridge closure periods will be posted on the U.S. Coast Guard's Homeport Web site and published in the Local Notice to Mariners.

In addition to the scheduled closure periods, up to two, unscheduled thirty minute bridge closure periods per day, maximum of twelve per week, may be requested and may be approved by the Coast Guard within one to three hours of the request. The bridge will remain open for a minimum of one hour between bridge closures for the passage of marine traffic. In the event of bridge operational failure, the bridge owner or operator shall notify the Coast Guard Captain of the Port of New York immediately and shall ensure that a repair crew is on scene at the bridge no later than 45 minutes after the bridge fails to operate and that the repair crew shall remain at the bridge until the bridge has been restored to normal operations or raised and locked in the fully open position.

This deviation from the operating regulations is authorized under 33 CFR 117.35.

Cancellation

The deviation published in the **Federal Register** on March 20, 2007, (72 FR 12981) is being canceled because actual rail operations observed during the test deviation have been such that shifting the scheduled bridge closure times would more efficiently accommodate all transportation needs.

Dated: June 1, 2007.

Gary Kassof,

Bridge Program Manager, First Coast Guard District.

[FR Doc. 07–2869 Filed 6–6–07; 9:09 am]

BILLING CODE 4910–15–P

POSTAL SERVICE

39 CFR Part 111

Customs Forms for Priority Mail To or From ''969'' ZIP Codes and 96799

AGENCY: Postal Service.

ACTION: Final rule.

SUMMARY: The Postal Service™ is revising the *Mailing Standards of the United States Postal Service, Domestic Mail Manual* to require customs declarations on certain Priority Mail® mailpieces to or from ZIP Code™ 96799 and ZIP Codes™ beginning with the prefix 969.

EFFECTIVE DATE: June 8, 2007.

FOR FURTHER INFORMATION CONTACT: Obataiye B. Akinwole, 202–268–7262.

SUPPLEMENTARY INFORMATION: In January 2003, the Postal Service published a Postal Bulletin article asking customers to affix either PS Form 2976, *Customs Declaration CN22—Sender's Declaration*, or PS Form 2976–A, *Customs Declaration and Dispatch Note—CP72*, to all mailpieces weighing 16 ounces or more addressed to Guam. In March 2003, we revised our request to include mailpieces addressed to all ZIP Codes beginning with the 969 ZIP Code prefix. On September 13, 2006, we published a Proposed rule in the **Federal Register**, (71 FR 54006), to require customs declarations on certain Priority Mail mailpieces to or from ZIP Codes™ beginning with the prefix 969. We are now requiring that the appropriate customs form be affixed to all Priority Mail pieces weighing 16 ounces or more sent to or from ZIP Codes beginning with the prefix 969. We are also expanding the requirement to affix the appropriate customs form to all Priority Mail pieces weighing 16 ounces or more that are sent to or from ZIP Code 96799, American Samoa.

We are also removing the language regarding ''dutiable merchandise'' from this final rule. The language is ambiguous at best and does not address a specific concern.

Comments

Interested persons were invited to comment on the proposed rule. One comment was received. The commenter questioned the underlying rationale for the new rule. In response, these destinations are outside the customs territory of the United States. Hence, a customs form would facilitate the identification of the contents of the mail to the extent customs inspections may be applied to this traffic. In addition, use of a customs form would enable the Postal Service to meet requirements imposed by airlines to carry Priority Mail above a certain weight threshold. Such requirements are not imposed by surface transportation carriers, and are not needed for other classes of mail carried by air carriers.

After reviewing and considering the comments, we adopt the following changes to Mailing Standards of the United States Postal Service, Domestic Mail Manual (DMM), incorporated by reference in the Code of Federal Regulations. See 39 CFR 111.1.

List of Subjects in 39 CFR Part 111

Administrative practice and procedure, Postal Service.

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

PART 111—[AMENDED]

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

Authority: 5 U.S.C. 552(a); 39 U.S.C. 101, 401, 403, 404, 414, 416, 3001–3011, 3201–3219, 3403–3406, 3621, 3626, 5001.

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

600 Basic Standards for All Mailing Services

* * * * *

608 Postal Information and Resources

* * * * *

2.0 Domestic Mail

* * * * *

[Add new 2.4 as follows:]

2.4 Customs Forms Required

Regardless of contents, all Priority Mail weighing 16 ounces or more sent from the United States to a ZIP Code beginning with the prefix 969 and ZIP Code 96799, and all Priority Mail sent from a ZIP Code beginning with the prefix 969 and ZIP Code 96799 to the United States, must bear either Form 2976 or Form 2976–A. This mail must be presented to an employee at a post office, to a letter carrier when using Click-N-Ship with Carrier Pickup, or to a Postal Service employee designated by the postmaster.

* * * * *

Neva R. Watson,

Attorney, Legislative.

[FR Doc. E7–11069 Filed 6–7–07; 8:45 am]

BILLING CODE 7710–12–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 51

[EPA–HQ–OAR–2003–0079, FRL–8324–3]

RIN 2060–AO00

Phase 2 of the Final Rule To Implement the 8-Hour Ozone National Ambient Air Quality Standard—Notice of Reconsideration

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final notice of reconsideration.

SUMMARY: On December 19, 2006, EPA published, as a proposed rule, a notice of reconsideration for several aspects of the November 29, 2005, Phase 2 of the final rule to implement the 8-hour ozone national ambient air quality standard (NAAQS). These issues relate to nitrogen oxide (NO_X) reasonably available control technology (RACT) for electric generating units (EGUs) in Clean Air Interstate Rule (CAIR) states and to certain new source review (NSR) provisions. The notice of reconsideration was published as a result of a petition for reconsideration which had been submitted by the Natural Resources Defense Council. In this action, EPA summarizes and responds to comments received in response to the notice of reconsideration, and EPA announces its final actions taken in response to these comments.

As a result of this reconsideration process, EPA is changing the deadline for states in the CAIR region to submit EGU NO_X RACT SIPs subpart 2 ozone nonattainment areas classified as moderate and above. EPA is also modifying its guidance on the issue of NO_X RACT for EGUs in CAIR states.

DATES: This final rule is effective on July 9, 2007.

ADDRESSES: The EPA has established a docket for this action under Docket ID No. EPA–HQ–OAR–2003–0079. All documents in the docket are listed in *http://www.regulations.gov*. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *http://www.regulations.gov* or in hard copy at the EPA Docket Center (Air Docket), EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744.

FOR FURTHER INFORMATION CONTACT: For further information on the issue relating to NO_X RACT for EGU sources in CAIR States, contact Mr. William L. Johnson, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, (C539–01) Research Triangle Park, NC 27711, phone number 919–541–5245, fax number (919) 541–0824 or by e-mail at *johnson.williamL@epa.gov* or Mr. John Silvasi, Office of Air Quality Planning and Standards, U.S. Environmental Protection Agency, (C539–01), Research Triangle Park, NC 27711, phone number (919) 541–5666, fax number (919) 541–0824 or by e-mail at *silvasi.john@epa.gov*. For further information on the NSR issues discussed in this notice, contact Mr. David Painter, Office of Air Quality Planning and Standards, (C504–03), U.S. EPA, Research Triangle Park, North Carolina 27711, telephone number (919) 541–5515, fax number (919) 541–5509, e-mail: *painter.david@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

1. Issue on Determination of CAIR/RACT Equivalency for NO_X EGUs

Entities potentially affected by the subject rule for this action include States (typically State air pollution control agencies), and, in some cases, local governments that develop air pollution control rules, in the region affected by the CAIR.[1] The EGUs are also potentially affected by virtue of State action in SIPs that implement provisions resulting from final rulemaking on this action; these sources are in the following groups:

[1] **Federal Register** of May 12, 2005 (70 FR 25, 162).

Industry group	SIC [a]	NAICS [b]
Electric Services	492	221111, 221112, 221113, 221119, 221121, 221122

[a] Standard Industrial Classification.
[b] North American Industry Classification System.

2. NSR Issues

Entities potentially affected by the subject rule for this action include sources in all industry groups. The majority of sources potentially affected are expected to be in the following groups:

Industry group	SIC [a]	NAICS [b]
Electric Services	492	221111, 221112, 221113, 221119, 221121, 221122
Petroleum Refining	291	324110
Industrial Inorganic Chemicals	281	325181, 325120, 325131, 325182, 211112, 325998, 331311, 325188
Industrial Organic Chemicals	286	325110, 325132, 325192, 325188, 325193, 325120, 325199
Miscellaneous Chemical Products	289	325520, 325920, 325910, 325182, 325510
Natural Gas Liquids	132	211112
Natural Gas Transport	492	486210, 221210
Pulp and Paper Mills	261	322110, 322121, 322122, 322130
Paper Mills	262	322121, 322122
Automobile Manufacturing	371	336111, 336112, 336211, 336992, 336322, 336312, 336330, 336340, 336350, 336399, 336212, 336213
Pharmaceuticals	283	325411, 325412, 325413, 325414

[a] Standard Industrial Classification.
[b] North American Industry Classification System.

Entities potentially affected by the subject rule for this action also include State, local, and Tribal governments that are delegated authority to implement these regulations.

B. How Is This Notice Organized?

The information presented in this notice is organized as follows:

I. General Information
A. Does This Action Apply To Me?
B. How Is This Notice Organized?
II. Background
A. NO_X RACT for EGUs in CAIR States
1. Phase 2 Ozone Implementation Rule
2. Petition for Reconsideration.
B. Submission Date for EGU RACT SIPs for States in CAIR Regions
1. Phase 2 Ozone Implementation Rule
2. Notice of Reconsideration
C. NSR Issues
1. Our Previous and Final Rules.
2. Petition for Reconsideration.
III. This Action
A. NO_X RACT for EGUs in CAIR States
1. Final Action
2. Response to Comments
B. Submission Date for EGU RACT SIPs for States in CAIR Regions
1. Final Action
2. Response to Comments
C. Provisions of Final Rule Addressing the Criteria for Emission Reduction Credits From Shutdowns and Curtailments
1. Major Source NSR Criteria for Emission Reduction Credits (ERC) From Shutdowns and Curtailments
2. Legal Basis for Changes to Criteria for Emission Reduction Credits From Shutdowns and Curtailments
3. Reconsideration of Emission Reduction Credits Final Rule Language and Request for Public Comments
4. Comments and Responses for Emission Reduction Credits Issues
D. Applicability of Appendix S, Section VI
1. Changes to Applicability of Appendix S, Section VI
2. Legal Basis for Changes to Applicability of Appendix S and the Transitional NSR Program
3. Reconsideration of Appendix S, Section VI Final Rule Amendments
4. Comments and Responses for Appendix S, Section VI
IV. Statutory and Executive Order Reviews
A. Executive Order 12866: Regulatory Planning and Review
B. Paperwork Reduction Act
C. Regulatory Flexibility Act (RFA)
D. Unfunded Mandates Reform Act
E. Executive Order 13132: Federalism
F. Executive Order 13175: Consultation and Coordination With Indian Tribal Governments
G. Executive Order 13045: Protection of Children From Environmental Health Risks and Safety Risks
H. Executive Order 13211: Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use
I. National Technology Transfer and Advancement Act
J. Executive Order 12898: Federal Actions To Address Environmental Justice in Minority Populations and Low-Income Populations
K. Congressional Review Act
L. Judicial Review

II. Background

A. NO_X RACT for EGUs in CAIR States

1. Phase 2 Ozone Implementation Rule

In the Phase 2 Rulemaking to implement the 8-hour ozone NAAQS (Phase 2 Rule), EPA determined that EGU sources complying with rules implementing the CAIR requirements meet ozone NO_X RACT requirements in states where all required CAIR emissions reductions are achieved from EGUs only.[2] We noted that the CAIR establishes a region-wide NO_X emissions cap, effective in 2009, at a level that, assuming the reductions are achieved from EGUs, would result in EGUs installing emission controls on the maximum total capacity on which it is feasible to install emission controls by that date. In addition, the CAIR's 2015 NO_X cap will eliminate all NO_X emissions from EGUs that are highly cost effective to control. The 2009 cap represents an interim step toward that end. In the Phase 2 Rule, EPA also explained that requiring source-specific RACT controls on EGUs in nonattainment areas would not reduce total NO_X emissions below the levels that would be achieved under CAIR alone and that it could result in more costly emission reductions. For these and other reasons detailed in the Phase 2 Rule, EPA concluded that EGUs subject to the CAIR NO_X controls meet the definition of RACT for NO_X (in all states that obtain all required CAIR NO_X

[2] However, EPA also determined that a state that elects to bring its NO_X SIP Call non-EGU sources into the CAIR ozone season trading program could continue to rely on EPA's determination that RACT is met for EGU sources covered by the CAIR trading program. EPA further noted that a state could rely on this determination if and only if the state retained a summer season EGU budget under the CAIR that was at least as restrictive as the EGU budget that was set in the state's NO_X SIP Call SIP.

emission reductions from EGU emission reductions). EPA said it was making this finding for all areas in the CAIR region, such that states need not submit RACT analyses for sources subject to CAIR that are in compliance with a FIP or SIP approved as meeting CAIR. EPA noted that a state has discretion to define RACT to require greater emission reductions than specified in EPA guidance and also to require beyond-RACT NO_X reductions from any source it deems reasonable to provide for timely attainment of the ozone standards.

2. Petition for Reconsideration.

The EPA received a petition for reconsideration of the final Phase 2 Rule from the NRDC. This petition raised several objections to EPA's determination that, in certain circumstances, EGUs in CAIR states may satisfy the NO_X RACT requirement for ozone if they comply with rules implementing the CAIR. Specifically, NRDC argued that:

- The EPA unlawfully and arbitrarily failed to seek public comment on the final rule's determination that the CAIR satisfies NO_X RACT requirements.
- The EPA's CAIR–RACT determinations are unlawful and arbitrary because EPA's action illegally abrogates the Act's RACT requirements.

The EPA granted NRDC's petition by letter of June 21, 2006.

In a notice of proposed reconsideration dated December 19, 2006, EPA announced the initiation of the reconsideration process and requested additional public comment on the issues raised by the petition. In this notice, EPA also explained and requested comment on the additional technical analyses it conducted to assess the determination that compliance with rules implementing CAIR may satisfy the NO_X RACT requirement for certain EGUs. EPA included in the docket a background document explaining that technical analysis.

B. Submission Date for EGU RACT SIPs for States in CAIR Region

1. Phase 2 Ozone Implementation Rule

The Phase 2 Rule established September 15, 2006 as the deadline for the submission of RACT SIPs for moderate and above subpart 2 areas. EPA explained that, since some states might rely on the submittal of SIP revisions meeting the CAIR (*i.e.*, the CAIR SIP) to also satisfy RACT for some sources, it was extending the submittal date to 27 months after designations to be consistent with the date for submittal of the CAIR SIPs. For subpart 1 areas requesting an attainment date more than five years after designation, the rule provides that the State shall submit the RACT SIP for each area with its attainment demonstration that requests to extend the attainment date.

2. Petition for Reconsideration

In the notice of proposed reconsideration dated December 19, 2006, EPA proposed to postpone the submission date for the portion of the 8-hour ozone SIP that addresses NO_X RACT for EGUs in the CAIR region pending reconsideration. EPA proposed a new submission date of June 15, 2007 and requested comments on that date.

C. NSR Issues

1. Our Previous Proposed and Final Rules

The major NSR provisions in the November 29, 2005 Phase 2 rulemaking were proposed as part of two different regulatory packages. On July 23, 1996 (61 FR 38250), we proposed changes to the major NSR program, including codification of the requirements of part D of title I of the 1990 CAA Amendments for major stationary sources of volatile organic compounds (VOC), NO_X, particulate matter having a nominal aerodynamic diameter less than or equal to 10 microns (PM_{10}), and CO. On June 2, 2003 (68 FR 32802), we proposed a rule to implement the 8-hour ozone NAAQS. In the 2003 action, we proposed a rule to identify the statutory requirements that apply for purposes of developing SIPs under the CAA to implement the 8-hour ozone NAAQS (68 FR 32802). We did not propose specific regulatory language for implementation of NSR under the 8-hour NAAQS. However, we indicated that we intended to revise the nonattainment NSR regulations to be consistent with the rule for implementing the 8-hour ozone NAAQS (68 FR 32844). On April 30, 2004 (69 FR 23951), we published a final rule that addressed classifications for the 8-hour NAAQS. The April 2004 rule also included the NSR permitting requirements for the 8-hour ozone standard, which necessarily follow from the classification scheme chosen under the terms of subpart 1 and subpart 2.

In 1996, we proposed to revise the regulations limiting offsets from emissions reductions due to shutting down an existing source or curtailing production or operating hours below baseline levels (''shutdowns/curtailments''). We proposed substantive revisions in two alternatives that would ease, under certain circumstances, the existing restrictions on the use of emission reduction credits from source shutdowns and curtailments as offsets.

In 1996, we proposed to revise 40 CFR 52.24 to incorporate changes made by the 1990 CAA Amendments related to the applicability of construction bans (61 FR 38305). To clarify our intent, our proposed 8-hour ozone NAAQS implementation rule in June 2003 explained that section 52.24(k) remained in effect and would be retained. In that action, we also proposed that we would revise section 52.24(k) to reflect the changes in the 1990 CAA Amendments (68 FR 32846). On June 2, 2003 (68 FR 32802), we explained implementation of the major NSR program under the 8-hour ozone NAAQS during the SIP development period, and proposed flexible NSR requirements for areas that expected to attain the 8-hour NAAQS within 3 years after designation.

In the final regulations, we included several revisions to the regulations governing the nonattainment NSR programs mandated by section 110(a)(2)(C) and part D of title I of the CAA. First, we codified requirements added to part D of title I of the CAA in the 1990 Amendments related to permitting of major stationary sources in areas that are nonattainment for the 8-hour ozone, particulate matter (PM), and carbon monoxide (CO) NAAQS. Second, we revised the criteria for crediting emissions reductions credits from shutdowns and curtailments as offsets. Third, we revised the regulations for permitting of major stationary sources in nonattainment areas in interim periods between designation of new nonattainment areas and EPA's approval of a revised SIP. Also, we changed the regulations that impose a moratorium (ban) prohibiting construction of new or modified major stationary sources in nonattainment areas where the State fails to have an implementation plan meeting all of the requirements of part D.

2. Petition for Reconsideration

The NRDC petition for reconsideration raised two objections to the major NSR aspects of the Phase 2 rulemaking:

- Allowing sources to use pre-permit application emission reductions as offsets if they occur ''after the last day of the base year for the SIP planning process''; and
- Changes to Section VI of Appendix S, which is the section allowing for waiver of nonattainment major NSR requirements in certain circumstances.

The EPA granted the petition by letter of June 21, 2006 and, on December 19,

2006, EPA published, as a proposed rule, a notice of reconsideration. This action presents the comments we received upon the proposal, our responses to the comments and our decisions on whether to amend the current regulation in response to the public comments.

III. This Action

A. NO_X RACT for EGUs in CAIR States

1. Final Action

In response to comments received during the reconsideration process, EPA in this action modifies its guidance regarding when compliance with the CAIR may satisfy NO_X RACT requirements for EGUs in CAIR states.[3] EPA believes it is appropriate for the CAIR states, under the conditions outlined in this action, to presume, in general, that EGU NO_X RACT requirements are satisfied through implementation of the CAIR program. Further, in this action EPA makes a determination that in certain areas compliance with the CAIR is sufficient to satisfy the NO_X RACT requirement for EGUs covered by the CAIR program. The areas covered by this determination are those where EPA's December 2006 emissions analysis [4] shows that the CAIR is projected to achieve greater emissions reductions than application of source-by-source RACT within the nonattainment area or state. For areas where EPA's emissions analysis does not clearly demonstrate that the CAIR program is projected to achieve greater emissions reductions than source-by source RACT, this action establishes a separate presumption that compliance with CAIR, in certain circumstances, satisfies NO_X RACT requirements for EGUs in any area subject to CAIR. As explained below, states may rely initially on this presumption whether or not the aforementioned CAIR–RACT determination applies.

More specifically, in this action, EPA determines that compliance by EGUs with an EPA-approved CAIR SIP or a CAIR FIP satisfies the nonattainment area NO_X RACT requirements in CAA sections 172(c)(1) and 182(f) if: (1) The EGU is located in a state where all required CAIR emission reductions are achieved from EGUs only [5]; and (2) the emissions analysis presented by EPA in the December 16, 2006 notice of proposed reconsideration shows that the CAIR will achieve greater or equal annual and ozone-season emissions reductions than source-by-source RACT in the relevant nonattainment area.[6] EPA also determines that compliance by EGUs with an EPA-approved CAIR SIP or a CAIR FIP satisfies the NO_X RACT requirements for OTR states in sections 184(b) and 182(f) if: (1) The EGU is located in a state where all required CAIR emission reductions are achieved from EGUs only; and (2) the emissions analysis presented by EPA in the December 16, 2006 notice of reconsideration shows that the CAIR will achieve greater or equal annual and ozone-season emissions reductions than source-by-source RACT in the relevant OTR state [7]. The determination for OTR states is separate from the determination for nonattainment areas within the OTR states. This means that the conditions of the determination may be met for an OTR state, in its entirety, but a particular nonattainment within the State may not meet the conditions of the determination based on the results of the EPA's emissions analysis.

In their RACT SIP submissions, states choosing to rely on a determination that compliance with the CAIR satisfies NO_X RACT requirements for EGUs, should document their reliance on the determination.

In areas covered by the CAIR that do not meet the conditions outlines in the preceding paragraph, EPA still believes it is appropriate for these areas to presume that compliance with the CAIR will satisfy the NO_X RACT requirements for EGUs if all required CAIR reductions in that state are achieved by EGUs only. States may rely on this presumption in the first instance regardless of whether the relevant nonattainment area or OTR state is covered by the aforementioned determination. In their RACT SIP submissions, states choosing to rely on this presumption should document their reliance on the presumption. This presumption is rebuttable and the State's documentation of reliance on this presumption must provide additional justification if necessary.

These final positions are based on a number of factors previously identified in the Phase 2 Rule, and in the December 2006 notice of proposed reconsideration. In evaluating RACT for EGUs, EPA believes it is appropriate to consider the special attributes of EGUs, including the unique interrelated nature of the power supply network, and the facilities' compliance with rules implementing the CAIR. EPA also asserts that the term ''reasonable'' in RACT may be construed to allow consideration of the air quality impact of required emissions reductions from region-wide cap-and-trade programs such as the CAIR NO_X trading programs.

Due to the nature of regional emissions transport, EPA believes that a combination of local and broader regional reductions, such as those driven by the CAIR requirements for EGUs, will achieve a more effective and economically efficient air quality improvement in nonattainment areas than application of source-by-source RACT. This is consistent with EPA's recognition in our 1986 emissions trading policy that a ''bubble'' approach has a number of advantages including faster compliance with RACT limits and earlier reductions. EPA does not interpret the RACT provisions of CAA section 172(c)(1) to preclude states' use of a cap-and-trade approach as a means of achieving RACT reductions from existing sources, and believes such an approach is consistent with Congresses' express authorization to auction emission rights in section 172(c)(6). Many ozone nonattainment areas are

[3] In this rule, the phrase ''compliance with the CAIR'' is used to mean compliance with a FIP or an EPA-approved SIP meeting the requirements of the CAIR.

[4] Technical Support Document for Phase 2 of the Final Rule To Implement the 8-Hour Ozone National Ambient Air Quality Standard —Notice of Reconsideration; NO_X RACT for EGUs in CAIR States—Supplemental Technical Analysis. (Docket ID No. EPA–HQ–OAQ–2003–0079, item number EPA–HQ–OAR–2003–0079–1044.2.)

[5] However, a state that elects to bring its NO_X SIP Call non-EGU sources into the CAIR ozone season trading program need not show that all the CAIR reductions are achieved solely from EGUs if, and only if, the state retained a summer season EGU budget under the CAIR that was at least as restrictive as the EGU budget that was set in the state's NO_X SIP Call SIP.

[6] 6 The EPA emissions analysis shows that for the following nonattainment areas the CAIR is projected to achieve equal or greater annual emissions reductions than source-by-source RACT: Baltimore, MD, Buffalo-Niagara Falls, NY (Subpart 1); Charlotte-Gastonia-Rock Hill, NC–SC; Chicago-Gary-Lake County, IL–IN; Cleveland-Akron-Lorain, OH; Dallas-Fort Worth, TX; Greater Connecticut, CT; Houston-Galveston-Brazoria, TX; Jefferson Co, NY; Milwaukee-Racine, WI; New York-New Jersey-Long Island, NY–NJ–CT; Philadelphia-Wilmington-Atlantic City, PA–NJ–MD–DE; Sheboygan, WI; St Louis, MO–IL; Washington, DC–MD–VA. The emissions analysis shows that for the following nonattainment areas the CAIR is projected to achieve equal or greater summer emission reductions than source-by-source RACT: Charlotte-Gastonia-Rock Hill, NC–SC; Cleveland-Akron-Lorain; Dallas-Fort Worth, TX; Greater Connecticut, CT; Houston -Galveston-Brazoria, TX; Jefferson Co., NY; Milwaukee-Racine, WI; New York-N. New Jersey-Long Island, NY–NJ–CT; Philadelphia -Wilmington-Atlantic City, PA–NJ–MD–DE; Sheboygan, WI; Springfield (Western MA), MA; St. Louis, MO–IL; Washington, DC–MD–VA.

[7] EPA's emissions analysis shows that for the following OTR states, the CAIR is projected to achieve equal or greater annual emissions reductions than source-by-source RACT: Delaware, Maryland, New Jersey, New York, Pennsylvania, and OTR portion of Virginia (Alexandria and Prince Counties). For the following OTR states, the CAIR is projected to achieve equal or greater summer emission reductions than source-by-source RACT: Maryland, Pennsylvania and OTR portions of Virginia (Alexandria and Prince William Counties).

projected to achieve significant NO_X reductions under the CAIR program and EPA does not believe that requiring source-specific RACT controls on specified EGUs in nonattainment areas would reduce total NO_X emissions from sources covered by CAIR below the region-wide levels that will be achieved under CAIR alone. The region-wide CAIR NO_X EGU emissions cap for 2009 was established based on the maximum total capacity on which EPA believes it is possible to install controls by that date. So by design, the 2009 CAIR region-wide NO_X emissions cap for EGUs represents the most reductions that are reasonable to achieve in the CAIR region by that date. Because the CAIR achieves more annual and summer season EGU NO_X emission reductions overall across the CAIR region than source-by-source application of RACT[8], EPA believes this will result in more region-wide air quality improvements than application of RACT in the absence of the CAIR. As explained in greater detail in the preamble to the CAIR rule, the CAIR is projected to improve ozone air quality across much of the eastern half of the country, including many current and projected future nonattainment areas. 70 FR 25254–25255 (May 12, 2005). The CAIR is projected to improve air quality in all of the 40 projected 2010 nonattainment counties, and in all 22 of the projected 2015 nonattainment counties, that were identified in the CAIR rule modeling. The modeling also showed air quality improvement in numerous counties projected to be in attainment.

For most EGUs in the CAIR region, based on the conclusions explained here, states may rely on EPA's determination that RACT requirements for these sources are satisfied by compliance with the CAIR. However, this determination applies only to EGUs in states achieving all required CAIR reductions from EGUs, except as noted below. As explained in the preamble to the Phase 2 Rule, if only part of the CAIR reductions are required from EGUs, and the balance of the reductions obtained from non-EGU sources, then the stringency of the CAIR EGU control would be diminished to some extent (an amount that cannot be determined until a state submits a SIP indicating which sources are participating in the program). Therefore, in these cases, the rationale for our conclusions (either determinations or presumptions) that these sources satisfy the RACT requirement would not necessarily apply.

EPA determined in the final Phase 2 Rule that sources complying with the requirements of the NO_X SIP Call trading system meet their ozone NO_X RACT obligations. A state that elects to bring its NO_X SIP Call non-EGU sources into the CAIR ozone season trading program may under certain conditions continue to rely on the determination that RACT is met for EGU sources covered by a CAIR NO_X trading program. It may rely on this presumption if and only if the state retains a summer season EGU budget under the CAIR that is at least as restrictive as the EGU budget that was set in the state's NO_X SIP call SIP. Therefore, if the summer season EGU budget under CAIR is at least as restrictive as the budget in the NO_X SIP Call SIP, and if non-EGU sources after 2008 continue to be subject to a SIP requirement that regulates those non-EGU sources equally or more stringently than the state's current rules meeting the NO_X SIP Call, then those EGUs are meeting a level of control at least as stringent as RACT.

In addition, as we noted in the Phase 2 Rule, a state has discretion to define RACT to require greater emission reductions than specified in EPA guidance and also to require beyond-RACT NO_X reductions from any source (including sources covered by the CAIR or NO_X SIP Call programs), and has an obligation to demonstrate attainment of the 8-hour ozone standard as expeditiously as practicable. In certain areas, states may decide to require NO_X controls based on more advanced control technologies as necessary to provide for attainment of the ozone standards.

Based upon *South Coast Air Quality Mgt District* v. *EPA* (No. 04–1200) (D.C. Cir. 2006), the status of nonattainment classifications for 8-hour ozone nonattainment areas is unclear at this time. EPA has petitioned the court for rehearing of this issue. However, until this issue is resolved, there will be continuing uncertainty regarding which areas must submit RACT SIPs separate from attainment demonstrations. Currently, all areas classified under subpart 2 as moderate or higher, and areas classified under subpart 1 that are planning to request an attainment date that extends beyond April 2009 are required to submit a RACT SIP separate from attainment demonstrations. EPA is unable to determine at this time if any areas in addition to those included in the cited emissions analysis will be required to submit separate RACT SIPs. Based on the outcome of EPA's petition for rehearing, EPA may review and revise, as appropriate, the determinations made in this action.

2. Response to Comments

a. Comment: Commenters argue that the Clean Air Act (CAA) calls for State Implementation Plans (SIPs) to provide for ''such reductions in emissions from existing sources in the nonattainment area as may be obtained through adoption'' of RACT. Therefore, they argue, each particular affected source in a non-attainment area is required by law to have the lowest emission limitation it is capable of meeting. One commenter says that the CAA does not give EPA the option of requiring CAIR or some other strategy in lieu of RACT, and that by deeming CAIR controls to be equivalent to RACT, EPA is seeking to insulate uncontrolled or poorly controlled EGUs in current or future nonattainment areas from cost effective controls that would qualify as RACT. Another commenter says that EPA's NO_X Supplement to the General Preamble (57 FR 55620, Nov. 25, 1992) concludes that it is ''permissible under the statute for individual sources to have greater or lesser emissions reductions so long as the area wide average emission rates associated with a RACT level of NO_X emission controls [are] met.'' They argue that it is consistent with the Act for EPA and states to determine that compliance with an area-wide emission trading program may constitute RACT in lieu of source-by-source emission control requirements. The commenter adds that neither the CAA's language nor EPA's 1979 statement [44 FR 53762] defining RACT supports the arguments in the petition for reconsideration that

[8] For 2010, annual NO_X emission reductions expected from implementation of the CAIR in the entire CAIR region are 1.3 million tons/year. This compares with annual NO_X emission reductions projected from application of source-by-source RACT from within the Ozone Transport Region (OTR) plus other nonattainment areas in the CAIR region, but outside of the OTR, of 166,780 tons/year. Ozone-season NO_X emission reductions expected from implementation of the CAIR in the entire CAIR region are 200,000 tons/season. This compares with summer time RACT-only emission reductions from within the OTR plus other nonattainment areas in the CAIR region, but outside of the OTR, of 19,210 tons/summer. These estimates show that CAIR is projected to get overwhelmingly greater NO_X reductions than source-by-source RACT in the CAIR region. The CAIR region emissions estimates are from ''Regulatory Impact Analysis for the Final Clean Air Interstate Rule,'' EPA–452/R–05–002, March 2005. This document can be found at *http://www.epa.gov/interstateairquality/pdfs/finaltech08.pdf* and is also in the CAIR docket no. EPA–HQ–OAR–2003–0053. The RACT emission estimates for OTR states and nonattainment areas in the CAIR region, but outside OTR states, are found in ''Technical Support Document for Phase 2 of the Final Rule To Implement The 8-Hour Ozone National Ambient Air Quality Standard—Notice of Reconsideration; NO_X RACT For EGUs In CAIR states—Supplemental Technical Analysis.'' (Docket ID No. EPA–HQ–OAQ–2003–0079, document number EPA–HQ–OAR–2003–0079–1044.2).

emission controls must be installed on all major stationary sources in a nonattainment area, nor is there anything in these documents that indicates that the rule's CAIR = NO_X RACT provision is illegal. The commenter notes that Congress's choice of the phrase ''reasonably available'' bespeaks its intention that the EPA exercise discretion in determining which control measures must be implemented.

Response: As explained in the preamble to the Phase 2 Rule, EPA disagrees with the commenters' assertion that RACT necessarily requires every major source to install controls. *See* 70 FR 71656. To the contrary, EPA allows states to demonstrate that RACT is met by groups of sources. For example, the NO_X Supplement to the General Preamble, November 25, 1992 (57 FR 55625) permits states to ''allow individual owners/operators in the nonattainment area * * * to have emission limits which result in greater or lesser emission limits so long as the area wide average emission rates * * * are met on a Btu-weighted average.'' The General Preamble also ''encourage[s] states to structure their RACT requirements to inherently incorporate an emissions averaging concept (i.e., installing more stringent controls on some units in exchange for lesser control on others).'' This approach was based on EPA's conclusion that it was permissible under the CAA for individual sources to have ''greater or lesser emission reductions so long as the area wide average emissions rates'' associated with a RACT level of NO_X emissions control were met.

In addition, EPA does not believe that requiring source-specific RACT controls on EGUs in nonattainment areas will reduce total NO_X emissions from EGU sources covered by the CAIR below the levels that would be achieved under the CAIR alone. EPA also believes that EGU source-specific RACT would result in more costly emission reductions on a per ton basis. The combination of EGU source specific RACT and the CAIR emissions cap would not reduce the collective total emissions from EGUs covered by the CAIR, but would likely achieve the same total emissions reductions as the CAIR alone, in a more costly way.

Further, EPA's analysis for the CAIR shows the CAIR program will result in EGUs installing emission controls on the maximum total capacity on which it is feasible to install emission controls by the 2009 date. (*70 FR 22515–22225*) The CAIR budgets are based on the level of emissions that can be achieved through the application of highly cost-effective controls to EGUs in the CAIR region. Due to feasibility constraints, EPA required a phased approach for achieving highly cost effective emissions reduction. For NO_X, the first phase starts in 2009 (covering 2009–2014); the second phase of NO_X reductions begins in 2015 (covering 2015 and thereafter). (70 FR 71621). We also noted in the June 2, 2003 CAIR proposal that we considered highly-cost effective controls for NO_X for EGUs and non-EGUs that were used to establish the statewide NO_X emission caps in the NO_X SIP call to constitute a greater level of control than RACT (68 FR 32839).

EPA also disagrees with the comment arguing that EPA is seeking to insulate uncontrolled or poorly controlled EGUs in current or future nonattainment areas from cost effective controls that would qualify as RACT. The final rule does not displace the RACT requirement for any sources. Instead, EPA is exercising its authority to interpret the section 172, 182, and 184 RACT requirements for purposes of implementing the 8-hour ozone standards. For the reasons described in this section, we believe that states can rely on EPA's conclusion that compliance with a CAIR FIP or SIP, meeting certain requirements, will satisfy the EGU NO_X RACT requirement in certain areas.

Moreover, EPA has predicted that the majority of large coal-fired utilities will install advanced control technologies under the CAIR because the larger and higher emitting sources offer opportunities to obtain the most cost-effective emissions reductions. EPA expects that the largest-emitting sources will be the first to install NO_X control technology and that such control technology will gradually be installed on progressively smaller-emitting sources until the ultimate emissions cap is reached.

b. Comment: Several commenters argue that EPA's determination that CAIR may be equivalent to RACT would illegally substitute controls on sources outside of ozone nonattainment areas for controls on sources within each nonattainment area. The commenters argue that reductions must occur within the nonattainment area. They also argue that EGUs in nonattainment areas may have significant NO_X emissions if they are not meeting a minimum level of NO_X control, and that the rule does not guarantee that any RACT level controls would actually be installed in a CAIR state. Thus, one commenter argues, the non-CAIR states and the public will bear the cost of EGUs not installing RACT controls and continuing nonattainment of the NAAQS. The commenter also argues that the public residing in nonattainment areas would continue to suffer from the emissions from those EGUs located in the CAIR state portion of the nonattainment area that purchase and use allowances for compliance instead of installing controls. Another commenter argues that CAIR is a cap-and-trade program which cannot guarantee that a reasonable level of control will be installed where most needed. On the other hand, other commenters emphasize that CAIR achieves greater overall emissions reductions across the CAIR region than would be achieved through the implementation of source-specific RACT controls.

Response: In this action, EPA has determined that EGU sources complying with rules implementing the CAIR requirements meet ozone NO_X RACT requirements in states where all required CAIR emissions reductions are achieved from EGUs only and EPA's emissions analysis in the December 16, 2006 notice of reconsideration shows that CAIR will achieve greater or equal reductions than source-by-source RACT in the relevant nonattainment area (for CAA section 172 and 182 requirements) or the relevant OTR state (for CAA 184 requirements).[9] For nonattainment areas and OTR states not covered by this determination, states may still presume that compliance with CAIR will satisfy the NO_X RACT requirement for EGUs if all CAIR reductions are achieved by EGUs. These states will have the option of providing additional analysis to support this presumption. This presumption is rebuttable and the state's documentation of reliance on this presumption must address any information available that would undermine this presumption.

As explained in greater detail above, EPA believes that it is appropriate for states that achieve all CAIR NO_X reductions from EGUs to consider, when evaluating RACT for EGUs, the special attributes of EGUs including the unique interrelated nature of the power supply network, and the facilities' compliance with rules implementing the CAIR. EPA also believes that the term, ''reasonable'' in RACT may be construed to allow consideration of the air quality impact of required emissions reductions from region-wide cap-and-trade programs such as the CAIR NO_X trading programs.

[9] However, a state that elects to bring its NO_X SIP Call non-EGU sources into the CAIR ozone season trading program may continue to rely on EPA's determination that RACT is met for EGU sources covered by the CAIR trading program. It may rely on this determination if and only if the state retains a summer season EGU budget under the CAIR that is at least as restrictive as the EGU budget that was set in the state's NO_X SIP call SIP.

The region-wide CAIR NO_X emissions cap for 2009 was established based on the maximum total capacity on which it was possible to install controls by that date. So by design, the 2009 CAIR region-wide NO_X emissions cap for EGUs represents the most reductions that are reasonable to achieve in that timeframe.

EPA acknowledges that the RACT mandate applies in specific geographic areas and determines that, in certain circumstances, the specific RACT requirements in CAA sections 172, 182 and 184 are satisfied by compliance with CAIR rules. As a practical matter, in most nonattainment areas, the actual emissions reductions projected to occur under CAIR are greater than the projected reductions from application of source-by-source RACT. Further, in this action, EPA provides that the determination that compliance with CAIR rules satisfies NO_X RACT requirements can only apply if the technical analysis presented by EPA in the December 16, 2006 notice of reconsideration shows that CAIR will achieve greater or equal annual and ozone-season emissions reductions than source-by-source RACT in the relevant nonattainment area or OTR state. Also, note that the determination for an OTR state and a nonattainment area within that State must be made separately, i.e., the determination may apply for an OTR state but not for a particular nonattainment area in that State, based on results of the technical analysis.

In addition, the comments suggesting that EGUs many not meet a ''minimum level of NO_X control'' and that the rule does not guarantee that any ''RACT level controls'' would actually be installed in a CAIR state, appear to assume that to satisfy RACT, each individual source must achieve a specific level of control. As explained below, EPA disagrees with this assumption. Further, in states that achieve all CAIR reductions from EGUs, requiring source-specific RACT on EGUs and compliance with rules implementing CAIR would not achieve greater collective total emissions reductions from EGUs covered by the CAIR and the collective reductions would likely be achieved at a higher overall cost.

c. Comment: Several commenters challenged EPA's suggestion that the CAIR will achieve greater reductions than RACT. These commenters argued that the suggestion that the CAIR will achieve greater reductions without RACT is unsupportable. EPA, they argue, can and must require RACT reductions on top of CAIR reductions. Not doing so ignores the possibility that requiring both RACT and the CAIR will produce faster RFP and earlier attainment than the CAIR alone.

Response: EPA's emissions analyses prepared for the December 2006 notice of proposed reconsideration generally show that the CAIR will achieve greater EGU NO_X emission reductions across the CAIR region and also in most of the designated nonattainment areas and OTR states, than would be achieved by requiring EGUs in these areas to meet a specific level of NO_X control deemed to be RACT. The analyses show that the CAIR obtains equal or greater summer season emission reductions than source-by-source RACT in 13 out of 18 specific nonattainment areas in the CAIR region, and in 3 out of 9 OTR states. It also shows that CAIR obtains equal to or greater annual emission reductions than source-by-source RACT in 15 out of 18 specific nonattainment areas in the CAIR region and in 6 out of 9 OTR states. The docket contains a Technical Support Document [10] describing the analysis.

EPA also disagrees with the commenter's assertion that EPA can and must require RACT reductions on top of the CAIR reductions. While EPA agrees that the RACT requirement, and the requirement to address ozone transport under CAA section 110(a)(2)(d) are separate requirements, EPA asserts that the Act does not specify that these are additive or mutually exclusive requirements. As such EPA has determined that the CAIR may satisfy, under certain conditions, both requirements.

As previously explained, requiring source-by-source RACT as an additional constraint on EGU control strategy in the CAIR, in certain areas would mean that controls would not necessarily be placed on the sources for which it is most cost-effective to control. The result would be the same emission reductions area wide, but at higher cost. Further, by design, the 2009 CAIR region-wide NO_X emissions cap for EGUs represents the most reductions that are reasonable to achieve. Consequently, EPA does not believe that further controls could be considered reasonably available.

Finally, as we have also previously noted, states have an overarching obligation to provide such controls as are necessary to attain the 8 hour ozone standard as expeditiously as practical. At a minimum, this must include application of RACT to major sources, but may also require beyond-RACT NO_X reductions from any source (including sources covered by the CAIR or NO_X SIP Call programs). In certain areas, states may determine that NO_X controls based on more advanced control technologies are necessary to provide for timely attainment of the ozone standards.

d. Comment: Several commenters argue that the EPA's analyses to support its determination that the CAIR may satisfy certain RACT requirements are flawed because they rely on improper assumptions. The commenter notes that EPA's technical analysis relies on a number of assumptions regarding source conduct, allowance pricing, and the like. One Commenter argues that the 1992 and 1994 agency guidance referred to by EPA is outdated and not consistent with RACT controls being imposed by states today. Another commenter stated that new controls have been developed in the 14 years since the early RACT guidance was issued. These controls such as selective catalytic reduction (SCR) and selective non-catalytic reduction (SNCR) will give a level of control beyond what EPA assumed 14 years ago. One commenter claimed that there are many new controls being studied that can reduce NO_X emissions at a fraction of the cost assumed in the CAIR rulemaking. These new controls, which the commenter asserts would fall under RACT, are a refinement of existing combustion control technologies, along with injection of an inexpensive reagent in the boiler.

Response: EPA believes the technical analyses are based on reasonable assumptions. EPA's views on NO_X RACT were set forth in the ''NO_X Supplement to the General Preamble,'' November 25, 1992 (57 FR 55620). In that document, EPA determined that in the majority of cases, RACT will result in an overall level of control equivalent to specified maximum allowable emission rates (in pounds of NO_X per million Btu) for certain specified electric utility boilers. Section 4.6 of the NO_X Supplement to the General Preamble (57 FR 55625) noted in part, ''In general, EPA considers RACT for utilities to be the most effective level of combustion modification reasonably available to an individual unit. This implies low NO_X burners, in some cases with overfire air and in other instances without overfire air; flue gas recirculation; and conceivably some situations with no control at all.'' The assumptions in EPA's technical analysis are consistent with this guidance.

EPA assumed that RACT is represented by combustion controls for EGUs defined as: (1) Low NO_X burners with overfire air for wall-fired units; and

[10] ''Technical Support Document for Phase 2 of the Final Rule To Implement the 8-Hour Ozone National Ambient Air Quality Standard—Notice of Reconsideration; NO_X RACT for EGUs in CAIR States—Supplemental Technical Analysis'' (Docket ID No. EPA–HQ–OAR–2003–0079, item 1044.2).

(2) low NO_X coal-and-air nozzles with close-coupled and separated overfire air for tangentially-fired units. For oil and gas steam EGUs, the RACT-level of control was assumed to be 0.20 pounds of NO_X per million BTU for tangentially-fired gas or oil burning and 0.30 for wall-fired gas or oil burning. As EPA's CAIR technical analysis has shown, and as previously noted the CAIR requires, the installation of NO_X controls on the maximum capacity on which it is feasible to install such controls by 2009. Therefore, additional controls are not ''reasonably available.''

EPA does not restrict individual states from requiring EGU NO_X control levels more stringent than what EPA has determined is RACT in order to achieve compliance with the ozone NAAQS. EPA believes more stringent levels of NO_X control (represented by SCR and SNCR) are beyond RACT. The fact that some states may chose to require controls that go beyond RACT to attain the ozone standards does not necessarily mean that this level of control should be considered RACT.

e. Comment: EPA received several comments regarding the cost of RACT. These commenters argue that states have adopted RACT requirements for ozone precursors with costs per ton in excess of the $900/ton control cost estimated for the CAIR. The commenter argues that the EGU sector can make reasonably effective emission reductions up to a $4500/ton threshold. Further, commenters state that in connection with the adoption of the 1997 ozone and PM NAAQS, the President issued a memorandum indicating EPA's agreement with control costs of up to $10,000 per ton as being within the reasonable range. One commenter also points out that the Washington DC–MD–VA region has required RACT with costs of approximately $4,000–$10,000 per ton.

Response: EPA believes the assumptions in its technical analysis regarding the controls that would be considered RACT (if RACT were to be applied on a source-by-source basis) are reasonable. This level of control is consistent with EPA's past NO_X RACT guidance [see ''NO_X Supplement to the General Preamble,'' November 25, 1992 (57 FR 55620)]. EPA considers the combustion modification guidance from the early 1990's to express what is RACT for NO_X control of EGUs considering technical feasibility and cost.

In making a general determination of what controls are representative of RACT, EPA does not necessarily recommend the highest level of stringency that is imposed by any state. However, EPA does not restrict states from imposing controls with relatively high costs if the states determine they are necessary to attain the ozone NAAQS. EPA cautions that if all states choose to impose beyond RACT controls on all EGUs by 2009 it could create shortages of labor and materials that would substantially increase the cost of compliance or make it infeasible to meet the 2009 deadline. EPA's analysis shows that the CAIR achieves the maximum level of control that is feasible by 2009 on a region-wide basis.

f. Comment: Several commenters argue that EPA's technical analysis shows that at least some nonattainment areas would achieve greater emission reduction with implementation of source by source RACT than with CAIR. They argue that, in these areas, CAIR would not be ''equivalent'' to RACT for EGUs.

Response: In this action we are determining that compliance with CAIR satisfies NO_X RACT requirements for EGUs in areas where EPA's emissions analysis shows that CAIR is projected to achieve greater emissions reductions than application of source-by-source RACT. As explained above, other areas may still rely on the presumption that compliance with the CAIR satisfies NO_X RACT requirements in certain circumstances. This presumption is rebuttable and the State may choose to provide supporting analyses and will have to respond to any comments received during the comment period that address the presumption.

g. Comment: One commenter suggested that EPA adopt the Ozone Transport Commission's (OTC) approach to cap-and-trade programs where RACT was applied first. Thus, the cap-and-trade program operates in an environment that assumes RACT is in force, not in lieu of RACT. Another commenter argued that an effective attainment strategy requires both area wide programs like CAIR and nonattainment area specific program such as source-by-source RACT on EGUs. Thus, the commenter argues that in its technical analysis, EPA should have looked at CAIR + RACT versus RACT, rather than CAIR alone versus RACT.

Response: The supplemental technical analysis prepared by EPA for the reconsideration proposal was designed to analyze whether compliance with a SIP or FIP meeting the requirements of CAIR may also satisfy the NO_X RACT requirement for certain EGUs. Thus, it was appropriate for EPA to compare the reductions under CAIR alone with the reductions that would be achieved by another possible method of satisfying RACT requirements (i.e. the application of source-by-source RACT controls). The comparison that the commenter suggests should have been prepared would not have shed light on the question the analysis sought to answer, namely whether compliance with CAIR satisfies the nonattainment program requirement in question.

In addition, as noted above, by design, the 2009 CAIR region-wide NO_X emissions cap for EGUs represents the most reductions that are reasonable to achieve. Further, as explained in the reconsideration notice, source-specific control requirements layered on top of the overall allowance-based emissions cap might affect the temporal distribution of emissions or the spatial distribution of emissions but would not affect total allowed emission in the CAIR region. EPA expects that, under the CAIR trading programs the largest-emitting EGU sources (and those with the most cost effective reductions available) will be the first to install NO_X control technology. If states were to require smaller-emitting EGU sources in nonattainment areas to meet source-specific RACT requirements, they would likely use labor and other resources that would otherwise be used for emission controls on larger sources and the cost of achieving the regional reductions would be greater on a per ton basis.

h. Comment: One commenter argues that EPA's determination that compliance with the CAIR, in some circumstances, satisfies NO_X RACT requirements for EGUs will create inequality between CAIR states and bordering non-CAIR states. They argue that EPA's determination creates an inequity where the geographic boundary of a nonattainment area crosses state lines from a CAIR state into a non-CAIR state. In the CAIR state portion of the non-attainment area, EPA would allow compliance with CAIR rules to satisfy NO_X RACT for EGUs while in the non-CAIR state portion of the nonattainment area NO_X RACT for EGUs would still be a source-specific requirement.

Response: Since sources in non-CAIR states are not subject to rules implementing the CAIR emission reduction requirements, those states naturally could not rely on compliance with those rules to show that the NO_X EGU RACT requirements has been satisfied. The fact that the non-CAIR states may use a different method to show that the same RACT requirement has been met does not create an inequity between states. Further, none of the nonattainment areas covered by the EPA's determination that compliance

with CAIR rules satisfies certain NO_X RACT requirements (i.e. those for which our technical analysis shows that CAIR provides equal or greater annual and ozone-season emissions reductions than source-by-source RACT) lie across the boundary of two states, one of which is a CAIR state and the other of which is a non-CAIR state.

j. Comment: EPA received several comments arguing that EPA's determination that CAIR may satisfy the EGU NO_X RACT requirements for some areas is improper because the purpose of RACT is not the same as the purpose served by the CAIR. The commenters argue that the purpose of the CAIR is to address interstate transport of NO_X from EGUs that contributes to nonattainment in downwind states, while the RACT requirement is intended to reduce emissions within a nonattainment area. They argue that RACT is intended to reduce emissions in nonattainment areas by requiring emission control technologies to be installed at particular sources, where CAIR does not require such emission controls. The commenter asserts that the CAIR is not intended as an attainment strategy.

Response: We find the attempt by commenters to characterize CAIR as a strategy to address only regional pollution transport as overly simplistic. The EPA analyses for the CAIR show that there are significant emissions reductions and air quality benefits projected for individual nonattainment areas as a result of NO_X reductions across the multistate CAIR region. The Clean Air Act does not prevent states from properly crediting measures that achieve multiple objectives (e.g. regional transport and local nonattainment). Moreover, CAA section 110(a)(2)(D) requires SIPs to contain adequate provisions to assure that sources in the state do not contribute significantly to nonattainment in any other state. The CAIR rule is an integral element in meeting the states' section 110 attainment obligations. Accordingly, it is reasonable to incorporate this consideration in determining what measures qualify as RACT. Even though the CAIR may have been initially designed to get regional reductions, if it produces the most reductions that are feasible it can also represent RACT for subject areas.

j. Comment: One commenter says the EPA ignores the impact on non-EGU sources of its determination that compliance with the CAIR may satisfy the RACT requirement for certain EGUs. The commenter argues that states may be required to impose more costly controls on non-EGUs to make up for lost reductions due to the failure to impose RACT on EGUs.

Response: As explained above, EPA disagrees with the commenters' assertion that EPA's determination that compliance with the CAIR may satisfy NO_X RACT requirements for EGUs constitutes ''failure to impose RACT on EGUs.'' Nothing in the final rule displaces the RACT requirement for EGUs. Further, CAIR will achieve widespread SO_2 and NO_X emission reductions from EGUs and will provide significant air quality benefits for ozone and $PM_{2.5}$ nonattainment areas. In developing attainment SIPs and identifying control measures, states may need to consider more stringent controls on all sources, including EGUs, in order to reach attainment as expeditiously as practicable. States must also consider the economic feasibility of implementing a given control measure, and EPA has determined that the CAIR will result in EGUs installing controls on the maximum total capacity on which it's feasible to do so by 2009 in the CAIR region. Further, EPA acknowledges that to achieve attainment as expeditiously as practicable, some states may need to adopt control measures for some sources which cost more per ton than the controls on EGUs, but which are still considered to be reasonable and cost-effective. Because of facility-specific factors (e.g. input costs in the geographic area and the facility's ability to sustain the cost), EPA does not believe it would be appropriate to establish a threshold of control effectiveness (e.g. dollars per ton) based on control of EGUs and apply this threshold to all source categories.

k. Comment: Another commenter argues that states such as Illinois may be forced to require additional emission reductions, including application of RACT within their nonattainment areas, that must be achieved earlier than CAIR reductions. They argue that these additional controls on non-EGU sources will be very costly and that EGUs are usually the largest and most easily controlled NO_X sources in a nonattainment area. More specifically, they note that there are 15 coal-fired boilers in two ozone nonattainment areas in Illinois, none of which have installed SCRs. EPA projects that only two of those units will install SCRs in response to CAIR. However, based on that projection, the Chicago area will not meet the 8-hour standard by 2010.

Response: Just because the RACT requirement results in relatively less control on one source category compared to another is no reason why the RACT determination for a source category is invalid, since the two categories may be sufficiently dissimilar so as to render a comparison irrelevant. RACT represents only such technology as is reasonably available, not all controls that may be necessary to attain as expeditiously as practicable. The State is still required to demonstrate attainment as expeditiously as practicable and has the discretion to choose in its public process how to apportion responsibility for emission reductions to meet that requirement.

l. Comment: Several commenters, all associated with electric power companies, agreed that CAIR will likely achieve the same emissions controls as RACT, but in a more cost effective manner. One commenter points out that CAIR will achieve substantially more area wide emission reductions that source-by-source RACT controls, and says this is true in most nonattainment areas also. The commenter points out that in the few areas where source-by-source RACT is projected to produces greater emission reductions than CAIR under EPA's conservative analysis, the differences are relatively small.

Response: EPA agrees that CAIR will achieve the same or lower NO_X emissions over the CAIR area than source-by-source RACT and that it will achieve these NO_X reductions in the most cost effective manner.

m. Comment: Several commenters addressed the contention in EPA's analysis that CAIR will result in EGUs installing controls on the maximum total capacity on which it is feasible to do so by 2009. One commenter agreed with this contention and noted that further controls will be installed by 2015. Another commenter says that this contention is contradicted by a 2004 analysis conducted by the Institute of Clean Air Companies (ICAC) which concluded that labor is available to install 2015 CAIR levels of reduction by 2010. If CAIR 2015 controls are closer to RACT, they argue, ''EPA's implication that RACT requirements on EGUs in the CAIR regions would not achieve more reductions than those achieved by CAIR by 2010 is incorrect. However, another commenter says that CAIR requires controls as quickly as they can be practically installed given the constraints of specialized labor needed for this type of construction.

Response: EPA considered a number of analyses related to boilermaker labor availability provided by various commenters, including the 2004 Institute of Clean Air Companies analysis, when it prepared the Clean Air Interstate Rule (CAIR) which was published May 12, 2005 (70 FR 25162). EPA prepared its own technical analysis as part of the CAIR development, and

decided as a result of its analysis that the dates in the final CAIR rule of January 1, 2009 for phase I for NO_X controls, January 1, 2010 for phase II SO_2 controls and 2015 for phase 2 controls for both NO_X and SO_2 were appropriate based on projected labor availability. The EPA's analysis shows that the amount of additional NO_X emissions control that will be obtained under the CAIR in 2015 is infeasible to obtain in 2009, when RACT emission reductions under the 8-hour ozone NAAQS must be implemented. EPA believes it has set the 2009 CAIR NO_X cap at a level that, assuming the reductions are achieved from EGUs, would result in EGUs installing emission controls on the maximum total capacity on which it is feasible to install emission controls by that date. Thus, in that timeframe controls beyond CAIR cannot be considered ''reasonably available''. The EPA analysis, titled ''Boilermaker Labor Analysis and Installation Timing'', March 2005, has been placed in the docket for the CAIR rule, docket number EPA–HQ–OAR–2003–0053, document number EPA–HQ–OAR–2003–0053–2092. This issue is also discussed in the preamble to the CAIR rule under the heading ''Schedule for Implementing SO_2 and NO_X Emissions Reductions Requirements for $PM_{2.5}$ and Ozone'' starting at 70 FR 25215. EPA concluded that its analysis rather than the ICAC analysis of feasibility is correct and EPA believes it is still the most credible analysis addressing the issue.

n. Comment: Several commenters argue that the economic test for CAIR is different from that for RACT. CAIR requires only ''highly cost effective controls,'' whereas RACT requires economically feasible controls. Thus, the commenters conclude, more controls ''pass the economic test'' under RACT than under CAIR.

Response: EPA believes that the emission reductions achieved by CAIR, while still highly cost effective, also represent the level of control that is economically and technologically feasible as RACT for EGUs in states that achieve all their emission reductions from EGUs. The CAIR final rulemaking established a region-wide NO_X emissions cap, effective in 2009, at a level that, assuming the reductions are achieved from EGUs, would result in EGUs installing emission controls on the maximum total capacity on which it is feasible to install emission controls by that date. Further, EPA does not believe that requiring source-specific RACT controls on EGUs in nonattainment areas would reduce total NO_X emissions from EGU sources covered by the CAIR below the levels that would be achieved under the CAIR alone. The most expensive controls available, which might be chosen for BACT or LAER, are not always justified as RACT. States have the flexibility to require such controls as part of their attainment strategy if they find such controls are reasonable and necessary to achieve attainment of the ozone NAAQS as expeditiously as practicable.

o. Comment: One commenter argued that the time frames for the CAIR and the RACT requirement are different. This commenter says RACT is required within 30 months of when the RACT SIP is due which would require controls to be installed by the 2009 ozone season, but that CAIR sources have until 2010 or 2015.

Response: As explained in the final CAIR rule (70 FR 25226), the first phase of CAIR NO_X emissions cap starts in 2009, not in 2010 as the commenter states. For states affected by the CAIR annual NO_X emission reduction requirements, the first phase cap begins on January 1, 2009. For states affected only by the CAIR ozone season NO_X emission reduction requirements, the first phase starts May 1, 2009. EPA believes it has set the 2009 CAIR NO_X cap at a level that, assuming the reductions are achieved from EGUs, would result in EGUs installing emission controls on the maximum total capacity on which it is feasible to install emission controls by that date.

p. Comment: EPA received comments arguing that states are not free to require more control on EGUs, as EPA suggests, since the law in many states prohibits state air agencies from being more stringent that federal law. One survey found the 26 state agencies (of 50 respondents) and 9 local agencies (of 42 respondents) reported being precluded from adopting more stringent requirements than the federal government. A commenter said that the ''CAIR equals RACT'' determination removes state authority and obligation to impose NO_X RACT requirements for some of the largest NO_X sources in their nonattainment areas.

One commenter said that the petition for reconsideration ignores the point that, entirely apart from what emission controls are deemed RACT, states must require emission controls as necessary to attain the NAAQS as expeditiously as practicable. Thus a state has discretion to require beyond-RACT NO_X reductions.

Response: There are no provisions in the CAA or federal law that prohibit state governments from imposing requirements more stringent than federal law. EPA recognizes, nonetheless, that some states have voluntarily chosen to adopt such limits. All states, regardless of whether such limits have been adopted, are required by section 172 of the CAA to attain the ozone NAAQS as expeditiously as practicable. Thus, requirements that are determined by the state to be necessary to attain as expeditiously as practicable with reasonably available control measures, are in fact required by federal law and cannot be considered more stringent than federal requirements. In this action, EPA has decided that it will accept a determination that NO_X RACT for EGUs is satisfied by compliance with rules implementing CAIR in a state that achieves all CAIR emission reductions from EGUs and where EPA's technical analysis presented in the December 16, 2006 notice of reconsideration shows that CAIR will achieve greater or equal annual and ozone-season emissions reductions than source-by-source RACT in the relevant nonattainment area (or for section 184 requirements, the relevant OTR state). If a state chooses to rely on this determination, it will not be required to perform NO_X RACT analyses for sources in the relevant nonattainment area or OTR state that are subject to a CAIR NO_X trading program.[11] Nonattainment areas and OTR states that cannot rely on this determination, may still initially presume that CAIR will satisfy the NO_X RACT requirements if all CAIR reductions are achieved by EGUs. Under this presumption, states are free to conduct case-by-case RACT determinations at their discretion. Further, the requirement to attain the NAAQS as expeditiously as practicable is distinct from the analysis of what specific emission controls are deemed RACT for a particular source. Thus, all states have discretion to require beyond-RACT NO_X reductions if necessary to comply with the requirements of CAA section 172.

q. Comment: One commenter argues that EPA attempts to stretch § 172 (c)'s definition of ''reasonable,'' when EPA states that it believes that the term ''reasonable'' in RACT may be construed to allow consideration of the air quality impact of required emissions reduction from a region-wide cap-and-trade

[11] The determination for OTR states is separate from the determination for nonattainment within the OTR states, i.e., this determination applies to areas in these OTR states other than (a) moderate and above subpart 2 areas and (b) subpart 1 areas that request an attainment date more than 5 years after designation for the 8-hour NAAQS. This means that an OTR state can get a determination that CAIR equals RACT within the State, but a particular nonattainment within the State may not get this determination based on the results of the technical analysis.

program such as CAIR. Another commenter argues that EPA's theory that the term ''reasonable'' is ambiguous and ignores the statutory language which only speaks to RACT, with the term reasonably modifying the word available. The commenter said that it is not reasonable for EPA to interpret reasonable to apply in one manner for EGUs and a wholly different manner for other sources.

Response: EPA disagrees with commenter's assertion that EPA interprets the term ''reasonable'' to apply in one manner for EGUs and in a different manner for other sources. Section 172(c)(1) of the CAA requires that nonattainment plans shall provide for the implementation of all reasonably available control measures as expeditiously as practicable. EPA has previously stated that reasonable control measures can include area wide averaging programs. (See NO_X Supplement to the General Preamble, November 25, 1992 (57 FR 55620).) EPA's determination that the term ''reasonable'' in RACT may be construed to allow consideration of the air quality impact of required emissions reduction from a region-wide cap-and-trade program such as CAIR is consistent with past practice and appropriate for the reasons explained in this notice.

Further, in determining a level of control which EPA recommends as RACT, EPA studies a variety of sources and controls and determines what level of control is applicable in the industry across a wide variety of sources at a reasonable cost. States are free to tailor this RACT guidance to the particular situation confronting individual sources in that state. Each permitting agency determines for each source or source-category in the state, the specific controls that constitute RACT. Thus, the precise requirements applied to ensure that RACT is met may differ from source to source and source-category to source-category.

EPA's determination that, in certain circumstances, compliance with CAIR will satisfy the RACT requirement for EGUs in most CAIR states, does not, as petitioner suggests, reinterpret the term RACT as it applies to EGUs. Instead, EPA has determined that the existing RACT requirement is satisfied by compliance with a rule implementing the CAIR requirements, if and only if a state achieves all its reductions from EGUs and the EPA's technical analysis presented in the notice of reconsideration shows that CAIR will achieve greater or equal reductions for annual and ozone-season emission reductions than source-by-source RACT in the relevant nonattainment area or OTR state.[12] If a state achieves all of its CAIR emission reductions from EGUs then the emissions of other source categories in the state are not controlled by the CAIR. Thus, it would be impossible for EPA to make a similar determination that they have met their RACT requirements through compliance with CAIR.

r. Comment: EPA received several comments on whether the U.S. Court of Appeals for the D.C. Circuit decision in *South Coast Air Quality Management District* v. *EPA*, (No. 04–1200) (D.C. Cir. 2006), will affect the issues in the Ozone Phase 2 Rule that are currently under reconsideration. Specifically, commenters suggested that the South Coast decision may affect EPA's analysis and conclusions regarding whether compliance with rules implementing CAIR may satisfy NO_X RACT for EGUs in certain circumstances. One commenter argued that the decision would affect the validity of the supplemental technical analysis discussed in the December 2006 notice of reconsideration. This commenter argued that the analysis would be affected since, as a result of the South Coast decision, certain areas may be moved from subpart 1 to subpart 2 nonattainment classifications. Another commenter urged that there be no further delay as a result of that ruling and argued that the issues being considered in the reconsideration of phase 2 are not affected by the South Coast decision. Another commenter argued that based on that decision, EPA cannot use its discretionary powers to replace source-specific provisions of the CAA such as RACT that were designed to achieve specific air quality goals with trading programs such as CAIR that were designed for other specific air quality goals.

Response: EPA disagrees with the comment to the extent it suggests EPA is seeking to replace the RACT requirement with CAIR. The final rule does not displace the RACT requirement for any sources. EPA also disagrees with the comment to the extent it suggests that EPA's interpretation of the RACT requirements in sections 172(c)(1), 182(f) and 184(b) is inconsistent with the South Coast decision. Further, on March 22, 2007, EPA filed a petition for panel rehearing of the South Coast decision and thus the full impact of that decision cannot yet be assessed. At this time, EPA is unable to determine which areas, if any, in addition to those included in the analysis will be required to submit separate RACT SIPs. However, as indicated above in footnote 8, region-wide emissions reductions from the CAIR are projected to be significantly greater than reductions that would be projected to occur from application of source-by-source RACT, such that the possible movement of areas designated in the phase 1 rule as subpart 1 to subpart 2 area designations is not expected to alter the conclusion that the CAIR achieves greater emission reductions in the region than source-by-source RACT. In addition, as previously discussed, EPA is limiting the scope of its determination that compliance with the CAIR satisfies NO_X RACT requirements. This determination applies in areas where EPA's emissions analysis in the December 16, 2006 notice of reconsideration shows that the CAIR will achieve greater or equal annual and ozone-season emissions reductions than source-by-source RACT.

B. Submission Date for EGU NO_X RACT SIPs for States in the CAIR Region

1. Final Action

In this action, EPA also extends the deadline for the submission, by states in the CAIR region, of EGU NO_X RACT SIPs for moderate and above subpart 2 areas. Specifically, EPA has determined that states subject to the requirements of CAIR shall submit NO_X RACT SIPs for EGUs no later than the due date for the area's attainment demonstration (prior to any reclassification under section 181(b)(3)) for the 8-hour ozone NAAQS or July 9, 2007, whichever comes later.[13] EPA is therefore changing the deadline in 40 CFR 51.912(a)(2) as it applies to that portion of the RACT SIPs addressing EGU NO_X emissions in the CAIR region. EPA is not changing the deadline in 40 CFR 51.912(c)(2) that applies to RACT SIP submittals for subpart 1 areas that request an attainment date that extends beyond April 2009, since those RACT SIPs are already due with the area's attainment demonstration by June 15, 2007.

EPA decided to extend the deadline for the submission of these EGU NO_X RACT SIPs because of the continuing uncertainty regarding the required content of such SIPs and to avoid promulgating a retroactive deadline.

[12] The determination for OTR states is separate from the determination for nonattainment within the OTR states, i.e., this determination applies to areas in these OTR states other than (a) moderate and above subpart 2 areas and (b) subpart 1 areas that request an attainment date more than 5 years after designation for the 8-hour NAAQS. This means that an OTR state can get a determination that CAIR equals RACT within the State, but a particular nonattainment within the State may not get this determination based on the results of the technical analysis.

[13] The current deadline for submitting attainment demonstrations in these areas is June 15, 2007.

The Administrative Procedures Act generally prohibits retroactive rulemaking. In this case, EPA also determined that it would not be reasonable to enact a retroactive deadline because it would only serve to potentially expose states to fines and suits for failure to make SIP revisions even though they previously faced substantial ambiguity regarding the required content of the SIP submissions. *See Sierra Club* v. *Whitman*, 285 F.3d 63, 68 (D.C. Cir. 2002).

EPA recognizes that significant uncertainty regarding the EGU NO_X RACT SIPs for states in the CAIR region was created by its decision to grant NRDC's petition for reconsideration. It was for this reason that, in the December 2006 notice of reconsideration, EPA proposed to extend the September 15, 2006 deadline to June 15, 2007 for this source category. This new deadline affects only moderate 8-hour ozone nonattainment areas in the CAIR region and only the portion of the RACT SIPs that covers EGUs. EPA is aware that uncertainty regarding area classifications, and hence the requirement for RACT SIPs was created by *South Coast* v. *EPA*, in which the court decided to vacate EPA's nonattainment classifications. These classifications determine, among other things, which nonattainment areas must submit RACT SIPs separate from their attainment demonstrations under the Phase 2 Rule. EPA does not believe it would be reasonable to retain the September 15, 2006 deadline for submission of the EGU NO_X RACT SIPs for states in the CAIR region since this date has now passed and the uncertainty regarding the required content of these SIPs has not been resolved. This final action removes the uncertainty created by the decision to grant reconsideration. The uncertainty regarding the classifications will be eliminated either by the reclassification of certain areas by EPA, or by a decision of the Court on rehearing not to vacate some or all of the original classifications.[14] The due date for attainment demonstrations is tied to the date of the classification, and for any classifications that are upheld on rehearing, the attainment demonstrations for moderate areas will continue to be due on June 15, 2007. Because the classifications also determine what areas must submit RACT SIPs, and in light of the passage of time during this reconsideration process, EPA believes that the EGU RACT SIP submittal deadlines for states in the CAIR region should now also be linked to the deadline for submitting attainment demonstrations. EPA recognizes that for many areas this deadline may be June 15, 2007—a date prior to the effective date of this rule. EPA also recognizes that CAA section 172(b) requires states to make all nonattainment SIP submissions within 3 years of designation (i.e. by June 15, 2007). Nonetheless, to avoid creating a retroactive deadline and because of the continuing uncertainty regarding the classifications, EPA has decided to require the submission of EGU NO_X RACT SIPs on the due date for the area's attainment demonstration under its original classification for the 8-hour standard, or the effective date of this rule, whichever is later.

2. Response to Comments

a. Comment: Several commenters opposed the extension of the EGU NO_X RACT SIP submittal deadline. One commenter argued that EPA has no authority to extend the due date for RACT SIPs for EGUs to June 15, 2007 because section 182 of the CAA requires submittal of RACT SIPs within 2 years of designation. Other commenters urged EPA to finalize a rule that would expedite SIP submittals.

Response: Section 182 does not explicitly provide that RACT SIPs must be submitted a certain number of months after an area is designated nonattainment for the 8-hour ozone NAAQS. EPA interprets the comment to suggest that the final rule contains requirements similar to the VOC RACT requirements in section 182(b)(2)(C), which must be submitted to the Administrator by two years after November 15, 1990 (the date of enactment of the CAA Amendments of 1990). Therefore, the argument goes, the RACT SIPs must similarly be submitted within two years of the nonattainment designation, or June 15, 2006. In the final Phase 2 Rule, we determined that because some states might rely on the submittal of SIP revisions meeting the CAIR to also satisfy RACT for some sources, it was reasonable to extend the RACT submittal date to September 15, 2006 to correspond to the required date for submitting CAIR SIPs. This date has now passed, and for the reasons explained in section III.B.1 of this notice, EPA does not believe it would be appropriate to finalize this rule with a retroactive deadline.

b. Comment: Other commenters supported the extension at least until June 15, 2007 and some argued a longer extension may be necessary given the uncertainties regarding classifications created by the decision in *South Coast* v. *EPA*.

Response: As discussed in section III.B.1 of this notice, the RACT SIP submittal date in the final rule reflects EPA's recognition that the *South Coast* v. *EPA* decision has created some uncertainty about which areas, by virtue of their classification, would be required to address RACT requirements and in what timeframe.

C. Provisions of Final Rule Addressing the Criteria for Emission Reduction Credits From Shutdowns and Curtailments

1. Major Source NSR Criteria For Emission Reduction Credits (ERC) From Shutdowns snd Curtailments

The November 29, 2005 Phase 2 rule removed the requirement that a State must have an approved attainment plan before a source may use pre-application credits from shutdowns or curtailments as offsets. It also revised the availability of creditable offsets, consistent with the requirements of section 173 of the CAA. We revised the provisions at 40 CFR 51.165(a)(3)(ii)(C) and appendix S concerning emission reduction credits generated from shutdowns and curtailments as proposed in Alternative 2 of the 1996 proposal, with one exception. Alternative 2 of the 1996 proposal provided that, in order to be creditable, the shutdown of an existing emission unit or curtailing of production or operating hours must have occurred after the ''most recent emissions inventory.'' As described in prior notices referenced herein, a public comment raised concerns about usage of this terminology. Upon consideration of various aspects of the terminology, we amended the rules at 40 CFR 51.165(a)(3)(C)(1) and Appendix S paragraph IV.C.3. to specify the cutoff date after which the shutdown or curtailment of emissions must occur as ''the last day of the base year for the SIP planning process.'' In our responses to comments below, we further detail our rationale supporting this change. As explained previously, this regulatory language is consistent with our previous guidance on how emission reduction credits from shutdowns and curtailments are used in attainment planning.[15] The base year inventory

[14] The decision of the Court in *South Coast* v. *EPA* vacated the Phase 1 ozone implementation rule, including the classifications contained within that Rule. On March 22, 2007, EPA filed a petition for panel rehearing of this decision. Among other things, EPA requested further briefing and panel rehearing on whether the Court erred in vacating the entire Rule even though many provisions of the Rule were not challenged or were upheld by the Court.

[15] See 57 FR 13553. After the 1990 CAA Amendments were enacted, 1990 was the base year

includes actual emissions from existing sources and would not normally reflect emissions from units that were shutdown or curtailed before the base year, as these emissions are not ''in the air.'' To the extent that these emission reduction credits are to be considered available for use as offsets and are thus ''in the air'' for purposes of demonstrating attainment, they must be specifically included in the projected emissions inventory used in the attainment demonstration along with other growth in emissions over the base year inventory. This step assures that emissions from shutdown and curtailed units are accounted for in attainment planning.[16] As with the prior rules, reviewing authorities thus retain the ability to consider a prior shutdown or curtailment to have occurred after the last day of the base year if emissions that are eliminated by the shutdown or curtailment are emissions that were accounted for in the attainment demonstration. However, in no event may credit be given for shutdowns that occurred before August 7, 1977, a provision carried over from the previous regulation. See 40 CFR 51.165(a)(3)(C)(1)(ii) and 40 CFR Part 51 Appendix S Paragraph IV.C.3.

2. Legal Basis for Changes to Criteria for Emission Reduction Credits From Shutdowns and Curtailments

The revisions made to the rules governing use of emissions reductions from shutdowns/curtailments as offsets were warranted by the more detailed attainment planning and sanction provisions of the 1990 CAA Amendments. These provisions specifically address air quality concerns in nonattainment areas lacking EPA-approved attainment demonstrations. As a threshold matter, we noted (See 70 FR 71677, November 29, 2005) that CAA section 173 does not mandate the prior restrictions on shutdown credits, specifically, the requirement to have an approved attainment demonstration before shutdown credits may be allowed. (See 48 FR 38742, 38751; August 25, 1983). Rather, in promulgating these restrictions in 1989, EPA recognized that it had a large degree of discretion under the CAA to shape implementing regulations, as well as the need to exercise that discretion such that offsets are consistent with reasonable further progress (RFP) as required in CAA section 173. (See 54 FR 27286, 27292; June 28, 1989). Originally, EPA believed that areas without approved attainment demonstrations lacked adequate safeguards to ensure that shutdown/curtailment credits would be consistent with RFP. We thus subjected those areas to more restrictive requirements to ensure a link between the new source and the source being shutdown/curtailed (that is, shutdown/curtailment must occur after the application for a new or modified major source is filed).

The 1990 CAA Amendments changed the considerations involved. For areas subject to subpart 2 of CAA Part D, Congress emphasized the emission inventory requirement in section 172(c)(3) as a fundamental tool in air quality planning (See Section 182(a)(1). Congress also added new provisions keyed to the inventory requirement, including specific reduction strategies (e.g., section 182(b)(3) and (4) (regarding gasoline vapor recovery and motor vehicle inspection and maintenance programs)) and ''milestones'' that measure progress toward attainment from the base year emissions inventory or subsequent revised inventories (See section 182(b)(1)). Subpart 4 sets forth specific reduction strategies and milestones for attainment of the PM_{10} standards. Additionally, there are now several adverse consequences where States fail to meet the planning or emissions reductions requirements of the CAA. For example, the CAA contains mandatory increased new source offset sanctions at a 2:1 ratio where the Administrator finds that a State failed to submit a required attainment demonstration (See section 179). In areas that are subject to subpart 2 and subpart 4, failure to attain the air quality standard by the attainment deadline results in the area being bumped up to a higher classification (see sections 181(b)(2) and 188(b)(2)). Additional regulatory requirements are imposed as a result of the higher classification (see, e.g., section 182(c), (d), and (e), and section 189(b)). These statutory changes justify shifting the focus of the prior regulations from individual offset transactions between a specific new source and shutdown source and towards a systemic approach. Considering the changes to the 1990 CAA Amendments, we now believe that continuing the prohibition on the use of shutdown/curtailment credits generated in a nonattainment area that is without an approved attainment demonstration is not warranted. We believe that use of emission reduction credits from shutdowns/curtailments will be consistent with RFP towards attainment under CAA section 173, even in the absence of an approved attainment demonstration, if the shutdown or curtailment occurs after the last day of the base year for the SIP planning process or is included in the projected emissions inventory used to develop the attainment demonstration. From an air quality planning perspective, emissions from the shutdown source actually impacted the measurements of air quality used in determining the nonattainment status of an area. Therefore, emissions reductions from such source shutdowns/curtailments are actual emissions reductions, and their use as emission offsets at a ratio of 1:1 or greater is consistent with RFP towards improved air quality as set forth in CAA section 173(a)(1)(A) provided they are included in the baseline emissions inventory.

3. Reconsideration of Emission Reduction Credits Final Rule Language and Request for Public Comments

In its January 30, 2006, petition for reconsideration, NRDC requested that EPA reconsider provisions in the final Phase 2 Rule that pertain to ERC. NRDC argued that EPA failed to present portions of the rule's ''shutdown-curtailment offset provisions'' and accompanying rationales to the public for comment. In our December 19, 2006, proposal for reconsideration we presented our opinion that the basis for the ERC provisions of the final rule was adequately provided in the November 29, 2005, rule and in earlier actions leading to that rule. Petitioners asserted in their request for reconsideration that certain aspects of our clarifying amendments to the ERC provisions of the final rule were not a logical outgrowth of the ERC provisions we proposed. While disagreeing, we nonetheless presented certain changes made in the November 29, 2005, final rule for additional public comment as requested by the petitioners. Concerning emission reduction credits, our proposal for reconsideration drew twelve public comments. Of those comments, eight supported the rules as now written. Among those opposed were the

for 1-hour ozone NAAQS attainment planning purposes. See 57 FR 13502. The EPA encouraged States to allow sources to use pre-enactment banked emissions reductions credits for offsetting purposes. States have been allowed to do so if the restored credits meet all other offset creditability criteria, and States consider such credits as part of the attainment emissions inventory when developing their post-enactment attainment demonstration.

[16] For a discussion of emission inventories for the 8-hour ozone standard, see our emission inventory guidance, ''Emissions Inventory Guidance for Implementation of Ozone and Particulate Matter National Ambient Air Quality Standards (NAAQS) and Regional Haze Regulations—Final,'' at *http://www.epa.gov/ttn/chief/eidocs/eiguid/index.html.* For a discussion of emission projections used in attainment demonstrations, see Emission Inventory Improvement Program, Volume X, Emission Projections, December 1999, available at *http://www.epa.gov/ttn/chief/eiip/techreport/.*

petitioners, who continued presentation of the concerns leading to today's notice. Detailed discussion and analysis of arguments raised by all of the commenters is given below.

4. Comments and Responses for Emission Reduction Credits Issues

Two commenters objected to the inclusion of NSR program elements into the same action as the requirements for the implementation of the eight-hour ozone standard. Our response to that concern is that we considered it more efficient to combine the two actions. We observed in 70 FR 71672 that we did not propose specific regulatory language for implementation of NSR under the 8-hour NAAQS. However, we indicated that we had intended to revise the nonattainment NSR regulations to be consistent with the rule for implementing the 8-hour ozone NAAQS. We found it expeditious to address these and other NSR matters in the same regulatory package as the phase 2 ozone rule. In the future, any combination of actions affecting multiple aspects of an overall program would be considered in light of the pros and cons of doing so at that time. In this instance, coordination of distinct program elements was a primary concern.

a. Comments on Emission Reduction Credits and Emissions Inventories

In the January 30, 2006, NRDC petition for reconsideration, Earthjustice argued on behalf of NRDC that EPA failed to present portions of the rule's ''shut down-curtailment offset provisions'' and accompanying rationales to the public for comment. The petitioners asserted in their request for reconsideration that certain aspects of our clarifying amendments to the ERC provisions of the final rule were not a logical outgrowth of the ERC provisions we proposed on the July 23, 1996 proposal. First, they identified the change in language regarding when shutdowns and curtailments must have occurred in order to be creditable. The proposed language (alternative 2) said that shutdowns and curtailments could be credited ''if such reductions occurred after the last day of the baseline year of the most recent base year emissions inventory used (or to be used) in the plan.'' In the final rule, after considering comments, we changed the language to say that such reductions could be credited if they occurred ''after the last day of the base year for the SIP planning process.'' Earthjustice objected to this change because, in their view, the final rule ''allows offsets from pre-application shutdowns and curtailments even in the absence of an emission inventory for the attainment plan.'' While we believe the ERC provisions in the final rule were a logical outgrowth of the proposal, we nevertheless granted their request for reconsideration with respect to this particular language change, as indicated in the December 19, 2006, notice. The NRDC/Earthjustice petition also contained a second argument, which was that the final rule ''could allow pre-baseline reductions from shutdowns or curtailments to be used as post-baseline offsets.'' This argument hinged on the second sentence of § 51.165(a)(3)(C)(1)(ii), which now provides that ''a reviewing authority may choose to consider a prior shutdown or curtailment to have occurred after the last day of the base year if the projected emissions inventory used to develop the attainment demonstration explicitly includes the emissions from such previously shut down or curtailed emission units.'' While we did not specifically open this issue for reconsideration, we nevertheless address related comments below. For the purpose of providing potential commenters context and clarity, we included the full language of § 51.165(a)(3)(C)(1) and Appendix S paragraph IV.C.3 in our December 19, 2006 notice of reconsideration.

In its comments upon our proposal for reconsideration, Earthjustice essentially repeated the points made in the NRDC/Earthjustice petition, stating that the final ERC provisions ''would allow use of such pre-application offsets before the state even knows the degree of emission reductions needed to assure RFP, and before the state has even developed a baseline emission inventory.'' Earthjustice also pursued the second issue, stating that ''the proposed rule further violates the Act to the extent that it allows the source to claim offsets from reductions that occurred prior to the baseline year for the attainment demonstration.'' In addition, Earthjustice offered broad comments that relate to aspects of the ERC provisions that pre-dated the Phase II rule. We will examine those comments after first addressing the discrete issues that were the subject of the reconsideration proposal.

As summarized above, the first concern raised by NRDC/Earthjustice in the petition for reconsideration was with the replacement of the terminology ''most recent emissions inventory'' as used in the July 23, 1996 proposal (61 FR 38250) with the terminology ''the last day of the base year for the SIP planning process.'' Alternative 2 of the 1996 proposal provided that, in order to be creditable, the shutdown of an existing emission unit or curtailing of production or operating hours must have occurred after the ''most recent emissions inventory.'' We agreed with a commenter on the 1996 proposal who found the phase ''most recent emissions inventory'' confusing. In particular, that prior commenter believed this language could be read as meaning that the base year for the purpose of determining emissions that may be used as creditable offsets would continue to shift. The prior commenter noted that it would be more accurate to state that the base year emissions inventory is the starting point and all creditable emissions reductions must result from the shutdown or curtailment of emissions that have been reported in the base year inventory or a subsequent emissions inventory. (For the 8-hour ozone NAAQS, the base year is 2002.[17]) We agreed with the prior commenter that the terminology ''most recent emissions inventory'' was not desirable and revised § 51.165(a)(3)(C)(1) and Appendix S paragraph IV.C.3. Accordingly, specifying the cutoff date after which the shutdown or curtailment of emissions must occur as ''the last day of the base year for the SIP planning process.''

Eight commenters voiced support for the ERC language as promulgated on November 29, 2005, and offered further comment on our December 19, 2006 proposal. In general, the commenters noted the important role assigned by Congress to the usage of emissions inventories for air quality planning. The commenters were supportive of the availability of ERC as a tool for factoring managed growth into the planning process. As a whole, these commenters supported the change from the language ''most recent emissions inventory'' as proposed July 23, 1996 to the final ''the last day of the base year for the SIP planning process.'' Speaking directly to the language that was the subject of the December 19, 2006 proposal, several commenters remarked that ERC should not be lost every time an inventory is updated. One observed that losing ERC due to a moving target cannot be directly tied to attainment planning. Another commenter found EPA's rationale to be reasonable and saw no merit to the petition. This opinion was echoed by yet another commenter who found no new information in the petition for reconsideration to support changing the promulgated ERC rule.

[17] 68 FR 32833, See also ''2002 Base Year Emission Inventory SIP Planning: 8-hr Ozone, $PM_{2.5}$ and Regional Haze Programs,'' U.S. EPA, pg. 1 (November 18, 2002).

Several of the commenters supporting the cutoff date for ERC as being the last day of the base year for the SIP planning process went on to express opinions about implementation of the provision. A State air pollution control agency said that emissions included in the base year inventory will also be included in a modeled attainment demonstration. Their experience has been that emissions go down while ERC are employed. We agree with the commenters regarding the important role of emissions inventories in air quality planning and the retention of ERCs. There is no good rationale to support the removal of ERC as a consequence to updating of inventory. We provided a detailed rationale for our own conclusion at 70 FR 71676–71677.

One commenter expressed appreciation of the specific clarifications we provided with regard to the ability to credit pre-emissions inventory shutdowns and curtailments if those emissions were included in the baseline SIP emission inventory. The commenter noted that this shutdown and curtailment policy provides incentive to remove old equipment without modern controls or to control emissions from such units with new technology or practically enforceable permit limits. The ban on the use of shutdowns and curtailments was counter-productive to improving air quality as it provided an incentive to keep older and higher emitting sources operating. The commenter opined that given the paucity of NO_X emissions reduction opportunities in certain nonattainment areas, the new rule represents sound public policy by providing an incentive for sources that want to build or install new emissions equipment to purchase and or control NO_X-emitting equipment at other sources that might have little incentive to reduce their emissions otherwise. Also, since an offset generates net emissions reductions because greater than one-to-one offset ratios are required for NSR permitting in these areas, such offsets do not interfere with attainment. We strongly agree with this commenter. The chosen approach to ERC should not encourage owner/operators to continue operating old inefficient equipment solely for the purpose of having those emissions available for credits at the time of a permit application. Establishing programmatic incentives to delay emission reductions that make good business sense (but are not otherwise required) is detrimental to the goal of achieving attainment as expeditiously as possible.

Some comments were received upon the mechanics of implementing ERC provisions. A State air pollution control agency said that since curtailments, by definition, are temporary, the EPA also needs to review the procedures it employs for allowing sources to use emissions reductions from curtailments as offset credits to ensure that the emissions reductions from the curtailments are real, federally enforceable, quantifiable and surplus. The commenter thought emissions might resume at a later point in time after the curtailment ends and expressed concern about adequate tracking of both the generation and use of these emission reductions to ensure that the use of such credits would be discontinued as soon as the curtailment ends. According to the commenter, EPA also needs to ensure that prior to the end of the curtailment, other emission reductions are available to offset the increase in emissions that occur when the source recommences operation. The commenter recommends that in order to ensure consistency on a regional and national basis, EPA should perform a detailed evaluation of the current procedures used by its regional offices for reviewing and approving the use of emissions reductions from curtailments as emissions offsets. Another State air pollution control agency thought the term ''explicit'' should be clarified. The second agency opined that it may be appropriate to explicitly include a line item in the projected emissions inventory on expected use of pre base year shutdown and curtailment emission reduction credits. They thought it should not be necessary to list separately each company that shutdown or curtailed operations in the projected emissions inventory. The second commenter went on to note that not all ERC in its inventory were actually used and that they have a schedule for retiring unused credits. This commenter expressed the opinion that we should avoid basing requirements of the permitting program on an inventory, which is designed for planning purposes.

Our interpretation of the two sets of comments referenced in the preceding paragraph is that they generally argue for opposite outcomes. We believe that emission inventories should be sufficiently detailed that the contributions of individual sources, particularly major sources, might be ascertained. The depth of detail yielded by periodic inventory updates is beyond the scope of this action. We do think the second commenter's concerns as to the status of particular credits should be addressed in the course of permitting. Applicants should be able to guarantee the continued existence of any credits upon which their permits might be based. Concerning the final point made by the second commenter regarding use of inventories, we disagree. The requirements of the NSR program provide growth management tools and are an integral part of the overall air quality attainment program. The ERC provisions which are the subject of this discussion are a tool to be used by States when tailoring programs to meet their individual needs. In the case just cited, the State has chosen to retire ERC according to a schedule. Used in this manner, ERC are available to encourage owner/operators to close aging facilities more quickly than they might should they see a need to internally ''bank'' their emissions for anticipated future permit applications. At the same time, the State has flexibly implemented the availability of ERC to suit its planning needs.

As noted above, the Earthjustice/NRDC petition for reconsideration and comments on the December 19, 2006 notice raised a discrete issue with respect to the phrase ''the last day of the base year for the SIP planning process.'' Earthjustice objected to the change from the proposed language because, in their view, the final language ''would allow use of such pre-application offsets before the state even knows the degree of emission reductions needed to assure RFP, and before the state has even developed a baseline emission inventory.'' We disagree with the commenter's suggestion that ERC may be employed with no consideration of consequences to air quality planning. In particular, the regulatory language in question from § 51.165(a)(3)(C)(*1*)(*ii*) specifically conditions usage of ERC for shutdowns and curtailments that occur prior to the cutoff date on identification of the underlying emissions in the inventory being used to develop a particular attainment demonstration. Shutdowns or curtailments based on emissions that were ''in the air'' during the baseline year are based on emissions that would automatically form part of the inventory. All emissions whose reduction would be creditable as offsets must be at some point incorporated into inventories employed for demonstrations of attainment. Any ERC, whether eventually used for offsetting or not, must be accounted for within either the baseline inventory or within periodic inventory updates. Any ERC employed as offsets may be readily taken into account during attainment planning.

The Earthjustice comments also contain the argument that the second sentence of § 51.165(a)(3)(C)(*1*)(*ii*)

''violates the Act to the extent that it allows the source to claim offsets from reductions that occurred prior to the baseline year for the attainment demonstration.'' The complete second sentence provides that ''a reviewing authority may choose to consider a prior shutdown or curtailment to have occurred after the last day of the base year if the projected emissions inventory used to develop the attainment demonstration explicitly includes the emissions from such previously shutdown or curtailed emission units.'' In this argument the commenter cites to CAA § 173(c)(1) as containing language precluding the offsets in question. As discussed below, this exception to the baseline provision predated the Phase 2 rule. The only change we made in the Phase 2 rule was to allow its use in a greater range of circumstances. This change was consistent with our overarching action in expanding the circumstances in which pre-application shutdowns and curtailments could be used to generate ERCs. We did not intend to revisit the exception as promulgated prior to the Phase 2 rule. We note that this exception is consistent with the policy on allowing pre-enactment banked emissions to be credited as set forth in the 1992 General Preamble (57 FR 13553). In that notice, we stated: ''For purposes of equity, EPA encourages States to allow sources to use pre-enactment banked emissions reductions credits for offsetting purposes. States may do so as long as the restored credits meet all other offset creditability criteria and such credits are considered by States as part of the attainment emissions inventory when developing their post-enactment attainment demonstration.'' We discuss CAA § 173(c)(1) further below in conjunction with our discussion of CAA § 173(a)(1)(A) and RFP.

As previously noted, portions of Earthjustice's comments relate to aspects of the ERC provisions that pre-dated the Phase II rule. While we view these issues as outside the scope of the reconsideration, we provide background on these broader issues in order to put the Phase 2 changes into context. We note, however, that Earthjustice had an opportunity to comment on these longstanding provisions at the time they were promulgated.

The concept of generating credits for later use has been a fundamental part of the NSR program for decades. See, for example, the ''General Preamble for Proposed Rulemaking on Approval of State Implementation Plan Revisions for Nonattainment Areas,'' 44 FR 20372 (April 4, 1979), indicating that ''the state may allow emission reductions to be banked for later use under the [Emission Offset Interpretive] Ruling and under the state's preconstruction review program under Part D.''

In 1989, EPA promulgated changes to the provisions that existed at that time regarding the extent to which source shutdowns and curtailments were creditable as emission offsets in nonattainment areas (54 FR 27286, June 28, 1989). In that notice, EPA pointed out that ''the Act does not expressly mandate any particular treatment of shutdowns for offset crediting purposes. Rather, this question is a matter within the administrative discretion delegated to EPA under the Act.* * * Thus, although it is true, as noted in the proposed regulations, that section 173 requires EPA to allow the construction of new sources in nonattainment areas where such construction will be consistent with RFP toward attainment, EPA retains broad discretion to establish criteria for determining when RFP has been assured'' (54 FR 27292). The version of 5.165(a)(3)(ii)(C)(1) & (2) promulgated in that 1989 rule was the version that remained current up until the Phase 2 revisions. In other words, as far back as 1989, EPA approved the concept of pre-application shutdown credits in certain circumstances (primarily where areas had EPA-approved attainment plans).

In the 1989 final rule, EPA also adopted, for purposes of areas with approved attainment plans, a provision allowing permitting authorities ''to consider a prior shutdown or curtailment to have occurred after the date of its most recent emission inventory, if the inventory explicitly includes as current ''existing'' emissions the emissions from such previously shutdown or curtailed sources'' (54 FR 27295). We explained that absent such explicit treatment, ''emissions from a new source whose construction is premised upon such shutdowns cannot reliably be said to be consistent with RFP.'' Our stated concern was that if the emissions were not included in the inventory, ''[i]t would constitute 'double counting' of these emissions reductions to allow their unrestricted use as shutdown offset credits by potential new sources.'' With the inclusion of the emissions in the inventory, however, the concern about possible double counting was eliminated.

Thus, our November 29, 2005 amendment to the ERC provisions introduced neither the concept of credits for pre-application shutdowns and curtailments nor the exception to the cutoff date for emissions explicitly included in the emissions inventory. What our November 29, 2005 amendment accomplished was to broaden the scope of these provisions to acknowledge 1990 CAA changes that enhanced the role of inventories in attainment planning. In its comments Earthjustice called our attention to CAA § 173(a)(1)(A), which they noted as requiring offsets to ensure that total allowable emissions will be sufficiently less than total emissions ''prior to the [NSR permit] application'' to ensure RFP. They also invoked CAA § 173(c)(1) as requiring that increased emissions from a new or modified major source ''shall be offset'' by an equal or greater reduction in actual emissions. Earthjustice, however, failed to note the final language of 173(a)(1)(A), which states that the difference between the pre-application emissions and the post-application emissions is to be considered together with the plan provisions required under section 172 in determining whether the difference represents reasonable further progress. In particular, we note that § 172(c)(3) presents the framework for non-attainment planning and includes use of inventories in the development of non-attainment plan provisions, into which NSR factors as a management tool. The inventories under § 172(c)(3) are to account for actual emissions from all sources. We consider the inclusion of emissions associated with pre-application shutdowns and curtailments in the inventory as ''actual emissions'' to be reasonable in that they represent emissions that would be ''in the air'' absent incentives to close or curtail sources. Reductions in these emissions thus fulfill the requirement for reductions in actual emissions as set forth in § 173(c)(1).

In light of the overall goal of RFP towards attainment, we have used our discretion to provide an incentive for sources to retire or curtail emissions sources early rather than continue operation of higher emission sources until such time as permit applications might be filed for replacement facilities. This construction is reinforced by § 172(c)(6) which says that plans shall include necessary and appropriate ''measures, means, or techniques,'' including economic incentives such as marketable permits. ERCs are one such economic incentive. Should ERC be lost every three years when inventories are updated, their marketability would be greatly diminished.

In § 172(c)(6) we see direction to construct a coordinated and cohesive air quality management program to accomplish the goal of RFP. The inclusion of ERC as now allowed in the NSR component of the program is a

viable measure entirely consistent with Congress' direction that implementation of § 173(a)(1)(A) be accomplished in conjunction with the overarching requirements of § 172. The ERC in question herein are properly tracked through required inventories built into demonstrations of attainment. They provide incentives for sources to reduce emissions in advance of planned future permit applications and thereby enhance RFP. The credits for ERC are marketable. To the extent they are included as offsets in NSR permits, they lock down reductions of emissions that might otherwise be legitimately discharged into the atmosphere as actual emissions up to the time of the permit application. We consider this to be entirely consistent with the spirit and requirements of the CAA.

b. Comments on Impact of DC Circuit Court of Appeals Decision on Phase 2 Rule

One commenter believes that the recent DC Circuit Court of Appeals decision in *South Coast Air Quality Management District* v. *Environmental Protection Agency* (2006 U.S. App. LEXIS 31451 (D.C. Cir. 2006)) has a direct impact on the Phase 2 Rule and the issues under review in this reconsideration notice, particularly with respect to specific control measures such as the NSR program. The commenter opined that NSR program elements included in the Phase 2 Rule are in direct conflict with this DC Circuit Court opinion. Another commenter drew an opposite conclusion and said there is no need for further delay as a result of that same decision. The second commenter submits that the issues that are subject to the proposed EPA action are not affected by the Court of Appeals' recent ruling in *SQAQMD* v. *EPA*, and that it is critical for the Agency to take final action on the issues raised in the December 19, 2006 notice. The commenter's opinion is that the Phase 2 rule addresses new source review requirements during the transition period until SIP revisions for the 8-hour ozone rule are adopted by jurisdictions and approved by EPA. This commenter said that in view of the Court of Appeals' opinion that many features of the Phase 1 ozone rule are not consistent with the Act, it is unlikely that States and regional air pollution control agencies will be able to adopt approvable SIP revisions for some time. Thus, transitional rules affecting new source review pursuant to the federal transitional requirements are essential.

As discussed below, we do not believe that the issues under review in this reconsideration are in conflict with the *South Coast* decision. The first commenter gave no specifics. Earthjustice did provide a specific argument concerning the impact of the Court's decision.

According to Earthjustice, the ERC provisions in the Phase 2 rule constitute a weakening of offset requirements and are contrary to CAA protections limiting EPA's discretion to provide flexibility to states in complying with the Act's mandates. They cite *South Coast.* They argue that the 1990 Amendments' more explicit rate of progress targets do not somehow relax the offset requirements for new major sources. Further they argue that, to the contrary, the 1990 Act sets out even more explicit offset requirements than before, making crystal clear that such minimum offsets are required regardless of whether the Act's rate of progress requirements in the Act are being met. See, *e.g.*, CAA §§ 182(a)(4), (b)(5), (c)(10), (d)(2), (e)(1). Thus, according to Earthjustice, the offset requirements are not mere subsets of the rate of progress requirements, but distinct mandates to ensure a net cut in emissions after the application for a new source permit. They maintain that EPA has attempted to weaken these mandates and that such action violates the Act's anti-backsliding provisions, by relaxing the level of pollution control required prior to revision of the ozone NAAQS.

In response, EPA first notes that the *South Coast* decision relates to a different context. The anti-backsliding discussion in that decision revolved about § 172(e) requirements that controls not be made less stringent in conjunction with relaxation of national ambient air quality standards. The ERC changes challenged by Earthjustice are not tied to any particular national ambient air quality standard or its revision. Rather, they are broader programmatic changes, as noted by some of the commenters. Earthjustice does not identify which anti-backsliding provisions other than section 172(e) might be implicated by this action. The changes to 40 CFR 51.165 do not in and of themselves modify any requirements applicable to nonattainment areas. Thus, even assuming section 193, for example, is potentially applicable, this is not the appropriate time to determine its application. We believe the appropriate time to determine the applicability of and compliance with Section 193 is when a control requirement in a nonattainment area is changed. For States that undertake a SIP revision, we will address the applicability of Section 193 in our future actions to approve the SIP revisions. Similarly, the applicability of section 110(l) would only become an issue upon submission of a SIP revision to EPA. We disagree with the commenter who stated that the NSR changes are limited to the transitional period. The ERC changes are broader in nature, given that they amend section 51.165 as well as Appendix S. The extent to which the changes to Appendix S would affect areas that were nonattainment for the 1-hour standard is currently unclear. In the *South Coast* decision, the DC Circuit vacated certain aspects of EPA's phase 1 rule implementing the 8-hour ozone NAAQS. One possible effect of the court's vacatur of that rule is that it could require Federal, state, and local agencies to issue NSR permits in accordance with the area's 1-hour ozone nonattainment classification. Were that to occur, areas that were nonattainment for the 1-hour standard would presumably implement their 1-hour NSR SIPs rather than Appendix S, at least until EPA had established appropriate 1-hour anti-backsliding provisions and had taken further action with respect to the 1-hour standard

Similarly, Earthjustice's argument that the ERC changes weaken the offset requirements in CAA §§ 182(a)(4), (b)(5), (c)(10), (d)(2), (e)(1) is unconvincing. The ERC changes do not affect the applicable offset ratios as mandated by those statutory provisions. They concern the cutoff date for offsets, rather than the degree of offset required. As previously discussed, the inventory required in § 172(c)(3) is one component of the nonattainment plan provisions of § 172(c). The components of § 172(c) are not intended to stand alone. They complement one another. When we look to § 172(c)(6) we find direction that plans include a range of ''other measures, means, or techniques,'' including economic incentives, ''as may be necessary or appropriate to provide for attainment.'' ERCs are one such incentive. As discussed in more detail above, they are fully compatible with the provisions of sections 172 and 173. Furthermore, they do not interfere with the specific offset ratios mandated by Congress in section 182.

Having considered the comments received, we have seen no new rationale presented that would lead us to change the current regulatory language describing the availability and usage of ERC. Accordingly, we are electing not to amend relevant rule language currently codified in the Code of Federal Regulations.

D. Applicability of Appendix S, Section VI

1. Changes to Applicability of Appendix S, Section VI

Section VI allows new sources locating in an area designated as nonattainment to be exempt from the requirements of Section IV.A. of Appendix S under certain circumstances if the date for attainment has not yet passed. Section VI provides a management tool to provide a limited degree of flexibility in situations where a new source would not interfere with an area's ability to meet an attainment deadline. The final Phase 2 Rule made a procedural change to limit the applicability of appendix S, section VI to only those instances in which the Administrator has specifically approved its use. Although we did not include the regulatory language to accomplish this goal in the June 2, 2003 proposal, we did clearly state our intention of doing so. As we noted at 68 FR 32848, section VI as worded without any amendment could apply in any nonattainment area where the dates for attainment have not passed as long as the source met all applicable SIP emission limitations and would not interfere with the area's ability to meet its attainment date. As codified prior to the amendment in the Final Phase 2 Rule, section VI contained no provision conditioning its applicability on approval by the Administrator. We noted at proposal, however, that States generally would not be able to show that a nonattainment area would continue to meet its attainment date if it did not apply LAER or offsets to major new sources and major modifications in the absence of safeguards (68 FR 32848).

Further, we stated in the preamble to the Phase 2 Rule that we continued to believe, as we stated in its proposal, that States should not interpret section VI as allowing a blanket exemption from LAER and offsets for all major new sources and major modifications in a given area before attainment dates have passed for that area. Thus, in the final rule we added a further requirement that the Administrator independently determine and provide public notice that those requirements have been met. The purpose of the requirement is to assure that States do not interpret section VI to provide a broad exemption to all major new sources and major modifications in any nonattainment area for which the attainment date has not passed.

2. Legal Basis for Changes to Applicability of Appendix S and the Transitional NSR Program

The legal basis for Appendix S, including section VI, was discussed in detail in section V.B.3.b. of the preamble to the final Phase 2 Rule. We have historically recognized that the SIP development period provided for in section 172(b) leaves a gap in part D major NSR permitting and have determined that this gap is to be filled with an interim major NSR program that is substantially similar to the requirements of part D, including the LAER and offset requirements from part D, subject to a limited exemption where the attainment deadline will be met (57 FR 18070, 18076). This interim NSR program has been implemented to date through Appendix S.

The section VI exemption, as limited by the final Phase 2 Rule, is consistent with the section 110(a)(2)(C) requirement that preconstruction permitting is implemented ''as necessary to assure that the [NAAQS] are achieved.'' While the Phase 2 Rule did not adopt the eligibility criteria that were proposed to ensure satisfaction of the original section VI conditions, we did add the proposed requirement that the Administrator determine that sources exempted from LAER and offsets under section VI will meet those conditions, in particular, noninterference with the attainment deadline. Section VI also is consistent with the exercise of our gap filling authority under section 301, as informed by the legislative history. That is, Appendix S reflects Congressional intent that standards equivalent to part D govern the issuance of NSR permits, subject to a limited degree of flexibility under conditions where attainment of the NAAQS by the attainment deadline is assured.

3. Reconsideration of Appendix S, Section VI Final Rule Amendments

In its January 30, 2006, petition, NRDC requested that EPA reconsider provisions in the final Phase 2 Rule that pertain to Appendix S, section VI. NRDC argued that EPA failed to provide the public with an opportunity to comment on the language of Appendix S, Section VI that was included in the final rule. As is the case with respect to the ERC provisions, EPA believes that our rationale was fully explained in the November 29, 2005 rulemaking and in earlier actions leading to that rulemaking. The preamble to the final rule included a lengthy description of preceding actions in which our rationale was developed. Further, the preamble to the final rule detailed our response to comments pertaining to the proposal. As noted above, what we did in the final rule was add one provision to the already existing language of Appendix S, section VI to limit use of Section VI to only those instances publicly approved by the Administrator. From our perspective, we made the smallest change possible and achieved closure of a gap in section VI. As well, we continue to disagree with the petitioner's assertion that section VI, as amended by the Phase 2 rule constitutes an open-ended scheme to evade the strictures of Part D. If anything, the prior rule language could have been construed as open-ended. The sole intention of our language change was to close what we perceived to be a loophole allowing just the type of outcome to which the petitioners object. Congress required just such closure through the provisions of the original section 129 as included in the August 7, 1977 amendments to the Act. At that time, Congress made clear its opinion that it would be the role of the Administrator to determine whether waiver of the appendix S provisions in question might be appropriate. The change made to Section VI in the final Phase 2 rule providing that the Administrator must determine whether the conditions of Section VI have been satisfied provides a positive safeguard to prevent just the kinds of unchecked application of its provisions as envisioned by the petitioners.

As was the case for ERC, we saw value in presenting for public comment the changes made to Section VI of Appendix S in the final Phase 2 Rule. Accordingly, on December 19, 2006 we requested comment on subsection C. of Section VI of Appendix S as added in the final Phase 2 rule as requested by the petitioners. Concerning the new paragraph C. of section VI, our proposal for reconsideration drew ten public comments. Of those comments, five supported the rule amendments as now written and five were opposed. Among those opposed, were the petitioners and State air pollution control agencies. The petitioners continued presentation of the concerns leading to this notice and were echoed, in part, by the States. In short, those opposing the change to section VI see it as an opening which might be subject to abuse of discretion. We continue to see our change as a closing of a loophole. Five commenters agreed with our assessment. Detailed discussion and analysis of arguments raised by all of the commenters is given below.

4. Comments and Responses for Appendix S, Section VI

We received ten comments upon the proposed section VI paragraph C language. A number of comments made it clear that the nature of our addition of paragraph C for the purposes of closing a loophole and constraining application of section VI was not completely understood. Also, we received comments questioning the legality and existence of Section VI along with requests for its removal from the Code of Federal Regulations. Such comments are outside the scope of this action. Section VI significantly predates the Phase 2 Rule. While it originally applied only to secondary NAAQS, EPA revised it to include primary standards following the 1977 Amendments (44 FR 3274, Jan. 16, 1979). EPA made an additional revision to Section VI in 1980 in the course of clarifying the applicability of Appendix S to sources located outside of nonattainment areas that cause or contribute to violations (45 FR 31307, May 13, 1980). The version of Section VI established by that 1980 rulemaking remained current up until the effective date of EPA's final Phase 2 rule. The time for challenging rules issued in 1979 and 1980 is long past. If commenters believe Section VI as a whole is no longer desirable, then the appropriate vehicle for their concerns is a petition for rulemaking. The only matter opened for comment by the proposal for reconsideration was the appropriateness of paragraph C. Before reviewing those comments which were germane to the proposal, we will first recap the reasoning for our addition of paragraph C to section VI.

Section VI allows new sources locating in an area designated as nonattainment to be exempt from the requirements of section IV.A. of appendix S under certain circumstances if the date for attainment has not yet passed. Section VI provides a management tool to provide a limited degree of flexibility in situations where a new source would not interfere with an area's ability to meet an attainment deadline. The final Phase 2 Rule made a procedural change to limit the applicability of appendix S, section VI to only those instances in which the Administrator has specifically approved its use. Contrary to the suggestions of comments to be discussed below, we had no intention of expanding usage of Section VI through our addition of paragraph C. Our purpose in making the change was to close what we saw as a loophole and constrain the application of Section VI. Although we did not include the regulatory language to accomplish this goal in the June 2, 2003 proposal, we did clearly state our intention of doing so. As we noted at 68 FR 32848, section VI as worded prior to our amendment could have applied in any nonattainment area where the dates for attainment had not passed, even if the source met all applicable SIP emission limitations and would not have interfered with the area's ability to meet its attainment date. As codified prior to the amendment in the Final Phase 2 Rule, section VI contained no provision conditioning its applicability on approval by the Administrator. We noted at proposal, however, that States generally would not be able to show that a nonattainment area would continue to meet its attainment date if it did not apply Lowest Achievable Emission Rate (LAER) or offsets to major new sources and major modifications in the absence of safeguards (68 FR 32848).

Further, we stated in the preamble to the Phase 2 Rule that we continued to believe, as we also stated in its proposal, that States should not have interpreted section VI as allowing a blanket exemption from LAER and offsets for all major new sources and major modifications in a given area before attainment dates had passed for that area. In that proposal, we also offered for comment two broad programmatic proposals to modify the then-existing section VI for the purpose of providing greater flexibility. Overall, commenters considered the programmatic options to be impracticable. However most commenters did express support for the flexibility provided by section VI. For that reason, we retained the original eligibility conditions for determining when section VI might apply, but added the procedural requirement that the Administrator determine that the two previously existing conditions of Section VI are satisfied, and that the Administrator provide public notice of that determination. That requirement achieved the proposal's purpose of assuring that States could not interpret section VI to provide a broad exemption to all major new sources and major modifications in any nonattainment area for which the attainment date has not passed.

Earthjustice/NRDC filed the petition for reconsideration leading to today's action and provided comment upon our proposal. This commenter referenced a prior comment on the proposed Phase 2 rule claiming EPA has no authority to waive NSR requirements in areas designated nonattainment under the Act and that the proposed rule was unlawful. Earthjustice acknowledged a need for EPA's gap-filling program as supported by §§ 101(b)(1), 110(a)(2)(C), and 301 of the Act. This commenter disagrees that § 110(a)(2)(C) implies an authority to waive NSR requirements, but rather expressly requires each SIP to include ''a permit program as required in parts C and D,'' and part D does not allow for waiver of NSR permitting requirements in nonattainment areas. They went on to question allowing section VI waivers after the statutory deadline for completion of the state's Part D SIP development process. They voiced their concern that the proposed rule appears to allow continued issuance of NSR waivers even if the state has failed to timely submit a part D SIP.

Two commenters questioned the legal underpinnings of section VI pursuant to sections 110(a)(2)(C), 173, and 182 of the Act. One was of the opinion that EPA's revisions do not provide any incentive for the timely completion of the SIP, and the exemption appears to allow continued issuance of NSR waivers after a state fails to timely submit a SIP. Also, the commenter said we did not propose or establish an end date for the transitional period during which a waiver would apply, thus allowing NSR requirements to be waived indefinitely without any restrictions on such waiver.

In response to these specific comments, we note that section VI predated the Phase 2 rule and that our reconsideration did not open up the entirety of section VI for comment. Nevertheless, we will discuss these issues briefly. We recounted the history of appendix S in the preamble to the Phase 2 rule (70 FR 71677—71680). There, we noted that the SIP development period provided for in section 172(b) leaves a gap in part D major NSR permitting and that section 110(a)(2)(C) does not define specific requirements States must follow for issuing major source permits during this time. We further noted that EPA's regulations at 40 CFR section 52.24(k) require States to follow Appendix S during the period between nonattainment designation and EPA approval of a part D nonattainment NSR SIP. We also summarized the relationship of the construction ban to Appendix S, stating: ''When Congress removed the construction ban * * * it left in place 40 CFR section 52.25(k), implementing the interim major NSR program under appendix S'' (70 FR 71678). In adding paragraph (c) to Section VI, we did not disturb the existing requirements and incentives for timely SIP completion. Regarding the concern that waivers might be granted after a state fails to timely submit a SIP, EPA would be highly disinclined to

grant a waiver where the SIP submission deadline had passed and EPA had not received the required submission.

The State also thought the original purpose of this exemption has long passed. Thus, there would be little or no use of the exemptions in practice and, consequently, EPA's proposed revision to this section amounts to encouraging states to reconsider its use. They see the proposal as EPA's encouragement of an NSR exemption that would create a new obstacle for them to surmount as we strive to attain the 8-hour ozone standard. Another State agency saw us as proposing to waive NSR provisions for LAER and emissions offsets requirements which many states need as part of their state implementation plans in order to attain and maintain compliance with the ozone NAAQS. They were of the opinion that the proposal constituted that kind of ''backsliding'' precluded by the *South Coast* decision

We received additional comments echoing concerns that the addition of paragraph C. would encourage the use of section VI and expand its impacts. One commenter speaking on behalf of the nation's air pollution control agencies expressed concern that the new paragraph might create new difficulties for states attempting to meet attainment deadlines. Also given was a concern that new and existing modified sources would not achieve the level of emissions reductions that would be possible with installation of LAER without the usual NSR benefit of comparable or greater decreases in emissions. They continued that attainment dates are, in fact, highly likely to be affected by this exemption from LAER and offsets for new and modifying sources. In summation, they expressed concern that increased emissions resulting from the NSR exemption could jeopardize state and local attainment plans.

We respond to the commenters by first noting that, as discussed above, section VI as a whole was not placed on the table for comment. We do believe that the commenter's concerns over the addition of the Administrator as a gatekeeper to application of section VI are misplaced. Their comments upon today's action and the concerns conveyed by Earthjustice in their petition for reconsideration make clear a misunderstanding by several parties who have come to believe our addition of paragraph C. is intended to open the door for widespread use and abuse of section VI. This is not the case. We added paragraph C. expressly to limit and minimize usage of Section VI. Further, paragraph C. brings to the public's attention any usage of section VI by requiring publication of any approvals for such use in the **Federal Register**. So, the concerns that EPA is encouraging States to apply section VI, making it open-ended, or encouraging backsliding are unfounded. Quite the contrary, our intention with the addition of paragraph C. is to decrease the likelihood that section VI might be applied by first requiring close scrutiny by the EPA and by communicating any decisions in a public forum. Tightening pre-existing requirements does not constitute backsliding.

Several commenters perceived the intent of our addition of paragraph C. and offered comments in support of re-proposed rule language. Their comments expressed viewpoints opposite to the just-described comments of Earthjustice and the air pollution control agencies. Four commenters expressed their opinions that the revision adding EPA as the determining authority to application of section VI would not interfere with achieving attainment in a timely manner. Two offered their expectations that section VI provides a limited flexibility that would be seldom used. One commenter does not believe that the waiver of certain LAER or offset requirements would often be approved, but may make sense and should be provided when there is a public need. The commenter opined that, in many instances, there is little difference between BACT and LAER. With the modeling demonstrations that require the use of worst-case scenarios to demonstrate that neither attainment nor progress towards attainment would be interfered with, there is little opportunity ''to evade the strictures of Part D.'' Another commenter believes States should be given the limited flexibility provided in the rule to allow new sources to locate in nonattainment areas without applying LAER or obtaining offsets if such action is reviewed by EPA and found not to interfere with attaining the NAAQS. They agreed that the additional safeguard of EPA determining that the conditions of the rule have been satisfied (i.e., non-interference) provides a positive safeguard to ensure areas meet their attainment deadlines. Another commenter found the EPA rationale reasonable and saw no merit to the petition for reconsideration.

EPA appreciates the comments in support of the addition of paragraph C. These commenters have correctly identified our purpose of adding a requirement that EPA oversee application of Section VI in order to limit its usage while preserving its flexibility for those limited instances where its application might be justified.

Three commenters specifically endorsed the requirement for the Administrator to publish in the **Federal Register** all approvals of section VI actions. The commenters said EPA's requirement for publication in the **Federal Register** ensures public awareness of the use of this provision as an added safeguard.

At proposal we provided two possible outcomes for today's action. First, we said that should we receive compelling arguments that it was inappropriate for us to add the section VI.C. requirement for the Administrator approval, we would remove the language in question so as to revert the text of section VI to that which existed prior to November 29, 2005. The second possibility was that we would leave the rule language unchanged from that currently codified in the Code of Federal Regulations. None of the comments received made a good case for removing the language change from November 29, 2005 and we have elected to make no amendments removing that provision.

IV. STATUTORY AND EXECUTIVE ORDER REVIEWS

A. Executive Order 12866: Regulatory Planning and Review

Under Executive Order (EO) 12866 (58 FR 51735, October 4, 1993), this action is a ''significant regulatory action.'' This action is significant because it raises novel legal or policy issues. Accordingly, EPA submitted this action to the Office of Management and Budget (OMB) for review under EO 12866 and any changes made in response to OMB recommendations have been documented in the docket for this action.

B. Paperwork Reduction Act

The information collection requirements in this reconsideration notice have been submitted for approval to the Office of Management and Budget (OMB) under the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.* They were addressed along with those covering the Phase 1 Rule (April 30, 2004; 69 FR 23951) and the Phase 2 Rule (November 29, 2005; 70 FR 71612) under EPA ICR #2236.01. The information collection requirements are not enforceable until OMB approves them other than to the extent required by statute.

This action announces EPA's final decision on reconsideration of several provisions of the Phase 2 Rule, namely the RACT provisions and selected NSR provisions. This action does not establish any new information

collection burden on States beyond what was required in the Phase 2 Rule.

The EPA has projected cost and hour burden for the statutory SIP development obligation for the Phase 2 Rule, and prepared an Information Collection Request (ICR). Assessments of some of the administrative cost categories identified as a part of the SIP for an 8-hour standard are already conducted as a result of other provisions of the CAA and associated ICRs (*e.g.* emission inventory preparation, air quality monitoring program, conformity assessments, NSR, inspection and maintenance program).

The burden estimates in the ICR for the Phase 2 rule are incremental to what is required under other provisions of the CAA and what would be required under a 1-hour standard. Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9. When the ICR for the Phase 2 rule is approved by OMB, the Agency will publish a technical amendment to 40 CFR part 9 in the **Federal Register** to display the OMB control number for the approved information collection requirements contained in this final rule. However, the failure to have an approved ICR for this rule does not affect the statutory obligation for the States to submit SIPs as required under part D of the CAA.

The information collection requirements associated with NSR permitting for ozone are covered by EPA's request to renew the approval of the ICR for the NSR program, ICR 1230.17, which was approved by OMB on January 25, 2005. The information collection requirements associated with NSR permitting were previously covered by ICR 1230.10 and 1230.11. The OMB previously approved the information collection requirements contained in the existing NSR regulations at 40 CFR parts 51 and 52 under the provisions of the Paperwork Reduction Act, and assigned OMB control number 2060–0003. A copy of the approved ICR may be obtained from Susan Auby, Collection Strategies Division; U.S. Environmental Protection Agency (2822T); 1200 Pennsylvania Ave., NW., Washington, DC 20460 or by calling (202) 566–1672.

C. Regulatory Flexibility Act

The Regulatory Flexibility Act generally requires an Agency to prepare a regulatory flexibility analysis of any rule subject to notice-and-comment rulemaking requirements under the Administrative Procedures Act or any other statute unless the Agency certifies the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this reconsideration action on small entities, small entity is defined as: (1) A small business as defined by the Small Business Administration's (SBA) regulations at 13 CFR 121.201; (2) a governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of the Phase 1 and Phase 2 Rules, we concluded that those actions did not have a significant economic impact on a substantial number of small entities. For those same reasons, I certify that this action will not have a significant economic impact on a substantial number of small entities. This action of reconsideration will not impose any requirements on small entities.

Concerning the NSR portion of this notice of reconsideration, a Regulatory Flexibility Act Screening Analysis (RFASA) was developed as part of a 1994 draft Regulatory Impact Analysis (RIA) and incorporated into the September 1995 ICR renewal. This analysis showed that the changes to the NSR program due to the 1990 CAA Amendments would not have an adverse impact on small entities. This analysis encompassed the entire universe of applicable major sources that were likely to also be small businesses (approximately 50 ''small business'' major sources). Because the administrative burden of the NSR program is the primary source of the NSR program's regulatory costs, the analysis estimated a negligible ''cost to sales'' (regulatory cost divided by the business category mean revenue) ratio for this source group. The incorporation of the major source thresholds and offset ratios from the 1990 CAA Amendments in section 51.165 and appendix S for the purpose of implementing NSR for the 8-hour standard does not change this conclusion. Under section 110(a)(2)(C), all States must implement a preconstruction permitting program ''as necessary to assure that the [NAAQS] are achieved,'' regardless of the changes in the Phase 2 rule. Thus, small businesses continue to be subject to regulations for construction and modification of stationary sources, whether under State and local agency minor NSR programs, SIPs to implement section 51.165, or appendix S, to ensure that the 8-hour standard is achieved.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for proposed and final rules with ''Federal mandates'' that may result in expenditures to State, local, and Tribal governments, in the aggregate, or to the private sector, of $100 million or more in any one year. Before promulgating an EPA rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives, and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling officials of affected small governments

to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

The EPA has determined that this reconsideration action does not contain a Federal mandate that may result in expenditures of $100 million or more for State, local, and Tribal governments, in the aggregate, or the private sector in any 1 year. In promulgating the Phase 1 and Phase 2 Rules, we concluded that they were not subject to the requirements of sections 202 and 205 of the UMRA. For those same reasons, this notice of reconsideration and request for comment is not subject to the UMRA.

The EPA has determined that this notice of reconsideration contains no regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments.

E. Executive Order 13132: Federalism

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

This action does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This reconsideration action pertains to three aspects of the Phase 2 Rule. For the same reasons stated in the Phase 1 and Phase 2 Rules, Executive Order 13132 does not apply to this action.

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

Executive Order 13175 (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by Tribal officials in the development of regulatory policies that have Tribal implications.'' This reconsideration action does not have ''Tribal implications'' as specified in Executive Order 13175.

The purpose of this reconsideration action is to announce our decision following reconsideration of specific aspects of the Phase 2 Rule. The CAA provides for States and Tribes to develop plans to regulate emissions of air pollutants within their jurisdictions. The Tribal Authority Rule (TAR) gives Tribes the opportunity to develop and implement CAA programs such as the 8-hour ozone NAAQS, but it leaves to the discretion of the Tribes whether to develop these programs and which programs, or appropriate elements of a program, they will adopt.

For the same reasons stated in the Phase 1 and Phase 2 Rules, this action does not have Tribal implications as defined by Executive Order 13175. It does not have a substantial direct effect on one or more Indian Tribes, since no Tribe has implemented a CAA program to attain the 8-hour ozone NAAQS at this time. If a Tribe does implement such a plan, it would not impose substantial direct costs upon it. Furthermore, this action does not affect the relationship or distribution of power and responsibilities between the Federal government and Indian Tribes. The CAA and the TAR establish the relationship of the Federal government and Tribes in developing plans to attain the NAAQS, and this action does nothing to modify that relationship. Because this action does not have Tribal implications, Executive Order 13175 does not apply.

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

Executive Order 13045: ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This final rule is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risk addressed by this action present a disproportionate risk to children.

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

This action is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions That Significantly Affect Energy Supply, Distribution, or Use,'' (66 FR 28355, May 22, 2001) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The reconsideration action announces our decision following reconsideration of several aspects of the Phase 2 Rule, for which EPA did perform an analysis of the energy impacts under Executive Order 13211.[18]

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer Advancement Act of 1995 (NTTAA), Public Law No. 104–113, section 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards (VCS) in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by VCS bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable VCS.

This action does not involve technical standards. Therefore, EPA did not consider the use of any VCS.

The EPA will encourage the States and Tribes to consider the use of such standards, where appropriate, in the development of the implementation plans.

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

Executive Order 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provisions direct federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs,

[18] Technical Appendix: Potential Impacts of Implementation of the 8-Hour Ozone NAAQS; Technical Support Document. July 21, 2005. Docket Document EPA–HQ–OAR–2003–0079–0860.

policies, and activities on minority populations and low-income populations in the United States.

The EPA concluded that the Phase 2 Rule does not raise any environmental justice issues (See 70 FR at 71695, col. 2; (November 29, 2005)); for the same reasons, since this action concerns several aspects of the Phase 2 rule, this reconsideration action does not raise any environmental justice issues. This action will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because the 8-hour ozone national ambient air quality standard is designed to protect public health and is intended to apply equally to all portions of the population. In addition, this rule makes only minor changes to the previous Phase 2 implementation rule and these changes are intended to strengthen the rule, which should not disproportionately affect minority or low income populations. The health and environmental risks associated with ozone were considered in the establishment of the 8-hour, 0.08 ppm ozone NAAQS [62 FR 38856 (July 18, 1997)]. The level is designed to be protective with an adequate margin of safety. The Phase 2 Rule provides a framework for improving environmental quality and reducing health risks for areas that may be designated nonattainment.

K. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq.*, as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this reconsideration action 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 reconsideration action in the **Federal Register**. A Major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This action will be effective July 9, 2007.

L. Judicial Review

Section 307(b)(1) of the CAA indicates which Federal Courts of Appeal have venue for petitions of review of final actions by EPA. This section provides, in part, that petitions for review must be filed in the Court of Appeals for the District of Columbia Circuit if (i) the agency action consists of ''nationally applicable regulations promulgated, or final action taken, by the Administrator,'' or (ii) such action is locally or regionally applicable, if ''such action is based on a determination of nationwide scope or effect and if in taking such action the Administrator finds and publishes that such action is based on such a determination.''

Final actions described in this Final Action on Reconsideration are ''nationally applicable'' within the meaning of section 307(b)(1). This action explains the final actions EPA is taking on the petitions for reconsideration of several aspects of the Phase 2 rule. EPA has determined that all of these actions are of nationwide scope and effect for purposes of section 307(d)(1) because these actions clarify the obligations of all states with respect to the nationwide implementation of the 8-hour ozone NAAQS and concern the basic program elements of nonattainment new source review SIPs. Thus, any petitions for review of the final action described in this Notice must be filed in the Court of Appeals for the district of Columbia Circuit within 60 days from the date this Notice is published in the **Federal Register**.

List of Subjects in 40 CFR Part 51

Environmental protection, Air pollution control, Carbon monoxide, Lead, Nitrogen dioxide, Ozone, Particulate matter, Sulfur oxides.

Dated: May 31, 2007.

Stephen L. Johnson,

Administrator.

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

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION, AND SUBMITTAL OF IMPLEMENTATION PLANS

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

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

Subpart X—[Amended]

■ 2. Section 51.912 is amended by revising paragraph (a)(2) to read as follows:

§ 51.912 What requirements apply for reasonably available control technology (RACT) and reasonably available control measures (RACM) under the 8-hour NAAQS?

(a) * * * * *

(2) The State shall submit the RACT SIP for each area no later than 27 months after designation for the 8-hour ozone NAAQS, except that for a State subject to the requirements of the Clean Air Interstate Rule, the State shall submit NO_X RACT SIPs for electrical generating units (EGUs) no later than the date by which the area's attainment demonstration is due (prior to any reclassification under section 181(b)(3)) for the 8-hour ozone national ambient air quality standard, or July 9, 2007, whichever comes later.

* * * * *

[FR Doc. E7–11113 Filed 6–7–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2006–0280; FRL–8322–9]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; VOC and NO_X RACT Determinations for Five Individual Sources

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve revisions to the Commonwealth of Pennsylvania State Implementation Plan (SIP). The revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) to establish and require reasonably available control technology (RACT) for five major sources of volatile organic compounds (VOC) and nitrogen oxides (NO_X) pursuant to the Commonwealth of Pennsylvania's (Pennsylvania's or the Commonwealth's) SIP-approved generic RACT regulations. EPA is approving these revisions in accordance with the Clean Air Act (CAA).

EFFECTIVE DATE: This final rule is effective on July 9, 2007.

ADDRESSES: EPA has established a docket for this action under Docket ID Number EPA–R03–OAR–2006–0280. All documents in the docket are listed in the *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

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 Pennsylvania Department of Environmental Protection, Bureau of Air Quality, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105.

FOR FURTHER INFORMATION CONTACT: Rose Quinto, (215) 814–2182, or by e-mail at *quinto.rose@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. Background

On May 4, 2006 (71 FR 26297), EPA published a notice of proposed rulemaking (NPR) for the Commonwealth of Pennsylvania. The NPR proposed approval of the SIP revisions submitted by PADEP on February 4, 2003 and November 21, 2005. These SIP revisions consisted of seven source-specific operating permits issued by PADEP to establish and require RACT pursuant to the Commonwealth's SIP-approved generic RACT regulations. The following table identifies five of those sources and the individual operating permits (OPs) which are the subject of this rulemaking. We are taking final action on these five source-specific RACT rules in this final action. We will take final action on the other two source-specific operating permits in a separate action.

PENNSYLVANIA—VOC AND NO_X RACT DETERMINATIONS FOR INDIVIDUAL SOURCES

Source's name	County	Operating permit (OP #)	Source type	"Major source" pollutant
Armstrong World Industries, Inc	Lancaster	36–2002	Sheet and Flooring Products Manufacturer	VOC and NO_X.
Peoples Natural Gas Company	Clarion	16–124	Natural Gas Compressor	VOC and NO_X.
Dart Container Corporation	Lancaster	36–2015	Expanded Polystyrene Manufacturing Facility.	VOC and NO_X.
AT&T Microelectronics	Lehigh	39–0001	Semiconductors Manufacturing	VOC and NO_X.
West Penn Power Co	Greene	30–000–099	Power Plant	VOC and NO_X.

An explanation of the CAA's RACT requirements as they apply to the Commonwealth and EPA's rationale for approving these SIP revisions were provided in the NPR and will not be restated here. Timely adverse comments were submitted on EPA's May 4, 2006 NPR. A summary of those comments and EPA's responses are provided in Section II of this document.

II. Summary of Public Comments and EPA Responses

On June 5, 2006, EPA received adverse comments on EPA's May 4, 2006 NPR proposing approval of PADEP's VOC and NO_X RACT determinations for seven individual sources. The comments addressed only three of the seven individual sources; namely, The Frog, Switch & Manufacturing Company (The Frog); Merck & Co. Inc. (Merck); and Dart Container Corporation (Dart). EPA received no comments on the RACT determinations for the other four sources. We respond to the comments for Dart in this notice. We will respond to the comments regarding the Frog and Merck in a separate final action on the source-specific rules for those two sources.

Comment: With respect to Dart, the comment asserts that the RACT determination does not address an estimated 30 tons per year of VOC emissions from ''cleaning solvents.''

Response: The commenter is mistaken. Condition 6 of the RACT determination limits total annual pentane emissions from the foam cup molding plants to 615 tons. As explained in the publicly available supporting material submitted with the SIP revision by PADEP, the 615 tons of VOCs (primarily pentane), includes the approximately 30 tons per year of ''cleaning supply losses'' (not, as the commenter mistakenly categorizes them, ''cleaning solvents'').

Comment: With respect to Dart, the commenter asserts that the current control of the pre-expanders should be included in the RACT determination as a RACT requirement.

Response: Current control of the pre-expanders is a requirement of the RACT determination. Condition 5 of the RACT determination states that ''RACT for VOC emissions from all sources at this facility is determined to be current operations.'' ''[A]ll sources'' would include the pre-expanders.

Comment: With respect to Dart, the commenter proposes a control technology (use of a concentrator in series with an oxidation control device) to be evaluated for control of dilute VOC gas streams from the cup production plants.

Response: The comment implies that the RACT analysis with respect to the VOC controls for the cup production plants was not correctly performed. Although the commenter asserts that the RACT determination is incorrect because the RACT analysis did not consider the commenter's proposed control technology, the commenter does not provide information that this control technology meets the criteria for consideration as potential RACT as specified by the Pennsylvania generic RACT regulation. The Pennsylvania generic RACT regulation specifies that the only control options that need to be considered are those that meet the threshold criterion of having ''a reasonable potential for application to the source.'' 25 Pa. Code 129.92(b)(1). In the single conclusory sentence regarding this technology in the comment, the commenter does not provide any information from which EPA could evaluate the claim that such technology should have been considered as RACT. The commenter does not provide sufficient information from which EPA can discern whether—such a ''concentrator in series with an oxidation control device'' is even a currently extant technology (the RACT analysis concluded that ''UV oxidizers/Photoxidation'' were not among the technologies that have been successful at controlling the VOC—the pentane—emitted from this facility, but it is unclear if this type of ''oxidation control device'' intended by the commenter, as other processes, such as incineration, may also be properly referred to as ''oxidation''). Furthermore, the commenter provides no supporting technical data or information to indicate that the ''current operations'' specified as RACT for all sources at the facility (which would include sources of dilute VOC gas streams from the cup production processes), is not RACT, or alternatively, that the proposed control technology may be RACT. Furthermore, the comment does not identify which

gas streams it considers to be sources of ''dilute VOC'' gas streams to which the commenter would apply the control technology.

Additionally, the supporting document submitted by PADEP with the SIP revision for the RACT determination extensively discusses the technical feasibility and cost effectiveness of various control technologies, including oxidation and concentration technologies for the capture and destruction of VOC from various sources at the facility, prior to concluding that current operations (which do not include oxidation and concentration) are RACT. Due to the lack of specificity of the comment, EPA believes it is possible that the technology proposed by the commenter may actually be among the options considered and rejected in the RACT analysis, which lists ''concentration technologies in conjunction with incineration'' as a ''proven success'' for controlling pentane emissions. However, the RACT analysis did not conclude that this technology would be cost effective.

In sum, the commenter merely asserts in a single sentence, without support, that there is a technology that ought to have been considered (and which may actually have been considered), but has not provided EPA with sufficient information for us to determine what that technology is and evaluate whether it meets even the relatively lax standard of 25 Pa. Code 129.92(b)(1), of having a ''reasonable potential'' to be applied to this source. The mere assertion that an agency may have gotten something wrong without the commenter providing a basis for evaluating that assertion, does not rise to level of a relevant comment warranting a substantive response. *See International Fabricare Inst.* v. *EPA,* at 391. See also *Whitman* v. *American Trucking Associations, Inc.,* n.2. at 471.

EPA therefore may approve the RACT determinations for the four sources in which we received no adverse comment, and for Dart in this rulemaking.

III. Final Action

EPA is approving the revisions to the Pennsylvania SIP submitted by PADEP on February 4, 2003 and November 21, 2005, to establish and require VOC and NO_X RACT for five sources pursuant to the Commonwealth's SIP-approved generic RACT regulations.

IV. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it 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. Section 804 exempts from section 801 the following types of rules: (1) Rules of particular applicability; (2) rules relating to agency management or personnel; and (3) rules of agency organization, procedure, or practice that do not substantially affect the rights or obligations of non-agency parties. 5 U.S.C. 804(3). EPA is not required to submit a rule report regarding today's action under section 801 because this is a rule of particular applicability establishing source-specific requirements for five named sources.

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 August 7, 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, approving source-specific RACT requirements for five sources in the Commonwealth of Pennsylvania, 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: May 31, 2007.

William T. Wisniewski,

Acting Regional Administrator, Region III.

■ 40 CFR part 52 is amended as follows:

PART 52—[AMENDED]

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

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

Subpart NN—Pennsylvania

■ 2. In § 52.2020, the table in paragraph (d)(1) is amended by adding the entries for Armstrong World Industries, Inc.; Peoples Natural Gas Company; Dart Container Corporation; AT&T Microelectronics; and West Penn Power Co. at the end of the table to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(d) * * *

(1) * * *

Name of source	Permit number	County	State effective date	EPA approval date	Additional explanation/
*	*	*	*	*	*
Armstrong World Industries, Inc	Lancaster	OP 36–2002	10/31/96	6/8/07 [Insert page number where the document begins].	52.2020(d)(1)(u).
Peoples Natural Gas Company	Clarion	OP 16–124	8/11/99	6/8/07 [Insert page number where the document begins].	52.2020(d)(1)(u).
Dart Container Corporation	Lancaster	OP 36–2015	8/31/95	6/8/07 [Insert page number where the document begins].	52.2020(d)(1)(u).
AT&T Microelectronics	Lehigh	OP 39–0001	5/19/95	6/8/07 [Insert page number where the document begins].	52.2020(d)(1)(u).
West Penn Power Co.	Greene	OP 30–000–099	5/17/99	6/8/07 [Insert page number where the document begins].	52.2020(d)(1)(u).

* * * * *

[FR Doc. E7–11032 Filed 6–7–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 300

[EPA–HQ–SFUND–2007–0021; FRL–8323–6]

National Oil and Hazardous Substances Pollution Contingency Plan; Responsibility and Organization for Response; General Organization Concepts

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule; technical correction.

SUMMARY: The Environmental Protection Agency issued a final rule in the **Federal Register** on September 15, 1994 that revised the National Contingency Plan to incorporate amendments to the Clean Water Act that were enacted with the Oil Pollution Act of 1990. This document is being issued to update one of the figures, ''U.S. Coast Guard Districts —Atlantic and Pacific Area Commands,'' found in the National Contingency Plan. The United States Coast Guard revised their District boundaries in November 2006.

DATES: This final rule is effective on July 9, 2007.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–HQ–SFUND–2007–0021. All documents in the docket are listed on the *www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *www.regulations.gov* or in hard copy at the Superfund Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Superfund Docket is (202) 566–0276.

FOR FURTHER INFORMATION CONTACT: Lynn Beasley, Regulation and Policy Development Division, Office of Emergency Management (5104A), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 564–1965; fax number: (202) 564–2625; e-mail address: *beasley.lynn@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

Type of entity	Examples of affected entities
Federal Agencies	Agencies with responsibilities for planning and response under the CWA, CERCLA, and the OPA.
State and Local Governments	Governing bodies responsible for planning, preparedness and response activities; Area Committees responsible for developing, under On-Scene Coordinator direction, Area Contingency Plans.
Responsible Parties	Those entities responsible for the discharge of oil or release of a hazardous substance, pollutant or contaminant.

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

B. How Can I Get Copies of This Document and Other Related Information?

The instructions provided under the **Federal Register** document of September 15, 1994, (59 FR 47384), are no longer current. The current information is as follows:

- Docket ID No. EPA–HQ–SFUND–2007–0021.
- Federal eRulemaking Portal: *http://www.regulations.gov*.
- In addition to using *www.regulations.gov*, you may access this **Federal Register** document electronically through the EPA Internet under the ''**Federal Register**'' listings at *http://www.epa.gov/fedrgstr/*.

II. What Does This Correction Do?

On September 15, 1994, (59 FR 47384) EPA published revisions to the National Oil and Hazardous Substances and Pollution Contingency Plan (NCP). The Oil Pollution Act of 1990 (OPA) amended certain provisions of the Clean Water Act (CWA) and created major new authorities that addressed oil and, to a lesser extent, hazardous substance spill response. The amended CWA required the President to revise the NCP to reflect these changes. The OPA specified a number of revisions to the NCP that enhanced and expanded upon the existing framework, standards, and procedures for response. The NCP is found in 40 CFR part 300. Section 300.105 provides general organization concepts to show the basic framework for the response management structure in the NCP. Section 300.105(e)(3) includes the United States Coast Guard (USCG) District boundaries in Figure 3, ''U.S. Coast Guard Districts Atlantic and Pacific Area Commands.'' The USCG revised their District boundaries and the map is now incorrect. This technical correction provides the revised map depicting the USCG District boundaries.

III. Why Is This Correction Issued as a Final Rule?

Section 553 of the Administrative Procedure Act (APA), 5 U.S.C. 553(b)(B), provides that, when an agency for good cause finds that notice and public procedure are impracticable, unnecessary or contrary to the public interest, the agency may issue a final rule without providing notice and an opportunity for public comment. EPA has determined that public comment on this technical correction is unnecessary, because EPA is merely correcting information that has become out of date since the previously published final rule. The USCG District boundaries found in the Figure at 40 CFR 300.105(e)(3) have changed since the September 15, 1994, publication of the final rule. This change has no effect on the substantive requirements of the NCP.

IV. Do Any of the Statutory and Executive Order Reviews Apply to This Action?

The applicable statutory and Executive Order reviews were included in the September 15, 1994, **Federal Register** document. This document is a technical correction and as such no new review requirements are applicable.

V. Congressional Review Act

The Congressional Review Act, 5 U.S.C. 801 *et seq*., as added by the Small Business Regulatory Enforcement Fairness Act of 1996, generally provides that before a rule may take effect, the agency promulgating the rule must submit a rule report, which includes a copy of the rule, to each House of the Congress and to the Comptroller General of the United States. EPA will submit a report containing this rule and other required information to the U.S. Senate, the U.S. House of Representatives, and the Comptroller General of the United States prior to publication of the rule in the **Federal Register**. A Major rule cannot take effect until 60 days after it is published in the **Federal Register**. This action is not a ''major rule'' as defined by 5 U.S.C. 804(2). This rule will be effective on July 9, 2007.

List of Subjects in 40 CFR Part 300

Environmental protection, Air pollution control, Chemicals, Hazardous substances, Hazardous waste, Intergovernmental relations, Natural resources, Reporting and recordkeeping requirements, Superfund, Water pollution control, Water supply.

Dated: June 4, 2007.

Susan Parker Bodine,

Assistant Administrator, Office of Solid Waste and Emergency Response.

■ For the reasons set out above, title 40, chapter I of the Code of Federal Regulations is amended as follows:

PART 300—NATIONAL OIL AND HAZARDOUS SUBSTANCES POLLUTION CONTINGENCY PLAN

■ 1. The authority citation for part 300 continues to read as follows:

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601–9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp., p.351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp., p.193.

Subpart B—[Amended]

■ 2. Section 300.105 is amended by revising paragraph (e)(3) to read as follows:

§ 300.105 General organization concepts.

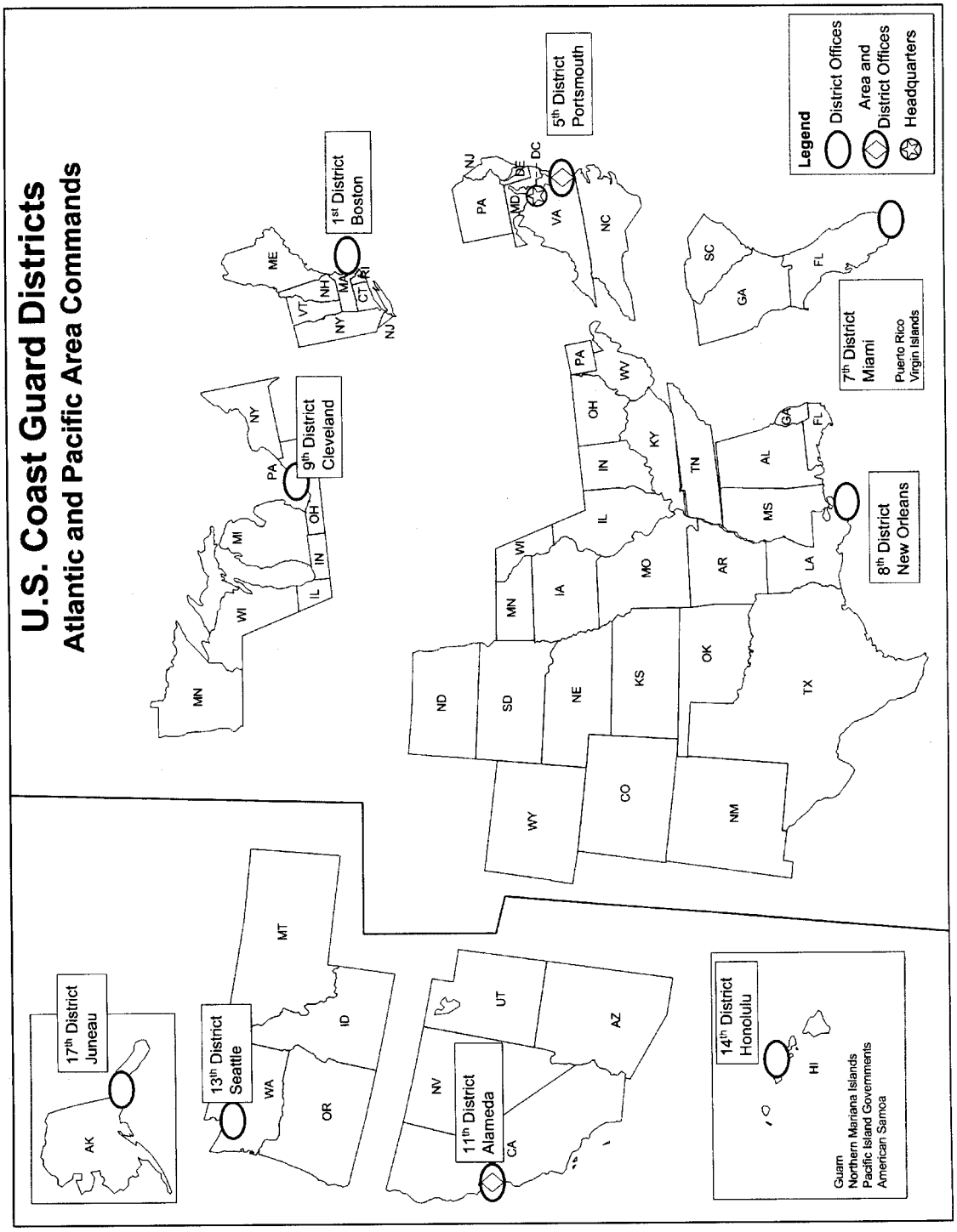
* * * * *

(e) * * *

(3) The USCG District boundaries are shown in the following Figure 3:

BILLING CODE 6560–50–P

Figure 3



[FR Doc. 07–2847 Filed 6–7–07; 8:45 am]
BILLING CODE 6560–50–C

DEPARTMENT OF THE INTERIOR

Bureau of Reclamation

43 CFR Parts 421 and 423

RIN 1006–AA52

Public Conduct on Bureau of Reclamation Facilities, Lands, and Waterbodies; Inclusion of Hoover Dam

AGENCY: Bureau of Reclamation, Interior.

ACTION: Final rule.

SUMMARY: This rule makes public conduct at Hoover Dam subject to the same rules governing public conduct at other Bureau of Reclamation facilities. In order to do this, Reclamation is removing from the Code of Federal Regulations the existing 43 CFR part 421 (Rules of Conduct at Hoover Dam) and making public conduct on all Reclamation projects subject to 43 CFR part 423 (Public Conduct on Bureau of Reclamation Facilities, Lands, and Waterbodies).

DATES: This rule is effective on July 9, 2007.

FOR FURTHER INFORMATION CONTACT: Gary L. Anderson, Code 84–41000, Bureau of Reclamation, P.O. Box 25007, Denver, Colorado 80225, telephone 303–445–2891.

SUPPLEMENTARY INFORMATION:

I. Background

On February 7, 1974, the Bureau of Reclamation published 43 CFR part 421, Rules of Conduct at Hoover Dam, to address matters of security and public conduct at the dam site. On November 12, 2001, Congress enacted Public Law 107–69 (now codified at 43 U.S.C. 373b and 373c), to provide law enforcement authority within Reclamation projects and on Reclamation lands. Section 1(a) of Public Law 107–69 requires Reclamation to issue regulations to maintain law and order and protect persons and property on all Reclamation projects. Pursuant to that statutory requirement, Reclamation issued a final rule, 43 CFR part 423, Public Conduct on Bureau of Reclamation Lands and Projects, on April 17, 2002, and replaced that rule with a more comprehensive rule on April 17, 2006.

Initially, Reclamation concluded that Hoover Dam need not be included under the new public conduct rule because 43 CFR part 421 was already in place and was sufficient to serve the needs of the Hoover Dam area. However, upon further review, Reclamation has determined that it is desirable to make all Reclamation projects subject to the same set of public conduct regulations. Having a single Reclamation public conduct rule will help reduce possibilities for confusion on the part of visitors to Reclamation projects.

Reclamation has also determined that rescinding 43 CFR part 421 and making the Hoover Dam area subject to the new public conduct rule will not result in significant impacts to the public.

II. Comments on the Proposed Rule

Reclamation received no comments on the proposed rule which was published in the **Federal Register** on September 28, 2006 (71 FR 56921). Therefore, the text of this final rule is identical to the proposed rule.

III. Procedural Requirements

1. Regulatory Planning and Review (E.O. 12866)

The Office of Management and Budget has determined that this document is not a significant rule and has not reviewed this rule under Executive Order 12866. We have conducted the analyses required by E.O. 12866 and the results are given below.

(a) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. This rule only addresses public conduct at Hoover Dam.

(b) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. This rule only addresses public conduct at Hoover Dam.

(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. This rule only addresses public conduct at Hoover Dam.

(d) This rule does not raise novel legal or policy issues. This rule only addresses public conduct at Hoover Dam.

2. Regulatory Flexibility Act

The Department of the Interior certifies that this document will not have a significant economic effect on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). This rule only addresses public conduct at Hoover Dam.

3. Small Business Regulatory Enforcement Fairness Act (SBREFA)

This rule is not a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. This rule:

(a) Does not have an annual effect on the economy of $100 million or more. This rule only addresses public conduct at Hoover Dam.

(b) Does not cause a major increase in costs or prices for consumers, individual industries, Federal, State, or local government agencies, or geographic regions. This rule only addresses public conduct at Hoover Dam.

(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. This rule only addresses public conduct at Hoover Dam.

4. Unfunded Mandates Reform Act

This rule does not impose an unfunded mandate on State, local, or tribal governments or the private sector of more than $100 million per year. The rule does not have a significant or unique effect on State, local, or tribal governments or the private sector. This rule only addresses public conduct at Hoover Dam. A statement containing the information required by the Unfunded Mandates Reform Act (2 U.S.C. 1531 *et seq.*) is not required.

5. Takings (E.O. 12630)

Under the criteria in Executive Order 12630, the rule does not have significant takings implications. This rule only addresses public conduct at Hoover Dam. A takings implication assessment is not required.

6. Federalism (E.O. 13132)

Under the criteria in Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. This rule only addresses public conduct at Hoover Dam. A Federalism Assessment is not required.

7. Civil Justice Reform (E.O. 12988)

This rule complies with the requirements of Executive Order 12988. Specifically, this rule:

(a) Does not unduly burden the judicial system;

(b) Meets the criteria of section 3(a) requiring that all regulations be reviewed to eliminate errors and ambiguity and be written to minimize litigation;

(c) Meets the criteria of section 3(b)(2) requiring that all regulations be written

in clear language and contain clear legal standards.

8. Consultation with Indian Tribes (E.O. 13175)

Under the criteria in E.O. 13175, we have evaluated this rule and determined that it has no potential effects on federally recognized Indian Tribes. This rule only addresses public conduct at Hoover Dam.

9. Paperwork Reduction Act

This rule does not require an information collection from 10 or more parties and a submission under the Paperwork Reduction Act is not required. An OMB form 83–I is not required.

10. National Environmental Policy Act

This rule does not constitute a major Federal action significantly affecting the quality of the human environment. A detailed statement under the National Environmental Policy Act of 1969 is not required.

11. Data Quality Act

In developing this rule we did not conduct or use a study experiment, or survey requiring peer review under the Data Quality Act (Pub. L. 106–554).

12. Effects on the Energy Supply (E. O. 13211)

This rule is not a significant energy action under the definition in Executive Order 13211. A statement of energy effects is not required.

List of Subjects

43 CFR Part 421

Law enforcement, Public conduct, Reclamation lands, Reclamation projects, Dams, Security measures.

43 CFR Part 423

Law enforcement, Public conduct, Reclamation lands, Reclamation projects, Dams, Security measures.

Dated: May 2, 2007.

Mark Limbaugh,

Assistant Secretary—Water and Science.

■ For the reasons set forth in the preamble, the Bureau of Reclamation amends 43 CFR Chapter 1 as follows:

PART 421—[REMOVED]

■ 1. Under the authority of 43 U.S.C. 373b and 16 U.S.C. 460l–31, part 421 is removed.

PART 423—PUBLIC CONDUCT ON BUREAU OF RECLAMATION FACILITIES, LANDS, AND WATERBODIES

■ 2. The authority citation for part 423 continues to read as follows:

Authority: Public Law 107–69 (November 12, 2001) (Law Enforcement Authority) (43 U.S.C. 373b and 373c); Public Law 102–575, Title XXVIII (October 30, 1992) (16 U.S.C. 460l–31 through 34); Public Law 89–72 (July 9, 1965) (16 U.S.C. 460l–12); Public Law 106–206 (May 26, 2000) (16 U.S.C. 460l–6d); Public Law 59–209 (June 8, 1906) (16 U.S.C. 431–433); Public Law 96–95 (October 31, 1979) (16 U.S.C. 470aa–mm).

■ 3. In § 423.3, remove paragraph (a)(5) and revise paragraphs (a)(3) and (a)(4) to read as follows:

§ 423.3 When does this part apply?

(a) * * *

(3) Certain exceptions apply on Reclamation facilities, lands, and waterbodies administered by other Federal agencies, as further addressed in paragraph (d) of this section; and

(4) Certain exceptions apply on Reclamation facilities, lands, and waterbodies subject to treaties and Federal laws concerning tribes and Indians, as further addressed in paragraph (e) of this section.

* * * * *

[FR Doc. E7–11015 Filed 6–7–07; 8:45 am]

BILLING CODE 4310–MN–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Parts 224 and 660

[Docket No. 070110003–7111–02; I.D. 112006A]

RIN 0648–AS89

Fisheries Off West Coast States; Highly Migratory Species Fisheries

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

ACTION: Final rule.

SUMMARY: NMFS issues a final rule to amend text in the regulations governing closures of the drift gillnet fishery in the Pacific Loggerhead Conservation Area during El Nino events under the Fishery Management Plan for U.S. West Coast Fisheries for Highly Migratory Species (HMS FMP). The regulation is necessary to avoid jeopardizing loggerhead sea turtles, which are listed as threatened under the Endangered Species Act, by clarifying the time period in which the area is to be closed and the methods that NMFS will use to determine if an El Nino event is occurring or forecast to occur. This final rule also corrects an inaccurate cross-reference in the regulations governing special requirements for fishing activities to protect threatened and endangered sea turtles under the HMS FMP.

DATES: This final rule is effective July 9, 2007.

ADDRESSES: Rodney R. McInnis, Regional Administrator, Southwest Region, NMFS, 501 West Ocean Blvd., Suite 4200, Long Beach, CA 90802 4213.

FOR FURTHER INFORMATION CONTACT: Craig Heberer, Sustainable Fisheries Division, NMFS, 760–431–9440, ext. 303.

SUPPLEMENTARY INFORMATION: On April 7, 2004, NMFS published a final rule to implement the HMS FMP (69 FR 18444) that included incorrect regulatory text in 50 CFR 660.713(c)(2) pertaining to the timing of a closure for the California/Oregon swordfish/thresher shark drift gillnet fishery during declared El Nino events and methods for determination and notification concerning an El Nino event. This final rule amends that regulatory text and provides the correct information. The closure is necessary to avoid jeopardizing the continued existence of threatened loggerhead sea turtles. This final rule describes the area of the closure, the time period in which the area is to be closed, the methods that NMFS will use to determine if an El Nino event is occurring or is going to occur, and how the Assistant Administrator will provide notification that an El Nino is occurring.

This final rule clarifies that any closure as a result of an El Nino event would occur from June 1 - August 31 only, as currently specified in 50 CFR 660.713(c)(2), rather than during the time periods of January 1 - January 15 and August 15 - August 31, as currently specified inconsistently in 50 CFR 660.713 (c)(2)(ii). This final rule amends regulatory text at 50 CFR 224.104(c) that describes special requirements for fishing activities to protect endangered sea turtles. The existing text refers to special prohibitions relating to sea turtles at § 223.206(d)(2)(iv). However, paragraph (d)(2)(iv) no longer exists in 50 CFR 223.206. The reference should be to § 223.206(d). For further background information on this action please refer to the preamble of the proposed rule (72 FR 4225, January 30, 2007). No public comments were received during the comment period for

the proposed rule. The regulatory text was not modified in drafting of the final rule.

Classification

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

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

The Chief Counsel for Regulation of the Department of Commerce certified to the Chief Counsel for Advocacy of the Small Business Administration during the proposed rule stage that this action would not have a significant economic impact on a substantial number of small entities. The factual basis for the certification was published in the proposed rule and is not repeated here. No comments were received regarding this certification or the economic impact of the rule. As a result, a regulatory flexibility analysis was not required and none was prepared.

List of Subjects

50 CFR Part 224

Administrative practice and procedure, Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements.

50 CFR Part 660

Fisheries, Fishing, Reporting and recordkeeping requirements.

Dated: June 04, 2007.

William T. Hogarth,

Assistant Administrator for Fisheries, National Marine Fisheries Service.

■ For the reasons set out in the preamble, 50 CFR parts 224 and 660 are amended as follows:

PART 224—ENDANGERED MARINE AND ANADROMOUS SPECIES

■ 1. The authority citation for part 224 continues to read as follows:

Authority: 16 U.S.C. 1531–1543 and 16 U.S.C. 1361 *et seq.*

■ 2. In § 224.104, paragraph (c) is revised to read as follows:

§ 224.104 Special requirements for fishing activities to protect endangered sea turtles.

* * * * *

(c) Special prohibitions relating to sea turtles are provided at § 223.206(d).

PART 660—FISHERIES OFF THE WEST COAST STATES

■ 3. The authority citation for part 660 continues to read as follows:

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

■ 4. In § 660.713, paragraph (c)(2) is revised to read as follows:

§ 660.713 Drift gillnet fishery.

* * * * *

(c)(2) *Pacific loggerhead conservation area.* No person may fish with, set, or haul back drift gillnet gear in U.S. waters of the Pacific Ocean east of the 120° W. meridian from June 1 through August 31 during a forecasted, or occurring, El Nino event off the coast of southern California.

(i) *Notification of an El Nino event.* The Assistant Administrator will publish in the **Federal Register** a notification that an El Nino event is occurring, or is forecast to occur, off the coast of southern California and the requirement of a closure under this paragraph (c)(2). Furthermore, the Assistant Administrator will announce the requirement of such a closure by other methods as are necessary and appropriate to provide actual notice to the participants in the California/Oregon drift gillnet fishery.

(ii) *Determination of El Nino conditions.* The Assistant Administrator will rely on information developed by NOAA offices which monitor El Nino events, such as NOAA's Climate Prediction Center and the West Coast Office of NOAA's Coast Watch program, in order to determine whether an El Nino is forecasted or occurring for the coast of southern California. The Assistant Administrator will use the monthly sea surface temperature anomaly charts to determine whether there are warmer than normal sea surface temperatures present off of southern California during the months prior to the closure month for years in which an El Nino event has been declared by the NOAA Climate Prediction Center. Specifically, the Assistant Administrator, will use sea surface temperature data from the third and second months prior to the month of the closure for determining whether El Nino conditions are present off of southern California.

(iii) *Reopening.* If, during a closure as described within this paragraph (c)(2), sea surface temperatures return to normal or below normal, the Assistant Administrator may publish a **Federal Register** notice announcing that El Nino conditions are no longer present off the coast of southern California and may terminate the closure prior to August 31.

* * * * *

[FR Doc. E7–11124 Filed 6–7–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 648

[Docket No. 010319075–1217–02]

RIN 0648–XA54

Fisheries of the Northeastern United States; Tilefish Fishery; Quota Harvested for Full-time Tier 2 Category

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

ACTION: Temporary rule; tilefish Full-time Tier 2 permit category closure.

SUMMARY: NMFS announces that the percentage of the tilefish annual total allowable landings (TAL) available to the Full-time Tier 2 permit category for the 2007 fishing year has been harvested. Commercial vessels fishing under the tilefish Full-time Tier 2 permit may not harvest tilefish from within the Golden Tilefish Management Unit for the remainder of the 2007 fishing year (through October 31, 2007). Regulations governing the tilefish fishery require publication of this notification to advise the public of this closure.

DATES: Effective 0001 hrs local time, June 7, 2007, through 2400 hrs local time, October 31, 2007.

FOR FURTHER INFORMATION CONTACT: Brian R. Hooker, Fishery Policy Analyst, at (978) 281–9220.

SUPPLEMENTARY INFORMATION: Regulations governing the tilefish fishery are found at 50 CFR part 648. The regulations require annual specification of a TAL for federally permitted tilefish vessels harvesting tilefish from the Golden Tilefish Management Unit. The Golden Tilefish Management Unit is defined as an area of the Atlantic Ocean from the latitude of the VA and NC border (36°33.36′ N. lat.), extending eastward from the shore to the outer boundary of the exclusive economic zone, and northward to the U.S.-Canada border. After 5 percent of the TAL is deducted to reflect landings by vessels issued an open-access Incidental permit category, and after up to 3 percent of the TAL is set aside for research purposes, should research TAL be set aside, the remaining TAL is distributed among three tilefish limited access permit categories: Full-time tier 1 category (66 percent), Full-time tier 2 category (15 percent), and the Part-time category (19 percent).

The TAL for tilefish for the 2007 fishing year was set at 1.995 million lb (905,172 kg) and then adjusted downward by 5 percent to 1,895,250 lb (859,671 kg) to account for incidental catch. There was no research set-aside for the 2007 fishing year. Thus, the Full-time Tier 2 permit quota for the 2007 fishing year, which is equal to 15 percent of the TAL, was specified at 284,288 lb (106,108 kg). Notification of the 2007 Full-time Tier 2 category quota for the 2007 fishing year was published in the **Federal Register** on October 31, 2006 (71 FR 63703).

The Administrator, Northeast Region, NMFS (Regional Administrator) monitors the commercial tilefish quota for each fishing year using dealer reports, vessel catch reports, and other available information to determine when the quota for each limited access permit category is projected to have been harvested. NMFS is required to publish notification in the **Federal Register** notifying commercial vessels and dealer permit holders that, effective upon a specific date, the tilefish TAL for the specific limited access category has been harvested and no commercial quota is available for harvesting tilefish by that category for the remainder of the fishing year, from the Golden Tilefish Management Unit.

The Regional Administrator has determined, based upon dealer reports and other available information, that the 2007 tilefish TAL for the Full-time Tier 2 category has been harvested. Therefore, effective 0001 hr local time, June 7, 2007, further landings of tilefish harvested from the Golden Tilefish Management Unit by tilefish vessels holding Full-time Tier 2 category Federal fisheries permits are prohibited through October 31, 2007. The 2008 fishing year for commercial tilefish harvest will open on November 1, 2007. Federally permitted dealers are also advised that, effective June 7, 2007, they may not purchase tilefish from Full-time Tier 2 category federally permitted tilefish vessels who land tilefish harvested from the Golden Tilefish Management Unit for the remainder of the 2007 fishing year (through October 31, 2007).

Classification

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

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

Dated: June 05, 2007.

Alan D. Risenhoover,

Director, Office Of Sustainable Fisheries, National Marine Fisheries Service.

[FR Doc. 07–2858 Filed 6–5–07; 1:25 pm]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 070213033–7033–01]

RIN 0648–XA70

Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Cod by Catcher Vessels Less than 60 Feet (18.3 m) LOA Using Pot or Hook-and-Line Gear in the Bering Sea and Aleutian Islands Management Area

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

ACTION: Temporary rule; closure.

SUMMARY: NMFS is prohibiting directed fishing for Pacific cod by catcher vessels less than 60 feet (18.3 meters (m)) length overall (LOA) using pot or hook-and-line gear in the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to prevent exceeding the 2007 Pacific cod total allowable catch (TAC) allocated to catcher vessels less than 60 feet (18.3 m) LOA using pot or hook-and-line gear in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), June 6, 2007, through 2400 hrs, A.l.t., December 31, 2007.

FOR FURTHER INFORMATION CONTACT: Jennifer Hogan, 907–586–7228.

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

The 2007 and 2008 final harvest specifications for groundfish in the BSAI (72 FR 9451, March 2, 2007), the reallocation on March 5, 2007 (72 FR 10428, March 8, 2007), and the reallocation on April 31, 2007 (72 FR 18595, April 30, 2007) allocated a directed fishing allowance for Pacific cod of 2,853 metric tons to catcher vessels less than 60 feet (18.3 m) LOA using pot or hook-and-line gear in the BSAI.

In accordance with § 679.20(d)(1)(iii), the Regional Administrator finds that the 2007 Pacific cod directed fishing allowance allocated to catcher vessels less than 60 feet (18.3 m) LOA using pot or hook-and-line gear in the BSAI has been reached. Consequently, NMFS is prohibiting directed fishing for Pacific cod by catcher vessels less than 60 feet (18.3 m) LOA using pot or hook-and-line gear in the BSAI.

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

Classification

This action responds to the best available information recently obtained from the fishery. The Assistant Administrator for Fisheries, NOAA (AA), finds good cause to waive the requirement to provide prior notice and opportunity for public comment pursuant to the authority set forth at 5 U.S.C. 553(b)(B) as such requirement is impracticable and contrary to the public interest. This requirement is impracticable and contrary to the public interest as it would prevent NMFS from responding to the most recent fisheries data in a timely fashion and would delay the closure of Pacific cod by catcher vessels less than 60 feet (18.3 m) LOA using pot or hook-and-line gear in the BSAI. NMFS was unable to publish a notice providing time for public comment because the most recent, relevant data only became available as of June 4, 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 section 679.20 and is exempt from review under Executive Order 12866.

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

Dated: June 4, 2007

James P. Burgess,

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

[FR Doc. 07–2857 Filed 6–5–07; 1:25 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 72, No. 110
Friday, June 8, 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 AGRICULTURE

Agricultural Marketing Service

7 CFR Part 981

[Docket No. AMS–FV–07–0051; FV07–981–2 PR]

Almonds Grown in California; Change in Requirements for Interhandler Transfers of Almonds and Request for Approval of New Information Collection

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Proposed rule.

SUMMARY: This rule invites comments on revising the requirements for interhandler transfers of almonds under the administrative rules and regulations of the California almond marketing order (order). The order regulates the handling of almonds grown in California and is administered locally by the Almond Board of California (Board). This rule would require handlers who transfer almonds to other handlers to report to the Board whether or not the almonds were treated to achieve a 4-log reduction in *Salmonella* bacteria (*Salmonella*). This action would help the Board track treated and untreated almonds and facilitate administration of its mandatory *Salmonella* treatment program. This proposal also announces the Agricultural Marketing Service's (AMS) intention to request approval of a new information collection issued under the order.

DATES: Comments must be received by August 7, 2007. Pursuant to the Paperwork Reduction Act, comments on information collection burden that would result from this proposal must be received by August 7, 2007.

ADDRESSES: Interested persons are invited to submit written comments concerning this proposal. Comments must be sent to the Docket Clerk, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, 1400 Independence Avenue SW, STOP 0237, Washington, DC 20250–0237; Fax: (202) 720–8938; or Internet: *http://www.regulations.gov*. All comments should reference the docket number and the date and page number of this issue of the **Federal Register** and will be available for public inspection in the Office of the Docket Clerk during regular business hours, or can be viewed at: *http://www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Maureen T. Pello, Assistant Regional Manager, or Kurt J. Kimmel, Regional Manager, California Marketing Field Office, Marketing Order Administration Branch, Fruit and Vegetable Programs, AMS, USDA, Telephone: (559) 487–5901, Fax: (559) 487–5906, or e-mail: *Maureen.Pello@usda.gov*, or *Kurt.Kimmel@usda.gov*.

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

SUPPLEMENTARY INFORMATION: This proposed rule is issued under Marketing Order No. 981, as amended (7 CFR part 981), regulating the handling of almonds grown in California, hereinafter referred to as the ''order.'' The order is effective under the Agricultural Marketing Agreement Act of 1937, as amended (7 U.S.C. 601–674), hereinafter referred to as the ''Act.''

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

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

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

This proposed rule invites comments on revising the requirements for interhandler transfers of almonds under the administrative rules and regulations of the order. This rule would require handlers who transfer almonds to other handlers to report to the Board whether or not the almonds were treated to achieve a 4-log reduction in *Salmonella*. A mandatory treatment program to reduce the potential for *Salmonella* in almonds will take effect in September 2007. This action would enable the Board to track treated and untreated almonds and help facilitate administration of its mandatory treatment program. This action was unanimously recommended by the Board at a meeting on March 28, 2007.

Section 981.55 of the order provides authority for handlers to, upon notice to and under supervision of the Board, transfer almonds to another handler. Marketing order obligations regarding volume regulation, when in effect, and assessments must be fully met and may be divided between the participating handlers. Section 981.455 requires handlers to report to the Board on ABC Form No. 7, ''Interhandler Transfer of Almonds,'' information regarding interhandler transfers. Paragraph (a) of that section currently requires the following information: (1) Date of transfer; (2) the names and plant locations of both the transferring and receiving handlers; (3) the variety of almonds transferred; (4) whether the almonds are shelled or unshelled; and (5) the name of the handler assuming reserve and assessment obligations on the almonds transferred.

In August 2006, the Board recommended a mandatory treatment program to reduce the potential for *Salmonella* in almonds. USDA engaged in informal rulemaking to implement the program. A final rule was published

on March 30, 2007 (61 FR 15021). Beginning in September 2007, handlers must subject their almonds to a process that achieves a 4-log reduction in *Salmonella* prior to shipment. The program exempts untreated almonds that are shipped to manufacturers in the U.S., Canada, and Mexico who agree to treat the almonds and untreated almonds that are shipped outside the U.S., Canada, and Mexico.

To help track treated and untreated almonds, the Board met in March 2007 and recommended revising the order's administrative rules and regulations to require handlers to report to the Board whether or not almonds transferred to other handlers were treated under the mandatory treatment program. Handlers would also have to include an identification number for each lot transferred. This number could be a contract number or other unique handler number that could identify the lot. Under the mandatory *Salmonella* treatment program, handler records must provide the ability to differentiate treated from untreated almonds (§ 981.442(b)(5)). Requiring handlers to provide lot identification numbers on their interhandler transfer forms would complement this requirement. These changes to the interhandler transfer requirements would help facilitate administration of the mandatory *Salmonella* treatment program. Paragraph (a) in § 981.455 is proposed to be revised accordingly.

Initial Regulatory Flexibility Analysis

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

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

There are approximately 6,000 producers of almonds in the production area and approximately 115 handlers subject to regulation under the marketing order. Small agricultural producers are defined by the Small Business Administration (13 CFR 121.201) as those having annual receipts of less than $750,000, and small agricultural service firms are defined as those whose annual receipts are less than $6,500,000.

Data for the most recently completed crop year indicate that about 52 percent of the handlers shipped under $6,500,000 worth of almonds. Dividing the average almond crop value for 2003–2005 reported by the National Agricultural Statistics Service ($2.043 billion) by the number of producers (6,000) yields an average annual producer revenue estimate of about $340,000. Based on the foregoing, about half of the handlers and a majority of almond producers may be classified as small entities.

This rule would revise § 981.455(a) of the order's administrative rules and regulations to require handlers who transfer almonds to other handlers to report to the Board whether or not the almonds were treated to achieve a 4-log reduction in *Salmonella*. A mandatory treatment program to reduce the potential for *Salmonella* in almonds will take effect in September 2007. This action would help the Board track treated and untreated almonds and help ensure the integrity of its mandatory program. Authority for this change is provided in §§ 981.55 of the order.

Regarding the impact of this action on affected entities, it would merely require handlers who transfer almonds to other handlers to indicate on ABC Form No. 7, ''Interhandler Transfer of Almonds,'' whether or not the almonds were treated to achieve a 4-log reduction in *Salmonella*. Handlers would also be required to include a lot identification number for each lot transferred.

Regarding alternatives to this action, the Board considered not requiring handlers to report whether their transferred almonds were treated to achieve a 4-log reduction in *Salmonella*. However, this would not allow the Board to track treated and untreated almonds. Thus, the Board unanimously recommended revising the requirements regarding interhandler transfers of almonds.

This action would slightly modify the reporting requirements for all California almond handlers. All handlers must currently report their interhandler transfers to the Board on ABC Form No. 7, ''Interhandler Transfer of Almonds.'' This form is currently approved by the Office of Management and Budget (OMB) under OMB No. 0581–0178, Vegetable and Specialty Crops. This rule would require that two extra columns be added to this form. One column would allow handlers to indicate whether or not the transferred almonds were treated to achieve a 4-log reduction in *Salmonella*. The second column would provide for inclusion of a lot identification number for tracking purposes. The revised form is being submitted to the OMB for approval under OMB No. 0581–NEW. Once approved, this information collection will be merged into OMB No. 0581–0178. Specific burden information is detailed later in this document in the section titled Paperwork Reduction Act.

USDA has not identified any relevant Federal rules that duplicate, overlap or conflict with this rule. As with all Federal marketing order programs, reports and forms are periodically reviewed to reduce information requirements and duplication by the industry and public sector agencies.

Additionally, the meetings were widely publicized throughout the California almond industry and all interested persons were invited to attend the meetings and participate in deliberations on all issues. The Board's Food Quality and Safety Committee discussed this issue on January 30, 2007. The committee recommended the change to the Board on March 28, 2007. Both of these meetings were public meetings and all entities, both large and small, were able to express views on this issue. Finally, interested persons are invited to submit information on the regulatory and informational impacts of this action on small businesses.

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

A 60-day comment period is provided for interested persons to comment on this proposal. All written comments received will be considered before a final determination is made on this matter.

Paperwork Reduction Act

In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the AMS announces its intention to request approval of a new information collection under the marketing order for California almonds. This new collection is a modification of currently approved ABC Form 7, ''Interhandler Transfer of Almonds,'' under OMB No. 0581–0178, Vegetable and Specialty Crops. Upon approval, this information collection will be merged into OMB No. 0581–0178.

Title: Almonds Grown in California, Marketing Order No. 981.

OMB No.: 0581–NEW.

Expiration Date of Approval: 3 years from OMB date of approval.

Type of Request: New collection.

Abstract: The information collection requirement in this request is essential to carry out the intent of the Act, to provide the respondents the type of service they request, and to administer the California almond marketing order program, which has been operating since 1950.

The Board met on March 28, 2007, and unanimously recommended revising the requirements for interhandler transfers of almonds whereby handlers who transfer almonds to other handlers would have to report to the Board whether or not the almonds were treated to achieve a 4-log reduction in *Salmonella.* A mandatory treatment program to reduce the potential for *Salmonella* in almonds will take effect in September 2007. This action would enable the Board to track treated and untreated almonds and help facilitate administration of its mandatory treatment program. This document concerns the reporting requirements regarding this change.

This information collection is only used by authorized representatives of USDA, including AMS, Fruit and Vegetable Programs regional and headquarters' staff, and authorized employees and agents of the Board. Authorized Board employees, agents, and the industry are the primary users of the information and AMS is the secondary user.

ABC Form No. 7 Interhandler Transfer of Almonds

Estimate of Burden: Public reporting burden for this collection of information is estimated to be 0.5 hour per response.

Respondents: Almond handlers.

Estimated Number of Respondents: 50.

Estimated Number of Responses per Respondent: 5.

Estimated Total Annual Burden on Respondents: 125 per year.

Comments: Comments are invited on: (1) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (2) the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on those who are to respond, including the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology.

Comments should reference OMB No. 0581–NEW and the California almond marketing order, and be sent to the USDA in care of the Docket Clerk at the address above. All comments received will be available for public inspection during regular business hours at the same address. All responses to this notice will be summarized and included in the request for OMB approval. All comments will also become a matter of public record.

The AMS is committed to complying with the E-Government Act, to promote the use of the Internet and other information technologies to provide increased opportunities for citizen access to Government information and services, and for other purposes.

A 60-day comment period is provided to allow interested persons to comment on this proposed information collection.

List of Subjects in 7 CFR Part 981

Almonds, Marketing agreements, Nuts, Reporting and recordkeeping requirements.

For the reasons set forth in the preamble, 7 CFR part 981 is proposed to be amended as follows:

PART 981—ALMONDS GROWN IN CALIFORNIA

1. The authority citation for 7 CFR part 981 continues to read as follows:

Authority: 7 U.S.C. 601–674.

2. Section 981.455 is amended by revising paragraph (a) to read as follows:

§ 981.455 Interhandler transfers.

(a) *Transfers of almonds.* Interhandler transfers of almonds pursuant to § 981.55 shall be reported to the Board on ABC Form 7. The report shall contain the following information:

(1) Date of transfer;

(2) The names, and plant locations of both the transferring and receiving handlers;

(3) The variety of almonds transferred;

(4) Whether the almonds are shelled or unshelled;

(5) The name of the handler assuming reserve and assessment obligations on the almonds transferred;

(6) Whether the almonds had been treated to achieve a 4-log reduction in *Salmonella* bacteria, pursuant to § 981.442(b); and

(7) A unique handler identification number for each lot.

* * * * *

Dated: June 4, 2007.

Lloyd C. Day,

Administrator, Agricultural Marketing Service.

[FR Doc. 07–2837 Filed 6–5–07; 9:48 am]

BILLING CODE 3410–02–P

DEPARTMENT OF TRANSPORTATION

Federal Aviation Administration

14 CFR Part 39

[Docket No. FAA–2007–28370; Directorate Identifier 2003–NM–239–AD]

RIN 2120–AA64

Airworthiness Directives; Goodrich Evacuation Systems Approved Under Technical Standard Order (TSO), TSO–C69, TSO–C69a, TSO–C69b, and TSO–69c, Installed on Various Boeing, McDonnell Douglas, and Airbus Transport Category Airplanes

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

ACTION: Notice of proposed rulemaking (NPRM).

SUMMARY: The FAA proposes to adopt a new airworthiness directive (AD) for certain Goodrich evacuation systems approved under TSO-C69, TSO-C69a, TSO-C69b, and TSO-69c, installed on certain Boeing, McDonnell Douglas, and Airbus transport category airplanes. For certain systems, this proposed AD would require replacing the evacuation systems shear-pin restraints with new ones. For certain other systems, this proposed AD would require an inspection for manufacturing lot numbers; and a general visual inspection of the shear-pin restraint for discrepancies, and corrective actions if necessary. This proposed AD is prompted by several reports of corroded shear-pin restraints that prevented Goodrich evacuation systems from deploying properly. We are proposing this AD to prevent failure of the evacuation system, which could impede an emergency evacuation and increase the chance of injury to passengers and flightcrew during the evacuation.

DATES: We must receive comments on this proposed AD by July 23, 2007.

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

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

400 Seventh Street SW., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Contact Goodrich, Aircraft Interior Products, ATTN: Technical Publications, 3414 South Fifth Street, Phoenix, AZ 85040, for service information identified in this proposed AD.

FOR FURTHER INFORMATION CONTACT: Tracy Ton, Aerospace Engineer, Cabin Safety/Mechanical and Environmental Systems Branch, ANM–150L, FAA, Los Angeles Aircraft Certification Office, 3960 Paramount Boulevard, Lakewood, California 90712–4137; telephone (562) 627–5352; fax (562) 627–5210.

SUPPLEMENTARY INFORMATION:

Comments Invited

We invite you to submit any written relevant data, views, or arguments regarding this proposed AD. Send your comments to an address listed under **ADDRESSES**. Include ''Docket No. FAA–2007–28370; Directorate Identifier 2003–NM–239–AD'' in the subject line of your comments. We specifically invite comments on the overall regulatory, economic, environmental, and energy aspects of the proposed AD. We will consider all comments submitted by the closing date and may amend the proposed AD in light of those comments.

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

Examining the Docket

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

Discussion

We have received several reports indicating that Goodrich evacuation systems installed on certain Boeing Model 747 airplanes and Model 767 airplanes have not deployed properly due to corroded shear-pin restraints. The corrosion problem arose concurrently with a 1998 change in the anodize specification for restraint bodies. Corrosion of the shear-pin restraints, if not corrected, can lead to higher than designed release values, and in severe cases, can cause the two halves of the restraints to freeze up, which can lead to improper deployment and/or loss of use of the evacuation system. That loss could impede emergency evacuation and increase the chance of injury to passengers and flightcrew during the evacuation.

Other Relevant Rulemaking

The reports involved certain Boeing Model 747 airplanes and Model 767 airplanes that are equipped with the affected Goodrich evacuation system as part of a type certificate (TC); however, certain Goodrich evacuation systems installed as a technical standard order (TSO) appliance on certain Airbus, Boeing and McDonnell Douglas transport category airplanes use the same restraints as those used by the affected type certificated Goodrich units. Therefore evacuation systems approved by either TSO or TC are subject to the identified unsafe condition. We are planning to issue similar rulemaking (Directorate Identifier 2005–NM–139–AD) for certain Boeing Model 747 airplanes and Model 767 airplanes that are equipped with certain type certificated Goodrich evacuation systems.

Relevant Service Information

We have reviewed Goodrich Service Bulletins 25–343, Revision 3, dated January 12, 2007; and 25–344, Revision 2, dated October 11, 2006. Goodrich Service Bulletin 25–343 affects evacuation systems installed on certain Boeing and McDonnell Douglas transport category airplanes. Goodrich Service Bulletin 25–344 affects evacuation systems installed on certain Airbus transport category airplanes. For certain systems, the service bulletins describe procedures for replacing the shear-pin restraints with new, improved restraints. For certain other systems, the service bulletins describe procedures for an inspection to verify the manufacturing lot number of the restraints; and a general visual inspection of the restraints for discrepancies (*i.e.*, corrosion, security of pin retainer/label, overall condition, and lack of play), and corrective action if necessary. The corrective action is replacing the shear-pin restraints with new shear-pin restraints. Accomplishing the actions specified in the service information is intended to adequately address the unsafe condition.

FAA's Determination and Requirements of the Proposed AD

We have evaluated all pertinent information and identified an unsafe condition that is likely to exist or develop on other products of this same type design. Therefore, we are proposing this AD, which would require you to use the service information described previously to perform these actions, except as discussed under ''Difference Between this Proposed AD and the Service Bulletins.''

Difference Between This Proposed AD and the Service Bulletins

Although the service bulletins recommend accomplishing the replacement or inspection ''at the next shop visit,'' we have determined that this imprecise compliance time would not address the identified unsafe condition soon enough to ensure an adequate level of safety for the affected fleet. In developing an appropriate compliance time for this AD, we considered the manufacturer's recommendation, the degree of urgency associated with the subject unsafe condition, and the average utilization of the affected fleet. In light of all of these factors, we find that a compliance time of 18 months for Goodrich evacuation systems installed on Boeing Model 767 off-wing ramp/slide units and 36 months for all other evacuation systems represents an appropriate interval of time for affected airplanes to continue to operate without compromising safety. We have coordinated this difference with the manufacturer.

Costs of Compliance

This proposed AD would affect certain Goodrich evacuation systems installed on about 2,844 airplanes worldwide. This proposed AD would affect about 1,240 airplanes of U.S. registry. The following table provides the estimated costs for U.S. operators to comply with this proposed AD.

ESTIMATED COSTS

Action	Work hours	Average labor rate per hour	Parts	Cost per slide unit	Number of slide units per airplane	Fleet cost
Replacement	Between 2 and 9	$80	Between $58 and $638, depending on number of restraints.	Between $218 and $1,358.	Between 2 and 12.	Between $540,640 and $20,207,040.
Inspection	Between 2 and 9	$80	None	Between $160 and $720.	Between 2 and 12.	Between $396,800 and $10,713,600.

Authority for This Rulemaking

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

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

Regulatory Findings

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

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

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

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

3. 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. See the **ADDRESSES** section for a location to examine the regulatory evaluation.

List of Subjects in 14 CFR Part 39

Air transportation, Aircraft, Aviation safety, Safety.

The Proposed Amendment

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 airworthiness directive (AD):

Goodrich (Formerly BFGoodrich): Docket No. FAA–2007–28370; Directorate Identifier 2003–NM–239–AD.

Comments Due Date

(a) The Federal Aviation Administration (FAA) must receive comments on this AD action by July 23, 2007.

Affected ADs

(b) None.

Applicability

(c) This AD applies to:

(1) Goodrich evacuation systems approved under Technical Standard Order (TSO) TSO–C69, TSO–C69a, and TSO–C69b, installed on certain Boeing airplanes, certificated in any category, as listed in Table 1 of this AD;

(2) Goodrich evacuation systems approved under TSO–C69, TSO–C69a, and TSO–C69b, installed on certain McDonnell Douglas airplanes, certificated in any category, as listed in Table 2 of this AD; and

(3) Goodrich evacuation systems approved under TSO–C69a, TSO–C69b, and TSO–C69c, installed on Airbus airplanes, certificated in any category, as listed in Table 3 of this AD.

TABLE 1.—GOODRICH EVACUATION SYSTEMS INSTALLED ON CERTAIN BOEING MODEL AIRPLANES

Goodrich evacuation systems having part number (P/N)—	Having any serial number (S/N)—	Component/part is named—	Installed on Boeing Model—
(i) 101623–303	PB0400 through PB0453 inclusive	Slide, forward/aft door	767–200 and –300 series airplanes.
(ii) 101630–305	PG0276 through PG0309 inclusive.	Ramp/Slide, off-wing, left-hand (LH) side.	767–200 and –300 series airplanes.
(iii) 101630–306	PC0264 through PC0368 inclusive.	Ramp/Slide, off-wing, right-hand (RH) side.	767–200 and –300 series airplanes.
(iv) 101655–305	PK0161 through PK0212 inclusive	Ramp/Slide, off-wing, LH side	767–200 and –300 series airplanes.
(v) 101655–306	PF0164 through PF0220 inclusive	Ramp/Slide, off-wing, RH side	767–200 and –300 series airplanes.
(vi) 101656–305	PH0300 through PH0390 inclusive.	Ramp/Slide, off-wing, LH side	767–200 and –300 series airplanes.
(vii) 101656–306	PD0294 through PD0378 inclusive.	Ramp/Slide, off-wing, RH side	767–200 and –300 series airplanes.
(viii) 101658–101 and 101658–103	PAK137 through PAK150 inclusive.	Slide, forward door	737–200 series airplanes.

TABLE 1.—GOODRICH EVACUATION SYSTEMS INSTALLED ON CERTAIN BOEING MODEL AIRPLANES—Continued

Goodrich evacuation systems having part number (P/N)—	Having any serial number (S/N)—	Component/part is named—	Installed on Boeing Model—
(ix) 101659–101 through 101659–205 inclusive.	PAL671 through PAL738 inclusive	Slide, aft door	737–200, –300, –400, and –500 series airplanes.
(x) 101660-101 through 101660-107 inclusive.	PAB611 through PAB649 inclusive.	Slide, forward door	737–300, –400, and –500 series airplanes.
(xi) 5A3086–3 and 5A3086–301	B3F315 through B3F611 inclusive	Slide, forward door	737–600, –700, –700C, –800, and –900 series airplanes.
(xii) 5A3088–3 and 5A3088–301	B3A338 through B3A685 inclusive	Slide, aft door	737–600, –700, –700C, –800, and –900 series airplanes.
(xiii) 5A3109–1	Odd S/Ns ST0015 through ST0131.	Ramp/Slide, off-wing, LH side	777–300 and –300ER series airplanes.
(xiv) 5A3109–2	Even S/Ns ST0014 through ST0128.	Ramp/Slide, off-wing, RH side	777–300 and –300ER series airplanes.
(xv) 5A3294–1 and 5A3294–2	SS0001 through SS0210 inclusive	Slide/Raft, door 2	767–300 and –400ER series airplanes.
(xvi) 5A3295–1 and 5A3295–3	SF0001 through SF0501 inclusive	Slide/Raft, doors 1 and 4	767–200, –300, and –400ER series airplanes.
(xvii) 5A3307–1 through 5A3307–5 inclusive and 5A3307–301.	BNG0213 through BNG4911 inclusive.	Slide, forward/aft door	737–600, –700, –700C, –800, and –900 series airplanes.
(xviii) 7A1323–111 through 7A1323–114 inclusive.	GS1340 through GS1879 inclusive.	Slide, stretched upper deck	747–100B SUD, –300, –400, and –400D series airplanes.
(xix) 7A1394–4 and 7A1394–6	GV0214 through GV0249 inclusive.	Slide/Raft, forward/aft doors	767–200 and –300 series airplanes.
(xx) 7A1418–21 and 7A1418–23	Odd S/Ns GT1591 through GT1857.	Ramp/Slide, off-wing door 3, LH side.	747–100, –100B, –100B SUD, –200B, –200C, –300, –400, –400D, and 747SR series airplanes.
(xxi) 7A1418–22 and 7A1418–24	Even S/Ns GT1576 through GT1830.	Ramp/Slide, off-wing door 3, RH side.	747–100, –100B, –100B SUD, –200B, –200C, –300, –400, –400D, and 747SR series airplanes.
(xxii) 7A1447–39 through 7A1447–54 inclusive.	GW2682 through GW2923 inclusive.	Slide/Raft, doors 1, 2, and 4	747–100, –100B, –100B SUD, –200B, –200C, –300, and 747SR series airplanes.
(xxiii) 7A1448–5 through 7A1448–12 inclusive.	GX1538 through GX1593 inclusive.	Slide/Raft, door 5	747–100, –100B, –100B SUD, –200B, –200C, –300, and 747SR series airplanes.
(xxiv) 7A1467–21 and 7A1467–23	Odd S/Ns GH1969 through GH2443.	Slide/Raft, doors 1 and 4, LH side	747–400 and –400D series airplanes.
(xxv) 7A1467–22 and 7A1467–24	Even S/Ns GH1954 through GH2420.	Slide/Raft, doors 1 and 4, RH side	747–400 and –400D series airplanes.
(xxvi) 7A1469–13	Odd S/Ns GJ909 through GJ1163	Slide/Raft, door 5, LH side	747–400 and –400D series airplanes.
(xxvii) 7A1469–14	Even S/Ns GJ912 through GJ1150.	Slide/Raft, door 5, RH side	747–400 and –400D series airplanes.
(xxviii) 7A1479–13	Odd S/Ns GI1019 through GI1265	Slide/Raft, door 2, LH side	747–300, –400, and –400D series airplanes.
(xxix) 7A1479–14	Even S/Ns GI1036 through GI1298.	Slide/Raft, door 2, RH side	747–300, –400, and –400D series airplanes.
(xxx) 7A1489–3	Odd S/Ns GK355 through GK403	Slide/Raft, mid door, LH side	767–300 series airplanes.
(xxxi) 7A1489–4	Even S/Ns GK356 through GK406	Slide/Raft, mid door, RH side	767–300 series airplanes.
(xxxii) 101623–107 through 101623–303 inclusive.	PB0001 through PB0399 inclusive, and all S/Ns with a B23 prefix.	Slide, forward/aft door	767–200 and –300 series airplanes.
(xxxiii) Odd dash numbers 101630–105 through 101630–305.	PG0001 through PG0275 inclusive, and all S/Ns with a B101 prefix.	Ramp/Slide, off-wing, LH side	767–200 and –300 series airplanes.
(xxxiv) Even dash numbers 101630–106 through 101630–306.	PC0001 through PC0263 inclusive, and all S/Ns with a B102 prefix.	Ramp/Slide, off-wing, RH side	767–200 and –300 series airplanes.
(xxxv) Odd dash numbers 101655–101 through 101655–305.	PK0001 through PK0160 inclusive, and all S/Ns with a L55 prefix.	Ramp/Slide, off-wing, LH side	767–200 and –300 series airplanes.
(xxxvi) Even dash numbers 101655–102 through 101655–306.	PF0001 through PF0163 inclusive, and all S/Ns with a R55 prefix.	Ramp/Slide, off-wing, RH side	767–200 and –300 series airplanes.
(xxxvii) Odd dash numbers 101656–103 through 101656–305.	PH0001 through PH0299 inclusive, and all S/Ns with a L56 prefix.	Ramp/Slide, off-wing, LH side	767–200 and –300 series airplanes.
(xxxviii) Even dash numbers 101656–104 through 101656–306.	PD0001 through PD0293 inclusive, and all S/Ns with a R56 prefix.	Ramp/Slide, off-wing, RH side	767–200 and –300 series airplanes.

TABLE 1.—GOODRICH EVACUATION SYSTEMS INSTALLED ON CERTAIN BOEING MODEL AIRPLANES—Continued

Goodrich evacuation systems having part number (P/N)—	Having any serial number (S/N)—	Component/part is named—	Installed on Boeing Model—
(xxxix) 101658–101 and 101658–103.	PAK001 through PAK136 inclusive.	Slide, forward door	737–200 series airplanes.
(xl) 101659–101 through 101659–205 inclusive.	PAL001 through PAL670 inclusive	Slide, aft door	737–200, –300, –400, and –500 series airplanes.
(xli) 101660–101 through 101660–107 inclusive.	PAB001 through PAB610 inclusive.	Slide, forward door	737–300, –400, and –500 series airplanes.
(xlii) 5A3086–3 and 5A3086–301 ..	B3F001 through B3F314 inclusive	Slide, forward door	737–600, –700, –700C, –800, and –900 series airplanes.
(xliii) 5A3088–3 and 5A3088–301	B3A001 through B3A337 inclusive	Slide, aft door	737–600, –700, –700C, –800, and –900 series airplanes.
(xliv) 5A3109–1	Odd S/Ns, ST0001 through ST0013.	Ramp/Slide, off-wing, LH side	777–300 and –300ER series airplanes.
(xlv) 5A3109–2	Even S/Ns, ST0002 through ST0012.	Ramp/Slide, off-wing, RH side	777–300 and –300ER series airplanes.
(xlvi) 5A3307–1 through 5A3307–5 inclusive, and 5A3307–301.	BNG0001 through BNG0212 inclusive.	Slide, forward/aft door	737–600, –700, –700C, –800, and –900 series airplanes.
(xlvii) 7A1323–1 through 7A1323–114 inclusive.	GS0001 through GS1339 inclusive, and all S/Ns with a single G prefix.	Slide, Stretched upper deck	747–100B SUD, –300, –400, and –400D series airplanes.
(xlviii) 7A1394–3 through 7A1394–6 inclusive.	GV001 through GV213 inclusive, and all S/Ns with a single G prefix.	Slide/Raft, forward/aft doors	767–200 and –300 series airplanes.
(xlix) Odd dash numbers 7A1418–1 through 7A1418–23.	Odd S/Ns GT0001 through GT1589, and all odd S/Ns with a single letter G prefix.	Ramp/Slide, off-wing door 3, LH side.	747–100, –100B, –100B SUD, –200B, –200C, –300, –400, –400D, and 747SR series airplanes.
(l) Even dash numbers 7A1418–2 through 7A1418–24.	Even S/Ns GT0002 through GT1574, and all even S/Ns with a single letter G prefix.	Ramp/Slide, off-wing door 3, RH side.	747–100, –100B, –100B SUD, –200B, –200C, –300, –400, –400D, and 747SR series airplanes.
(li) 7A1437–1 through 7A1437–8 inclusive.	GW0001 through GW2923 inclusive, and all S/Ns with a single letter G prefix.	Slide/Raft, doors 1, 2, and 4	747–100B, –200C, –300, and 747SR series airplanes.
(lii) 7A1439–1 through 7A1439–8 inclusive.	GX0001 through GX1593 inclusive, and all S/Ns with a single letter G prefix.	Slide/Raft, door 5	747–100B, –200C, –300, and 747SR series airplanes.
(liii) 7A1447–1 through 7A1447–54 inclusive.	GW0001 through GW2681 inclusive, and all S/Ns with a single letter G prefix.	Slide/Raft, doors 1, 2, and 4	747–100, –100B, –100B SUD, –200B, –200C, –300, and 747SR series airplanes.
(liv) 7A1448–1 through 7A1448–12 inclusive.	GX0001 through GX1537, and all S/Ns with a single letter G prefix.	Slide/Raft, door 5	747–100, –100B, –100B SUD, –200B, –200C, –300, and 747SR series airplanes.
(lv) Odd dash numbers 7A1467–1 through 7A1467–23.	Odd S/Ns GH0001 through GH1967, and all odd S/Ns with a single letter G prefix.	Slide/Raft, doors 1 and 4, LH side	747–400 and –400D series airplanes.
(lvi) Even dash numbers 7A1467–2 through 7A1467–24.	Even S/Ns GH0002 through GH1952, and all even S/Ns with a single letter G prefix.	Slide/Raft, doors 1 and 4, RH side	747–400 and –400D series airplanes.
(lvii) Odd dash numbers 7A1469–1 through 7A1469–13.	Odd S/Ns GJ001 through GJ907, and all odd S/Ns with a single letter G prefix.	Slide/Raft, door 5, LH side	747–400 and –400D series airplanes.
(lviii) Even dash numbers 7A1469-2 through 7A1469-14.	Even S/Ns GJ002 through GJ910, and all even S/Ns with a single letter G prefix.	Slide/Raft, door 5, RH side	747–400 and –400D series airplanes.
(lix) Odd dash numbers 7A1479–1 through 7A1479–13.	Odd S/Ns GI0001 through GI1017, and all odd S/Ns with a single letter G prefix.	Slide/Raft, door 2, LH side	747–300, –400, and –400D series airplanes.
(lx) Even dash numbers 7A1479–2 through 7A1479–14.	Even S/Ns GI0002 through GI1034, and all even S/Ns with a single letter G prefix.	Slide/Raft, door 2, RH side	747–300, –400, and –400D series airplanes.
(lxi) 7A1489–1 and 7A1489–3	Odd S/Ns GK001 through GK353, and all odd S/Ns with a single letter G prefix.	Slide/Raft, mid door, LH side	767–300 series airplanes.
(lxii) 7A1489–2 and 7A1489–4	Even S/Ns GK002 through GK354, and all even S/Ns with a single letter G prefix.	Slide/Raft, mid door, RH side	767–300 series airplanes.

TABLE 2.—GOODRICH EVACUATION SYSTEMS INSTALLED ON CERTAIN MCDONNELL DOUGLAS MODEL AIRPLANES

Goodrich evacuation systems having P/N—	Having any S/N—	Component/part is named—≤	Installed on McDonnell Douglas Model—
(i) 100504–101 through 100504–205 inclusive.	D9F161 through D9F256 inclusive, and PU0325 through PU0331 inclusive.	Slide, forward door	DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), and DC–9–87 (MD–87) airplanes; Model MD–88 airplanes; and Model MD–90–30 airplanes.
(ii) 100505–101 through 100505–201 inclusive.	D9A078 through D9A122 inclusive, and PS0151 through PS0157 inclusive.	Slide, aft door	DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), and DC–9–87 (MD–87) airplanes; Model MD–88 airplanes; and Model MD–90–30 airplanes.
(iii) 100506–103 through 100506–203 inclusive.	D9T085 through D9T127 inclusive, and PT0175 through PT0178 inclusive.	Slide, tailcone	DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), and DC–9–87 (MD–87) airplanes; Model MD–88 airplanes; and Model MD–90–30 airplanes.
(iv) 100504–101 through 100504–205 inclusive.	D9F001 through D9F160 inclusive, and PU0001 through PU0324 inclusive.	Slide, forward door	DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), and DC–9–87 (MD–87) airplanes; Model MD–88 airplanes; and Model MD–90–30 airplanes.
(v) 100505–101 through 100505–201 inclusive.	D9A001 through D9A077 inclusive, and PS0001 through PS0150 inclusive.	Slide, aft door	DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), and DC–9–87 (MD–87) airplanes; Model MD–88 airplanes; and Model MD–90–30 airplanes.
(vi) 100506–103 through 100506–203 inclusive.	D9T001 through D9T084 inclusive, and PT0001 through PT0174 inclusive.	Slide, tailcone	DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), and DC–9–87 (MD–87) airplanes; Model MD–88 airplanes; and Model MD–90–30 airplanes.
(vii) 7A1274–3 through 7A1274–12 inclusive.	All	Slide, forward/service door	DC–9–81 (MD–81) and DC–9–82 (MD–82) airplanes.
(viii) 7A1275–3 through 7A1275–20 inclusive.	All	Slide, aft door	DC–9–81 (MD–81) and DC–9–82 (MD–82) airplanes.
(ix) 7A1276–3 through 7A1276–12 inclusive.	All	Slide, tailcone	DC–9–11, DC–9–12, DC–9–13, DC–9–14, DC–9–15, and DC–9–15F airplanes; Model DC–9–21 airplanes; Model DC–9–31, DC–9–32, DC–9–32 (VC–9C), DC–9–32F, DC–9–33F, DC–9–34, DC–9–34F, and DC–9–32F (C–9A, C–9B) airplanes; Model DC–9–41 airplanes; Model DC–9–51 airplanes; and Model DC–9–81 (MD–81), DC–9–82 (MD–82), DC–9–83 (MD–83), and DC–9–87 (MD–87) airplanes.

TABLE 3.—GOODRICH EVACUATION SYSTEMS INSTALLED ON CERTAIN AIRBUS MODEL AIRPLANES

Goodrich evacuation system having P/N—	Having any S/N—	Component/part is named—	Installed on Airbus Model—
(i) 4A3928–1	AY0001 through AY0007 inclusive	Slide, door 3 type 1, LH side	A340–541 airplanes.
(ii) 4A3928–2	AZ0001 through AZ0007 inclusive	Slide, door 3 type 1, RH side	A340–541 airplanes.
(iii) 4A3931–1 and 4A3931–3	AQ0001 through AQ0028 inclusive.	Ramp/Slide, off–wing, LH side	A340–642 airplanes.
(iv) 4A3931–2 and 4A3931–4	AT0001 through AT0028 inclusive	Ramp/Slide, off–wing, RH side	A340–642 airplanes.
(v) 4A3934–1 and 4A3934–3	AK0001 through AK0028 inclusive	Slide/Raft, door 3, LH side	A340–642 airplanes.
(vi) 4A3934–2 and 4A3934–4	AM0001 through AM0028 inclusive.	Slide/Raft, door 3, RH side	A340–642 airplanes.

TABLE 3.—GOODRICH EVACUATION SYSTEMS INSTALLED ON CERTAIN AIRBUS MODEL AIRPLANES—Continued

Goodrich evacuation system having P/N—	Having any S/N—	Component/part is named—	Installed on Airbus Model—
(vii) 7A1296–004 and 7A1296–005	WB0030 through WB0033 inclusive.	Slide, mid door	A300 B2–1A, B2–1C, B2K–3C, and B2–203 airplanes; Model A300 B4–2C, B4–103, and B4–203 airplanes; Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes; Model A300 B4–605R and B4–622R airplanes; and Model A300 F4–605R and F4–622R airplanes.
(viii) 7A1297–103 and 7A1297–203.	WF0257 through WF0273 inclusive.	Ramp/Slide, off–wing door	A310–203, –204, –221, and –222 airplanes; and Model A310–304, –322, –324, and –325 airplanes.
(ix) 7A1298–004 and 7A1298–005	WA0327 through WA0374 inclusive.	Slide, forward/aft door	A300 B2–1A, B2–1C, B2K–3C, and B2–203 airplanes; Model A300 B4–2C, B4–103, and B4–203 airplanes; Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes; Model A300 B4–605R and B4–622R airplanes; Model A300 F4–605R and F4–622R airplanes; and Model A310–203, –204, –221, and –222 airplanes; and Model A310–304, –322, –324, and –325 airplanes.
(x) 7A1299–006	WE0149 through WE0172 inclusive.	Slide, emergency door	A300 B2–1A, B2–1C, B2K–3C, and B2–203 airplanes; Model A300 B4–2C, B4–103, and B4–203 airplanes; Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes; Model A300 B4–605R and B4–622R airplanes; and Model A300 F4–605R and F4–622R airplanes.
(xi) 7A1300–007	WC0423 through WC0507 inclusive.	Slide/Raft, forward/aft door	A300 B2–1A, B2–1C, B2K–3C, and B2–203 airplanes; Model A300 B4–2C, B4–103, and B4–203 airplanes; Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes; Model A300 B4–605R and B4–622R airplanes; Model A300 F4–605R and F4–622R airplanes; and Model A310–203, –204, –221, and –222 airplanes; and Model A310–304, –322, –324, and –325 airplanes.
(xii) 7A1359–005	WD0134 through WD0159 inclusive.	Slide/Raft, mid door	A300 B2–1A, B2–1C, B2K–3C, and B2–203 airplanes; Model A300 B4–2C, B4–103, and B4–203 airplanes; Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes; Model A300 B4–605R and B4–622R airplanes; and Model A300 F4–605R and F4–622R airplanes.
(xiii) 7A1508–109 through 7A1508–117 inclusive.	AA1041 through AA2419 inclusive	Slide/Raft, doors 1 and 4	A330–201, –202, –203, –223, and –243 airplanes; Model A330–301, –321, –322, –323, –341, –342, and –343 airplanes; Model A340–211, –212, and –213 airplanes; Model A340–311, –312, and –313 airplanes; Model A340–541 airplanes; and Model A340–642 airplanes.

TABLE 3.—GOODRICH EVACUATION SYSTEMS INSTALLED ON CERTAIN AIRBUS MODEL AIRPLANES—Continued

Goodrich evacuation system having P/N—	Having any S/N—	Component/part is named—	Installed on Airbus Model—
(xiv) 7A1509–111, 7A1509–115 and 7A1509–117.	AD0487 through AD1007 inclusive.	Slide, door 3 type 1	A330–201, –202, –203, –223, and –243 airplanes; Model A330–301, –321, –322, –323, –341, –342, and –343 airplanes; Model A340–211, –212, and –213 airplanes; and Model A340–311, –312, and –313 airplanes.
(xv) 7A1510–109 through 7A1510–117 inclusive.	AB0077 through AB0150 inclusive	Slide/Raft, door 3 type A, LH side	A330–201, –202, –203, –223, and –243 airplanes; Model A330–301, –321, –322, –323, –341, –342, and –343 airplanes; Model A340–211, –212, and –213 airplanes; and Model A340–311, –312, and –313 airplanes.
(xvi) 7A1510–110 through 7A1510–118 inclusive.	AC0077 through AC0148 inclusive.	Slide/Raft, door 3 type A, RH side	A330–201, –202, –203, –223, and –243 airplanes; Model A330–301, –321, –322, –323, –341, –342, and –343 airplanes; Model A340–211, –212, and –213 airplanes; and Model A340–311, –312, and –313 airplanes.
(xvii) 7A1539–109 through 7A1539–117 inclusive.	AU0302 through AU0677 inclusive.	Slide/Raft, door 2, LH side	A330–201, –202, –203, –223, and –243 airplanes; Model A330–301, –321, –322, –323, –341, –342, and –343 airplanes; Model A340–211, –212, and –213 airplanes; Model A340–311, –312, and –313 airplanes; Model A340–541 airplanes; and Model A340–642 airplanes.
(xviii) 7A1539–110 through 7A1539–118 inclusive.	AX0302 through AX0673 inclusive	Slide/Raft, door 2, RH side	A330–201, –202, –203, –223, and –243 airplanes; Model A330–301, –321, –322, –323, –341, –342, and –343 airplanes; Model A340–211, –212, and –213 airplanes; Model A340–311, –312, and –313 airplanes; Model A340–541 airplanes; and Model A340–642 airplanes.
(xix) 7A1296–001 through 7A1296–004 inclusive.	WB0001 through WB0029 inclusive, all S/Ns with a single letter R prefix, and all S/Ns with a single letter G prefix.	Slide, mid door	A300 B2–1A, B2–1C, B2K–3C, and B2–203 airplanes; Model A300 B4–2C, B4–103, and B4–203 airplanes; Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes; Model A300 B4–605R and B4–622R airplanes; and Model A300 F4–605R and F4–622R airplanes.
(xx) 7A1297–101 through 7A1297–203 inclusive.	WF0001 through WF0256 inclusive, all S/Ns with a single letter R prefix, and all S/Ns with a single letter G prefix.	Ramp/Slide, off–wing door	A310–203, –204, –221, and –222 airplanes; and Model A310–304, –322, –324, and –325 airplanes.
(xxi) 7A1298–001 through 7A1298–004 inclusive.	WA0001 through WA0326 inclusive, all S/Ns with a single letter R prefix, and all S/Ns with a single letter G prefix.	Slide, forward/aft door	A300 B2–1A, B2–1C, B2K–3C, and B2–203 airplanes; Model A300 B4–2C, B4–103, and B4–203 airplanes; Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes; Model A300 B4–605R and B4–622R airplanes; Model A300 F4–605R and F4–622R airplanes; and Model A310–203, –204, –221, and –222 airplanes; and Model A310–304, –322, –324, and –325 airplanes.

TABLE 3.—GOODRICH EVACUATION SYSTEMS INSTALLED ON CERTAIN AIRBUS MODEL AIRPLANES—Continued

Goodrich evacuation system having P/N—	Having any S/N—	Component/part is named—	Installed on Airbus Model—
(xxii) 7A1299–001 through 7A1299–006 inclusive.	WE0001 through WE0148 inclusive, all S/Ns with a single letter R prefix, and all S/Ns with a single letter G prefix.	Slide, emergency door	A300 B2–1A, B2–1C, B2K–3C, and B2–203 airplanes; Model A300 B4–2C, B4–103, and B4–203 airplanes; Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes; Model A300 B4–605R and B4–622R airplanes; and Model A300 F4–605R and F4–622R airplanes.
(xxiii) 7A1300–001 through 7A1300–007 inclusive.	WC0001 through WC0422 inclusive, all S/Ns with a single letter R prefix, and all S/Ns with a single letter G prefix.	Slide/Raft, forward/aft door	A300 B2–1A, B2–1C, B2K–3C, and B2–203 airplanes; Model A300 B4–2C, B4–103, and B4–203 airplanes; Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes; Model A300 B4–605R and B4–622R airplanes; Model A300 F4–605R and F4–622R airplanes; and Model A310–203, –204, –221, and –222 airplanes; and Model A310–304, –322, –324, and –325 airplanes.
(xxiv) 7A1359–001 through 7A1359–005 inclusive.	WD0001 through WD0133 inclusive, all S/Ns with a single letter R prefix, and all S/Ns with a single letter G prefix.	Slide/Raft, mid door	A300 B2–1A, B2–1C, B2K–3C, and B2–203 airplanes; Model A300 B4–2C, B4–103, and B4–203 airplanes; Model A300 B4–601, B4–603, B4–620, and B4–622 airplanes; Model A300 B4–605R and B4–622R airplanes; and Model A300 F4–605R and F4–622R airplanes.
(xxv) 7A1508–001 through 7A1508–017 inclusive, and 7A1508–101 through 7A1508–117 inclusive.	AA0001 through AA1040 inclusive	Slide/Raft, doors 1 and 4	A330–201, –202, –203, –223, and –243 airplanes; Model A330–301, –321, –322, –323, –341, –342, and –343 airplanes; Model A340–211, –212, and –213 airplanes; Model A340–311, –312, and –313 airplanes; Model A340–541 airplanes; and Model A340–642 airplanes.
(xxvi) 7A1509–001 through 7A1509–005 inclusive, and 7A1509–101 through 7A1509–117 inclusive.	AD0001 through AD0486 inclusive.	Slide, door 3 type 1	A330–201, –202, –203, –223, and –243 airplanes; Model A330–301, –321, –322, –323, –341, –342, and –343 airplanes; Model A340–211, –212, and –213 airplanes; and Model A340–311, –312, and –313 airplanes.
(xxvii) 7A1510–001 through 7A1510–017 inclusive, and 7A1510–101 through 7A1510–117 inclusive.	AB0001 through AB0076 inclusive	Slide/Raft, door 3 type A, LH side	A330–201, –202, –203, –223, and –243 airplanes; Model A330–301, –321, –322, –323, –341, –342, and –343 airplanes; Model A340–211, –212, and –213 airplanes; and Model A340–311, –312, and –313 airplanes.
(xxviii) 7A1510–002 through 7A1510–018 inclusive, and 7A1510–102 through 7A1510–118 inclusive.	AC0001 through AC0076 inclusive.	Slide/Raft, door 3 type A, RH side	A330–201, –202, –203, –223, and –243 airplanes; Model A330–301, –321, –322, –323, –341, –342, and –343 airplanes; Model A340–211, –212, and –213 airplanes; and Model A340–311, –312, and –313 airplanes.

TABLE 3.—GOODRICH EVACUATION SYSTEMS INSTALLED ON CERTAIN AIRBUS MODEL AIRPLANES—Continued

Goodrich evacuation system having P/N—	Having any S/N—	Component/part is named—	Installed on Airbus Model—
(xxix) 7A1539–001 through 7A1539–017 inclusive, and 7A1539–101 through 7A1539–117 inclusive.	AU0001 thru AU0301 inclusive	Slide/Raft, door 2, LH side	A330–201, –202, –203, –223, and –243 airplanes; Model A330–301, –321, –322, –323, –341, –342, and –343 airplanes; Model A340–211, –212, and –213 airplanes; Model A340–311, –312, and –313 airplanes; Model A340–541 airplanes; and Model A340–642 airplanes.
(xxx) 7A1539–002 through 7A1539–018 inclusive, and 7A1539–102 through 7A1539–118 inclusive.	AX0001 thru AX0301 inclusive	Slide/Raft, door 2, RH side	A330–201, –202, –203, –223, and –243 airplanes; Model A330–301, –321, –322, –323, –341, –342, and –343 airplanes; Model A340–211, –212, and –213 airplanes; Model A340–311, –312, and –313 airplanes; Model A340–541 airplanes; and Model A340–642 airplanes.

Unsafe Condition

(d) This AD is prompted by several reports of corroded shear-pin restraints that prevented Goodrich evacuation systems from deploying properly. We are issuing this AD to prevent failure of the evacuation system, which could impede an emergency evacuation and increase the chance of injury to passengers and flightcrew during the evacuation.

Compliance

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

Service Bulletin Reference

(f) The term ''service bulletin,'' as used in this AD, means the following service bulletins, as applicable:

(1) For Goodrich evacuation systems identified in Table 3 of this AD: Goodrich Service Bulletin 25–344, Revision 2, dated October 11, 2006; and

(2) For Goodrich evacuation systems identified in Tables 1 and 2 of this AD: Goodrich Service Bulletin 25–343, Revision 3, dated January 12, 2007.

Compliance Times

(g) Perform the actions specified in paragraph (h) of this AD at the applicable compliance time specified in paragraph (g)(1) or (g)(2) of this AD.

(1) For Goodrich evacuation systems installed on Boeing Model 767 airplanes as off-wing ramp/slide units and identified in Table 1 of this AD: Do the actions within 18 months after the effective date of this AD.

(2) For Goodrich evacuation systems other than those identified in paragraph (g)(1) of this AD: Do the actions within 36 months after the effective date of this AD.

Replacement, or Inspections and Corrective Action

(h) Do the actions specified in paragraph (h)(1) or (h)(2) of this AD in accordance with the Accomplishment Instructions of the applicable service bulletin.

(1) For Goodrich evacuation systems identified in paragraphs (c)(1)(i) through (c)(1)(xxxi) inclusive in Table 1 of this AD, (c)(2)(i) through (c)(2)(iii) inclusive in Table 2 of this AD, and (c)(3)(i) through (c)(3)(xviii) inclusive in Table 3 of this AD: Replace the shear-pin restraints with new restraints.

(2) For Goodrich evacuation systems identified in paragraphs (c)(1)(xxxii) through (c)(1)(lxii) inclusive in Table 1 of this AD, (c)(2)(iv) through (c)(2)(ix) inclusive in Table 2 of this AD, and (c)(3)(xix) through (c)(3)(xxx) inclusive in Table 3 of this AD: Do an inspection to verify the manufacturing lot number of the shear-pin restraint. A review of airplane maintenance records is acceptable in lieu of this inspection if the manufacturing lot number of the shear-pin restraint can be conclusively determined from that review.

(i) If a manufacturing lot number from 3375 through 5551 inclusive is found, before further flight, replace the shear-pin restraint with a new restraint.

(ii) If a manufacturing lot number from 3375 through 5551 inclusive is not found, do a general visual inspection of the shear-pin restraints for discrepancies (*i.e.,* corrosion, security of pin retainer/label, overall condition, and lack of play). If any discrepancy is found, before further flight, replace the shear-pin restraint with a new restraint.

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

Parts Installation

(i) As of the effective date of this AD, no Goodrich evacuation system identified in paragraph (h)(1) of this AD may be installed on any airplane, unless the shear-pin restraints have been replaced with new restraints in accordance with paragraph (h)(1) of this AD.

(j) As of the effective date of this AD, no Goodrich evacuation system identified in paragraph (h)(2) of this AD may be installed on any airplane, unless the shear-pin restraints have been inspected and found acceptable in accordance with paragraph (h)(2) of this AD.

Credit for Actions Done Using Previous Service Information

(k) Replacements and inspections done before the effective date of this AD in accordance with the applicable service bulletins identified in Table 4 of this AD, are acceptable for compliance with the requirements of paragraph (h) of this AD.

TABLE 4.—ACCEPTABLE GOODRICH SERVICE BULLETINS

Goodrich Service Bulletin	Revision level	Date
25–343	Original	October 15, 2003.
25–343	1	January 31, 2005.
25–343	2	October 11, 2006.

TABLE 4.—ACCEPTABLE GOODRICH SERVICE BULLETINS—Continued

Goodrich Service Bulletin	Revision level	Date
25–344	Original	October 15, 2003.
25–344	1	January 31, 2005.

Alternative Methods of Compliance (AMOCs)

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

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

Issued in Renton, Washington, on May 30, 2007.

Ali Bahrami,

Manager, Transport Airplane Directorate, Aircraft Certification Service.

[FR Doc. E7–10992 Filed 6–7–07; 8:45 am]

BILLING CODE 4910–13–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Parts 51, 78, and 97

[EPA–HQ–OAR–2004–0439, FRL–8323–4]

RIN 2060–AN12

Petition for Reconsideration and Proposal for Withdrawal of Findings of Significant Contribution and Rulemaking for Georgia for Purposes of Reducing Ozone Interstate Transport

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: In this action, we are requesting comments on EPA's response to a Petition for Reconsideration regarding a final rule we issued under Section 110 of the Clean Air Act (CAA) related to the interstate transport of nitrogen oxides (NO_X).

On April 21, 2004, we issued a final rule (Phase II NO_X SIP Call Rule) that required the State of Georgia to submit revisions to its State Implementation Plan (SIP) that prohibit specified amounts of NO_X emissions—one of the precursors to ozone (smog) pollution—for the purposes of reducing NO_X and ozone transport across State boundaries in the eastern half of the United States. This rule became effective on June 21, 2004.

Subsequently, the Georgia Coalition for Sound Environmental Policy (GCSEP or Petitioners) filed a Petition for Reconsideration requesting that EPA reconsider the applicability of the NO_X SIP Call Rule to the State of Georgia. In response to this Petition, and based upon review of additional available information, EPA is proposing to remove Georgia from the NO_X SIP call region. Specifically, EPA proposes to rescind the applicability of the requirements of the Phase II NO_X SIP Call Rule to the State of Georgia, only.

DATES: *Comments.* Comments must be received on or before July 23, 2007.

Public Hearing. If anyone contacts us requesting to speak at a public hearing by June 25, 2007, we will hold a public hearing and hold the record open for purposes of rebuttal comments. Additional information about the hearing and rebuttal comments would be published in a subsequent **Federal Register** notice.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OAR–2005–0439, by one of the following methods:

- *http://www.regulations.gov.* Follow the on-line instructions for submitting comments.
- *E-mail: a-and-r-Docket@epa.gov.*
- *Fax:* (202) 566–9744.
- *Mail:* Attention Docket ID No. EPA–HQ–OAR–2004–0439, U.S. Environmental Protection Agency, EPA West (Air Docket), Room 3334, 1301 Constitution Avenue, Northwest, Washington, DC. Please include a total of two copies.
- *Hand Delivery:* U.S. Environmental Protection Agency, EPA West (Air Docket), 1301 Constitution Avenue, Northwest, Room 3334, Washington, DC 20004. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OAR–2004–0439. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through *www.regulations.gov* or e-mail. The *www.regulations.gov* Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through *www.regulations.gov* your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses. For additional information about EPA's public docket visit the EPA Docket Center homepage at *http://www.epa.gov/epahome/dockets.htm.*

Docket: All documents in the docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy at the Air Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. This Docket Facility is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Air Docket is (202) 566–1742.

FOR FURTHER INFORMATION CONTACT: Tim Smith, Air Quality Policy Division, Geographic Strategies Group (C539–04), Environmental Protection Agency, Research Triangle Park, NC 27711, telephone (919) 541–4718, e-mail *smith.tim@epa.gov.* For legal questions, please contact Winifred Okoye, U.S.

EPA, Office of General Counsel, Mail Code 2344A, 1200 Pennsylvania Avenue, NW., Washington, DC 20460, telephone (202) 564–5446, e-mail at *okoye.winifred@epa.gov*.

SUPPLEMENTARY INFORMATION:

I. General Information

A. Does This Action Apply to Me?

This action proposes to remove the applicability of certain requirements related to NO_X emissions in the State of Georgia. If these requirements were not removed, they would potentially affect electric utilities, cement manufacturing, and industries employing large stationary source internal combustion engines.

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

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

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

- Identify the rulemaking by docket number and other identifying information (*e.g.*, subject heading, **Federal Register** proposal publication date and reference page number(s)).
- Follow directions—The EPA may ask you to respond to specific questions or organize comments by referencing a Code of Federal Regulations (CFR) part or section number.
- Explain why you agree or disagree; suggest alternatives and provide substitute language for your requested changes.
- Describe any assumptions and provide any technical information and/or data that you used.
- If you estimate potential costs or burdens, explain how you arrived at your estimate in sufficient detail to allow for it to be reproduced.
- Provide specific examples to illustrate your concerns, and suggest alternatives.
- Explain your views as clearly as possible, avoiding the use of profanity or personal threats.
- Make sure to submit your comments by the specified comment period deadline.

Commenters wishing to submit proprietary information for consideration must clearly distinguish such information from other comments and clearly label it as CBI. Send submissions containing such proprietary information directly to the following address, and not to the public docket, to ensure that proprietary information is not inadvertently placed in the docket: Attention: Mr. Roberto Morales, U.S. Environmental Protection Agency, OAQPS Document Control Officer, 109 TW Alexander Drive, Room C404–02, Research Triangle Park, NC 27711. The EPA will disclose information identified as CBI only to the extent allowed by the procedures set forth in 40 CFR part 2. If no claim of confidentiality accompanies a submission when it is received by EPA, the information may be made available to the public without further notice to the commenter.

C. How Can I Find Information About a Possible Hearing?

People interested in presenting oral testimony or inquiring as to whether a hearing is to be held should contact Ms. Pam Long, Air Quality Planning Division, Office of Air Quality Planning and Standards (C504–03), U.S. Environmental Protection Agency, Research Triangle Park, NC 27711, telephone (919) 541–0641, fax number (919) 541–5509, e-mail address *long.pam@epa.gov*, at least 2 days in advance of the public hearing. People interested in attending the public hearing should also call Ms. Long to verify the time, date, and location of the hearing. The public hearing will provide interested parties the opportunity to present data, views, or arguments concerning the proposed action. If a public hearing is held, further information will be contained in a subsequent notice, including the scheduled date, and it will be held at 9:00 a.m. in EPA's Auditorium in Research Triangle Park, North Carolina, or at an alternate site nearby.

D. How Is This Preamble Organized?

The information presented in this preamble is organized as follows:

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II. Background

A. Background on NO_X SIP Call, Subsequent Litigation and Rulemaking Related to the State of Georgia

On October 27, 1998, EPA took final action to prohibit specified amounts of emissions of oxides of Nitrogen (NO_X), one of the main precursors of ground-level ozone, from being transported across State boundaries in the eastern half of the United States. (The NO_X SIP Call Rule) (63 FR 57356, (October 27, 1998)). We found that sources and emitting activities in 22 States and the District of Columbia (23 States) [1] were emitting NO_X in amounts that significantly contribute to downwind nonattainment of the 1-hour ozone national ambient air quality standard (NAAQS or standard). (63 FR 57356). We also determined separately that sources and emitting activities in these

[1] The 23 states were Alabama, Connecticut, Delaware, District of Columbia, Georgia, Illinois, Indiana, Kentucky, Maryland, Massachusetts, Michigan, Missouri, North Carolina, New Jersey, New York, Ohio, Pennsylvania, Rhode Island, South Carolina, Tennessee, Virginia, West Virginia, and Wisconsin (63 FR 57394).

23 States emit NO_X in amounts that significantly contribute to and interfere with maintenance of downwind nonattainment of the 8-hour ozone NAAQS (63 FR 57358, 57379)). To determine significant contribution, we examined both the air quality impacts of emissions and the amount of reductions that could be achieved through the application of highly cost effective controls. The air quality impacts portion of our significant contribution analysis relied on state specific modeling, and modeling and recommendations by the Ozone Transport Assessment Group (OTAG) (62 FR 60335,(November 7, 1997), and 63 FR 57381–57399).

This analysis examined the impact of upwind emissions on downwind nonattainment areas. The preamble defined nonattainment for purposes of this analysis. It stated that a downwind area should be considered,

> ''nonattainment,'' for purposes of section 110(a)(2)(D)(i)(I), under the 1-hour ozone NAAQS if the area (as of 1994–96 time period) had nonattainment air quality and if the area was modeled to have nonattainment air quality in the year 2007, after implementation of all measures specifically required of the area under the CAA as well as implementation of Federal measures required or expected to be implemented by that date.

63 FR 57386; See also 63 FR 57373–75; 62 FR 60324–25. We explained that ''nonattainment [areas] includes areas that have monitored violations of the standard and areas that 'contribute to ambient air quality in a nearby area' that is violating the standard.'' 63 FR 57373. Thus, to qualify as a downwind nonattainment receptor, an area had to be both in current nonattainment and also modeled to have nonattainment air quality in 2007. An area shown to be in attainment at either time was not considered a downwind receptor. 63 FR 57371, 73–75, 57382–83. See also 63 FR 57385–87 for our discussion on the determination of downwind nonattainment receptors.

We assessed each upwind State's contribution to the 1-hour standard downwind nonattainment independent of the State's contribution to the 8-hour standard nonattainment. 62 FR 60326; 63 FR 57377 and 57395. We determined and concluded that the level of NO_X emissions reductions necessary to address the significant contribution for the 8-hour NAAQS would be achieved using the same control measures for the 1-hour standard (63 FR 57446). Therefore, we promulgated only one NO_X emissions budget for each of the affected upwind States (63 FR 57439). Further, we required these States to submit revised SIPs, prohibiting those amounts of NO_X emissions such that any remaining emissions would not exceed the level specified in the NO_X SIP Call regulations for that State in 2007. 62 FR 60364–5; 63 FR 57378 and 57426.

With regard to the State of Georgia, we determined that sources and emitting activities in the State of Georgia were significantly contributing to the 1-hour standard nonattainment in Birmingham, Alabama and Memphis, Tennessee (63 FR 57394). At the time the NO_X SIP Call Rule was being developed, monitored air quality data for 1994–1996 indicated that Memphis, Tennessee had nonattainment air quality [2] although we had redesignated the Memphis, Tennessee nonattainment area as an attainment area in 1995.[3] 60 FR 3352, (January 17, 1995). Further, Birmingham, Alabama was a designated nonattainment area for the 1-hour ozone NAAQS at the time we issued the SIP Call. In addition, the modeling done at that time showed that receptors in the Memphis and Birmingham areas were modeled to have nonattainment air quality in the year 2007. Thus, Memphis, Tennessee and Birmingham, Alabama were ''nonattainment'' areas for purposes of the NO_X SIP Call Rule.

A number of parties, including certain States as well as industry and labor groups, challenged the NO_X SIP Call Rule. Specifically, Georgia and Missouri industry petitioners, citing the OTAG modeling and recommendations, maintained that EPA had record support for the inclusion of only eastern Missouri and northern Georgia as contributing significantly to downwind nonattainment. The United States Court of Appeals for the District of Columbia (D.C. Circuit or Court), upheld our findings of significant contribution for almost all jurisdictions covered by the NO_X SIP Call, with respect to the 1-hour standard [4] but vacated and remanded the inclusion of Georgia and Missouri, *Michigan* v. *EPA*, 213 F. 3d 663 (D.C. Cir. 2000), cert. denied, 121 S. Ct. 1225 (2001)(*Michigan*). The Court agreed with the litigants that only the Eastern portion of Missouri and Northern portion of Georgia were within a geographic area for photochemical modeling known as the ''fine grid,'' and thus, the record for the rulemaking supported only including those portions of the two States.[5] Subsequently, in response to the Court decision in *Michigan*, we proposed (in what is referred to as the ''Phase II NO_X SIP Call rule''), the inclusion of only the fine grid parts of the States of Georgia and Missouri in the NO_X SIP Call with respect to the 1-hour standard only. (67 FR 8396, (February 22, 2002)). We also proposed revised NO_X budgets for the States of Georgia and Missouri that would include only the fine grid portions of these States. On April 21, 2004, we finalized the Phase II NO_X SIP Call rule. This rule included eastern Missouri and northern Georgia as proposed, allocated revised NO_X budgets that reflected the inclusion of sources in only these areas, and set revised SIP submittal and full compliance dates of April 1, 2005 and May 1, 2007, respectively. 69 FR 21604, (April 21, 2004).

B. GCSEP Requests Related to Phase II NO_X SIP Call Rule

After our promulgation of the Phase II NO_X SIP Call rule, GCSEP, on June 16, 2004, took several legal actions: (1) A request that EPA reconsider the rulemaking in light of new information (2) a request that EPA stay the effectiveness of the rule pending a review of that information, and (3) a formal challenge to the rule in Federal Courts.

Petition for Reconsideration. GCSEP requested that EPA ''convene a proceeding for reconsideration of the rule,'' under section 307(d)(7)(B) of the Act. (Petition for Reconsideration, June 16, 2004) (Petition). GCSEP made this request based on assertions that:

—Certain events occurred after the close of notice and comment period of our February 21, 2002, proposal (that is, these events occurred after April 15, 2002), and

—EPA needed to reopen the rule for public notice and comment on those specific events.

GCSEP asserted that it ''was impracticable to raise [its] objection within [the provided comment period] or [that] the grounds for [its] objection arose after the public comment period (but within the time specified for judicial review).'' Section 307(d)(7)(B).

[2] Monitored air quality data indicated that the Memphis, Tennessee nonattainment area had nonattainment air quality from 1994 through 2000. Since 2001, the Memphis, Tennessee nonattainment area has had monitored attainment air quality data.

[3] In the NO_X SIP Call Rule, we relied on the designated area solely as a proxy to determine which areas have air quality in nonattainment. ''Our reliance on designated nonattainment areas for purposes of the 1-hour NAAQS does not indicate that the reference in section 110(a)(2)(D)(i)(I) to 'nonattainment' should be interpreted to refer to areas designated nonattainment.'' 63 FR 57375 n.25.

[4] In light of various challenges to the 8-hour standard, we stayed the 8-hour basis for the NO_X SIP Call rule indefinitely. (65 FR 56245, (September 18, 2000).

[5] As the Court stated, ''[a]ccordingly, they say the NO_X Budget for Missouri and Georgia should be based solely on those emissions.'' 213 F. 3d at 684.

In addition, GCSEP further asserted that its objection was ''of central relevance to the outcome of the rule.'' Section 307(d)(7)(B).

Request for Stay of Effectiveness. GCSEP also requested a stay of the effectiveness of the Phase II NO_X SIP Call Rule as it relates to the State of Georgia only. The stay would delay the applicability of Phase II NO_X SIP Call requirements to Georgia during the period EPA would conduct notice-and-comment rulemaking to address the issues raised in the Petition (*i.e.*, the action initiated in this notice). On March 1, 2005, EPA proposed to stay the effectiveness of the Phase II NO_X SIP Call Rule as requested by GCSEP. (70 FR 9897, (March 1, 2005)). Four parties commented on the proposed rule, raising issues related to the merits of the stay, and also raising issues related to the merits of the Petition. On August 31, 2005, EPA finalized, as proposed, a stay of the effectiveness of the Phase II NO_X SIP Call Rule as it related to Georgia only. (70 FR 51591, (August 31, 2005)). EPA also responded to comments on the stay but indicated that it would respond to comments on the reconsideration in any subsequent reconsideration action.

Challenge in Circuit Court. Finally, GCSEP filed a challenge to the Phase II NO_X SIP call rule in the Court of Appeals for the 11th Circuit, which has since been transferred to the D.C. Circuit. *Georgia Coalition for Sound Environmental Policy* v. *EPA*, Case No. 04–13088–C. The EPA and GCSEP have requested and the Court has granted the request to hold the challenge in abeyance pending completion of the present rulemaking.

C. Purpose of This Proposal

This proposal initiates the process to respond to the Petition for Reconsideration. We propose to agree with the central point raised by the petitioner. That is, we propose to amend EPA regulations as recommended by GCSEP to remove only the State of Georgia from inclusion in the Phase II NO_X SIP call rule based on additional information that became available after the close of the comment period for the proposed Phase II rule. We are not reopening any other portions of the NO_X SIP Call and Phase II NO_X SIP Call rules for public comment and reconsideration.

The primary purpose of this notice is to provide our rationale and an opportunity to comment on our proposed response to the Petition.

As noted in Section III below, the four parties who commented on the March 1, 2005 proposal related to the Stay of Effectiveness also provided a number of comments related to the Petition for Reconsideration. In this notice, we respond to a number of issues raised in these previous comments. We will fully respond to all substantive comments on the reconsideration in the final action on this proposal.

III. Proposed Response to GCSEP's Petition for Reconsideration

A. Proposed Action

The EPA proposes to amend the Phase II NO_X SIP call rule to remove the State of Georgia only. The EPA proposes to agree with GCSEP's request, and in this action we are proposing to rescind or withdraw our finding that sources and emitting activities in the State of Georgia emit NO_X in amounts that significantly contribute to nonattainment of the 1-hour ozone standard in nonattainment areas in other States. We request comment on this proposal. We are not reopening any other portions of the NO_X SIP Call and Phase II NO_X SIP Call rules for public comment and reconsideration.

B. Rationale for Proposed Action

In the Petition for Reconsideration, GCSEP argued that the State of Georgia did not meet EPA's stated rationale for the NO_X SIP call when EPA promulgated the Phase II NO_X SIP Call rule. In short, GCSEP argued that (1) EPA based its inclusion of Northern Georgia on a finding that Northern Georgia contributes to nonattainment of the one-hour standard in Birmingham, Alabama and Memphis, Tennessee; (2) neither Birmingham nor Memphis was a nonattainment area at the time of the Phase II rulemaking; and (3) as a result of the revised attainment status of Birmingham and Memphis, there are no 1-hour ozone nonattainment areas in any States affected by NO_X emissions from Northern Georgia, and (4) therefore Northern Georgia no longer satisfied EPA's stated rationale for inclusion in the NO_X SIP call regulation. On each of these points, EPA proposes to agree.

In the 1998 NO_X SIP Call Rule, we articulated a test for selecting the receptors used in evaluating impacts on downwind ''nonattainment,'' under section 110(a)(2)(D)(i)(I). We defined ''nonattainment'' areas as including ''areas that have monitored violations of the standard and areas that 'contribute to ambient air quality in a nearby area' that is violating the standard'' (63 FR 57373; See also, 63 FR 57375–85). Additionally, as noted previously, to be defined as ''nonattainment'' receptors, the receptor also had to be modeled to have nonattainment air quality in the year 2007.

As earlier explained, with regard to the State of Georgia, EPA determined that sources and emitting activity in this State emit NO_X in amounts that significantly contribute to nonattainment of the 1-hour ozone standard in the Birmingham, Alabama and Memphis, Tennessee nonattainment areas (63 FR 57394). Although we had redesignated the Memphis, Tennessee nonattainment area in 1995, monitored air quality data for 1994–1996 indicated nonattainment air quality.[6] Birmingham, Alabama was designated nonattainment for the 1-hour ozone NAAQS and also had nonattainment air quality. Thus, at the time of the promulgation of the 1998 NO_X SIP Call rule, both Memphis, Tennessee and Birmingham, Alabama were in ''nonattainment'' for purposes of the NO_X SIP Call Rule. In addition, modeling done at that time showed that both areas were also projected to have nonattainment air quality in 2007.

We have now redesignated these areas to 1-hour ozone attainment areas and both currently have monitored air quality data that does not violate the 1-hour ozone standard. More specifically, on March 12, 2004, we redesignated Birmingham, Alabama, to attainment of the 1-hour ozone NAAQS. 69 FR 11798, (March 12, 2004). In addition, the Memphis, Tennessee nonattainment area, which was redesignated in 1995 has had monitored attainment air quality data since 2001.

Therefore, we agree with GCSEP that after promulgation of the NO_X SIP Call Rule in 1998, both Memphis, Tennessee and Birmingham, Alabama now show attainment of the 1-hour ozone standard. Thus, they no longer meet the definition of ''nonattainment'' used in the 1998 NO_X SIP Call to identify downwind receptor areas for the air quality impacts portion of the significant contribution analysis.

In light of the fact that both downwind receptor areas no longer qualify as nonattainment areas for purposes of the significant contribution analysis, we are proposing to withdraw our findings of significant contribution for the State of Georgia for the 1-hr standard. This in effect would mean that the State of Georgia would no longer be required to submit a revised SIP, by April 1, 2005, that prohibits certain amounts of NO_X emissions. Additionally, we would no longer require the State of Georgia to adopt and implement NO_X control measures,

[6] Monitored air quality data indicated that the Memphis, Tennessee nonattainment area had nonattainment air quality from 1994 through 2000. Since 2001, the Memphis, Tennessee nonattainment area has had monitored attainment air quality data.

(originally required by May 1, 2007), that ensure the State achieves the aggregate NO_X emissions budget set out in the Phase II NO_X SIP Call Rule in the 2007 ozone season. There are no other areas that would be affected by our decision to withdraw the findings of significant contribution for the State of Georgia. We are soliciting comments on this proposal.

C. Other Issues Raised by the Petitioner

In addition to the issue of our redesignation of downwind receptors, discussed above, GCSEP raised a number of additional issues and concerns in its petition. GCSEP believes these additional issues and concerns provide additional rationale for its petition, and for the recommendation to not include Georgia in the NO_X SIP call regulations. Because EPA is proposing to rescind the findings of significant contribution for the State of Georgia, and therefore, the requirement to comply with the NO_X SIP call requirements, we do not believe that we need to take comment on these additional issues and concerns. Moreover, we believe that petitioners could have raised most of these issues and concerns during the comment period for the Phase II rulemaking. Therefore, we do not believe that they are of central relevance to the outcome of that rulemaking. Section 307(d)(7)(B) requires a petitioner to make a showing that it was ''impracticable to raise [an] objection within the provided comment period or [that] the grounds for such objection arose after the period for public comment * * * and that such objection is of central relevance to the outcome of the rule.'' Because EPA is proposing to rescind the SIP call requirements for Georgia on the grounds discussed herein, we do not believe it is either necessary or appropriate to respond to these additional arguments in this notice. A brief summary of each of these additional points is contained below:

Flaws in SIP call methodology. GCSEP's petition asserts that the CAA requires State-specific findings regarding a State's contribution. Citing CAA language in sections 110(k)(5) and 110(a)(2)(D), and noting that the NO_X SIP Call relied on ''subregional'' runs with multi-State aggregations, GCSEP argues that the NO_X SIP Call was flawed.

Changes to Georgia's SIP. GCSEP's petition notes that Georgia's current SIP contains regulations that achieve additional NO_X reductions which went into effect between May 1, 2003 and June 1, 2004. For example, NO_X emissions from electric generating units (EGUs), in the fine grid area of Georgia were reduced approximately 66% from 2000 levels. Because these required emissions reductions were not part of Georgia's SIP when EPA originally evaluated the adequacy of the SIP in 1997 and 1998, GCSEP argues that the Phase II NO_X SIP Call Rule should have revisited its prior determination that the SIP was ''inadequate'' to prevent significant downwind impacts.

EPA's analysis outdated. GCSEP notes that there is a significant time period between EPA's additional analysis of the original 1998 rule and the Final Phase II rule in 2004. As a result, GCSEP asserts that EPA's record and basis for including Georgia in the SIP Call is so ''stale'' that data can no longer be used to support EPA's decision.

Assertions that EPA's decision to proceed with the final rule is arbitrary and capricious. GCSEP argues in the petition that EPA was ''arbitrary and capricious'' in including Georgia in its final rule without considering new information related to redesignation of areas in Alabama and Tennessee. In support of this argument, GCSEP discusses hypothetical arguments EPA might have made in rejecting its petition for reconsideration, using a response to a comment regarding our continued inclusion of Missouri in the Phase II NO_X SIP Call Rule. (69 FR 21626–27).

IV. Response to Previous Comments on the Reconsideration Issue

As we stated in the final rule staying the effectiveness of the requirements of Phase II in Georgia, we received four comments raising issues that we deemed beyond the scope of the proposed stay. In this notice, EPA is now providing responses to those comments because we had indicated that we would be responding to them within the context of this rulemaking. (70 FR 51594).

Lack of a NO_X emissions cap. Two commenters—the North Carolina Division of Air Quality (NCDAQ), and the Alabama Department of Environmental Management (ADEM)—opposed GCSEP's request for reconsideration and recommendation to remove Georgia from the SIP call regulations. Both NCDAQ and ADEM acknowledged that the current Georgia ozone SIP may currently be achieving greater NO_X emissions reductions from Georgia sources that would have been subject to the NO_X SIP call. Nonetheless, both NCDAQ and ADEM expressed concerns that sources of NO_X emissions in Georgia would not be subject to an emissions cap unlike sources located in neighboring states that are subject to the NO_X SIP Call Rule.

The EPA agrees that certain sources in Georgia would not formally be subject to an emissions cap. The EPA believes, however, that in practice it is extremely unlikely that NO_X emissions in Georgia could increase above the levels required by the NO_X SIP Call even in the absence of a cap. The principal reason that emissions will not increase is that local NO_X emission reductions continue to be needed to address 8-hour ozone nonattainment in Atlanta. Given this long term need, SIP revisions will continually seek and provide decreases in NO_X emissions. See also our response below to the comment on the effect of our removal of Georgia from the NO_X SIP Call Rule on 8-hour ozone standard nonattainment downwind areas.

Effects on downwind 8-hour ozone standard nonattainment. Both NCDAQ and ADEM expressed concerns that the lack of a ''cap'' on certain sources in Georgia may impede the ability of neighboring States to meet and maintain the 8-hour ozone NAAQS.

The EPA believes that current analyses show that sources and emitting activities in Georgia do not contribute significantly to 8-hour ozone standard nonattainment in any other States. In the analysis for the final Clean Air Interstate Rule (CAIR),(70 FR 25162, (May 12, 2005)), EPA concluded that sources and emitting activities in Georgia do not significantly contribute to ozone nonattainment in other States, and accordingly, did not include Georgia within the region subject to NO_X caps under CAIR for the ozone season.

ADEM notes in their comments that the CAIR modeling analysis assumed full implementation of the NO_X SIP call in all affected States including Georgia. Although the ADEM does not make this point specifically, EPA infers from this comment a suggestion that EPA would have to revisit the CAIR modeling, without subjecting Georgia to the NO_X SIP call, for EPA's conclusions related to Georgia's contribution in other States to continue to be supportable.

The EPA believes there is ample evidence that shows that the current Atlanta SIP reductions achieves greater reductions than would have been required by the Phase II NO_X SIP Call Rule. The EPA has conducted an analysis, included in the docket for this rule, which shows that this is currently the case. Control measures implemented for the 1-hour ozone attainment demonstration for the Atlanta area were phased in beginning in 1999 and were fully implemented by the 2003 ozone

season. This analysis showed, for example, that:

— Due to the 1999 Atlanta attainment SIP, five EGUs are limited to the equivalent of 0.13 lb/million BTU (five plant average). In combination with the two remaining EGUs, there is a seven plant limit of 0.20 lb/million BTU.

— Total NO_X reductions modeled for the Atlanta attainment SIP were 431 tons per day, while the Phase II NO_X SIP Call Rule would have achieved emission reductions of 387 tons per day of NO_X (59,258 tons per ozone season (69 FR 21629). Thus, total emission reductions from the Atlanta attainment SIP were estimated to be at least as great as reductions from the Phase II NO_X SIP Call Rule.

— Future emissions projections of EGU emissions, conducted by EPA using its integrated planning model (IPM), indicate that some EGUs located within the fine grid area will be controlled by advanced NO_X controls (selective catalytic reduction), based on the Atlanta attainment SIP instead of the projected Phase II SIP SIP Call requirements.

— The Atlanta attainment SIP achieves substantial NO_X emission reductions from non-EGU control measures in the Atlanta control plan. This includes, for example, RACT requirements for sources not included in the NO_X SIP Call Rule, and restrictions on open burning.

Moreover, as noted previously, Georgia will need further reductions in NO_X emissions over time to continue to address 8-hour ozone nonattainment in Atlanta. Accordingly, EPA finds no basis to question its conclusion in the CAIR analysis that Georgia emissions do not contribute to 8-hour ozone nonattainment in other States.

V. Statutory and Executive Order Reviews

A. Executive Order 12866: Regulatory Planning and Review

This action is not a ''significant regulatory action'' under the terms of Executive Order (EO) 12866 (58 FR 51735, October 4, 1993) and is therefore not subject to review under the EO. This action is proposing to grant a petition of reconsideration requesting that the State of Georgia not be included in the NO_X SIP Call and does not impose any additional control requirements or incur any additional costs.

B. Paperwork Reduction Act

This action does not impose an information collection burden under the provisions of the Paperwork Reduction Act, 44 U.S.C. 3501 *et seq.*, because the action proposes to remove a regulatory requirement.

Burden means the total time, effort, or financial resources expended by persons to generate, maintain, retain, or disclose or provide information to or for a Federal agency. This includes the time needed to review instructions; develop, acquire, install, and utilize technology and systems for the purposes of collecting, validating, and verifying information, processing and maintaining information, and disclosing and providing information; adjust the existing ways to comply with any previously applicable instructions and requirements; train personnel to be able to respond to a collection of information; search data sources; complete and review the collection of information; and transmit or otherwise disclose the information.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The OMB control numbers for EPA's regulations in 40 CFR are listed in 40 CFR part 9.

C. Regulatory Flexibility Act (RFA)

The Regulatory Flexibility Act (RFA) generally requires an agency to prepare a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements under the Administrative Procedures Act or any other statute unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. Small entities include small businesses, small organizations, and small governmental jurisdictions.

For purposes of assessing the impacts of this proposed rule on small entities, small entity is defined as: (1) A small business as defined in the Small Business Administration's (SBA) regulations at 13 CFR 12.201; (2) a small governmental jurisdiction that is a government of a city, county, town, school district or special district with a population of less than 50,000; and (3) a small organization that is any not-for-profit enterprise which is independently owned and operated and is not dominant in its field.

After considering the economic impacts of this proposed rule on small entities, I certify that this action will not have a significant economic impact on a substantial number of small entities. In determining whether a rule has a significant economic impact on a substantial number of small entities, the impact of concern is any significant adverse economic impact on small entities, since the primary purpose of the regulatory flexibility analyses is to identify and address regulatory alternatives ''which minimize any significant economic impact of the rule on small entities.'' 5 U.S.C. 603 and 604. Thus, an agency may certify that a rule will not have a significant economic impact on a substantial number of small entities if the rule relieves regulatory burden, or otherwise has a positive economic effect on all of the small entities subject to the rule.

This action neither imposes requirements on small entities, nor will there be impacts on small entities beyond those, if any, required by or resulting from the NO_X SIP Call and the Section 126 Rules. We have therefore concluded that this proposed rule will relieve regulatory burden for all small entities affected by this rule. We continue to be interested in the potential impacts of the proposed rule on small entities and welcome comments on issues related to such impacts.

D. Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (UMRA), Public Law 104–4, establishes requirements for Federal agencies to assess the effects of their regulatory actions on State, local, and Tribal governments and the private sector. Under section 202 of the UMRA, EPA generally must prepare a written statement, including a cost-benefit analysis, for any proposed or final rules with ''Federal mandates'' that may result in the expenditure to State, local, and Tribal governments, in the aggregate, or by the private sector, of $100 million or more in any 1 year. Before promulgating a rule for which a written statement is needed, section 205 of the UMRA generally requires EPA to identify and consider a reasonable number of regulatory alternatives and adopt the least costly, most cost-effective or least burdensome alternative that achieves the objectives of the rule. The provisions of section 205 do not apply when they are inconsistent with applicable law. Moreover, section 205 allows EPA to adopt an alternative other than the least costly, most cost-effective or least burdensome alternative if the Administrator publishes with the final rule an explanation why that alternative was not adopted. Before EPA establishes any regulatory requirements that may significantly or uniquely affect small governments, including Tribal governments, it must have developed under section 203 of the UMRA a small government agency plan. The plan must provide for notifying potentially affected small governments, enabling

officials of affected small governments to have meaningful and timely input in the development of EPA regulatory proposals with significant Federal intergovernmental mandates, and informing, educating, and advising small governments on compliance with the regulatory requirements.

This rule contains no Federal mandates (under the regulatory provisions of Title II of the UMRA) for State, local, or Tribal governments or the private sector. The EPA prepared a statement for the final NO_X SIP Call that would be required by UMRA if its statutory provisions applied. This action does not create any additional requirements beyond those of the final NO_X SIP Call, and will actually reduce the requirements by excluding the State of Georgia, and therefore no further UMRA analysis is needed.

E. Executive Order 13132: Federalism

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

This proposed rule does not have federalism implications. It will not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132. This action does not impose an enforceable duty on these entities. This action imposes no additional burdens beyond those imposed by the final NO_X SIP Call. Thus, Executive Order 13132 does not apply to this rule.

In the spirit of Executive Order 13132, and consistent with EPA policy to promote communications between EPA and State and local governments, EPA specifically solicits comment on this proposed rule from State and local officials.

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

Executive Order 13175, entitled ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249, November 9, 2000), requires EPA to develop an accountable process to ensure ''meaningful and timely input by tribal officials in the development of regulatory policies that have tribal implications.'' This proposed rule does not have Tribal implications, as specified in Executive Order 13175.

It will not have substantial direct effects on Tribal governments, on the relationship between the Federal government and Indian Tribes, or on the distribution of power and responsibilities between the Federal government and Indian Tribes, as specified in Executive Order 13175. This action does not significantly or uniquely affect the communities of Indian Tribal governments. The EPA stated in the final NO_X SIP Call Rule that Executive Order 13084 did not apply because that final rule does not significantly or uniquely affect the communities of Indian Tribal governments or call on States to regulate NO_X sources located on Tribal lands. The same is true of this action. Thus, Executive Order 13175 does not apply to this rule. EPA specifically solicits additional comment on this proposed rule from tribal officials.

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

Executive Order 13045: ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997) applies to any rule that (1) Is determined to be ''economically significant'' as defined under Executive Order 12866, and (2) concerns an environmental health or safety risk that EPA has reason to believe may have a disproportionate effect on children. If the regulatory action meets both criteria, the Agency must evaluate the environmental health or safety effects of the planned rule on children, and explain why the planned regulation is preferable to other potentially effective and reasonably feasible alternatives considered by the Agency.

This proposed rule is not subject to the Executive Order because it is not economically significant as defined in Executive Order 12866, and because the Agency does not have reason to believe the environmental health or safety risks addressed by this action present a disproportionate risk to children. This action does not impose requirements beyond those, if any, required by or resulting from the NO_X SIP Call and Section 126 Rules.

The public is invited to submit or identify peer-reviewed studies and data, of which the Agency may not be aware, that assessed results of early life exposure to NO_X (or ground-level ozone, of which NO_X is a precursor).

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

This rule is not a ''significant energy action'' as defined in Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355 (May 22, 2001)) because it is not likely to have a significant adverse effect on the supply, distribution, or use of energy. Further, we have concluded that this rule is not likely to have any adverse energy effects.

I. National Technology Transfer Advancement Act

Section 12(d) of the National Technology Transfer and Advancement Act of 1995 (NTTAA), Public Law No. 104–113, 12(d) (15 U.S.C. 272 note) directs EPA to use voluntary consensus standards in its regulatory activities unless to do so would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (*e.g.*, materials specifications, test methods, sampling procedures, and business practices) that are developed or adopted by voluntary consensus standards bodies. The NTTAA directs EPA to provide Congress, through OMB, explanations when the Agency decides not to use available and applicable voluntary consensus standards. This proposed rulemaking does not involve technical standards, therefore, EPA is not considering the use of any voluntary consensus standards.

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

Executive Order (EO) 12898 (59 FR 7629 (Feb. 16, 1994)) establishes federal executive policy on environmental justice. Its main provision directs federal agencies, to the greatest extent practicable and permitted by law, to make environmental justice part of their mission by identifying and addressing, as appropriate, disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority populations and low-income populations in the United States.

EPA has determined that this proposed rule will not have disproportionately high and adverse human health or environmental effects on minority or low-income populations because it does not affect the level of protection provided to human health or

the environment. For the final NO_X SIP Call, the Agency conducted a general analysis of the potential changes in ozone and particulate matter levels that may be experienced by minority and low-income populations as a result of the requirements of that rule. These findings were presented in the RIA for the NO_X SIP Call. This action does not affect this analysis.

List of Subjects

40 CFR Part 51

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

40 CFR Part 78

Acid rain, Air pollution control, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements.

40 CFR Part 97

Administrative practice and procedure, Air pollution control, Intergovernmental relations, Nitrogen oxides, Ozone, Reporting and recordkeeping requirements.

Dated: June 1, 2007.

William L. Wehrum,

Assistant Administrator for Air and Radiation.

For the reasons set forth in the preamble, part 51 of chapter I of title 40 of the Code of Federal Regulations is proposed to be amended as follows:

PART 51—REQUIREMENTS FOR PREPARATION, ADOPTION AND SUBMITTAL OF IMPLEMENTATION PLANS

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

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

Subpart G—Control Strategy

2. Section 51.121 is amended as follows:

a. By revising paragraph (c)(2).

b. By removing the entry for ''Georgia'' from the tables in paragraphs (e)(2)(i), (e)(4)(iii) and (g)(2)(ii).

c. By removing and reserving paragraph (e)(2)(ii)(C).

d. By removing paragraph (s).

§ 51.121 Findings and requirements for submission of State implementation plan revisions relating to emissions of oxides of nitrogen.

* * * * *

(c) * * *

(2) With respect to the 1-hour ozone NAAQS, the portions of Missouri, Michigan, and Alabama within the fine grid of the OTAG modeling domain. The fine grid is the area encompassed by a box with the following geographic coordinates: Southwest Corner, 92 degrees West longitude and 32 degrees North latitude; and Northeast Corner, 69.5 degrees West longitude and 44 degrees North latitude.

* * * * *

[FR Doc. E7–11036 Filed 6–7–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2006–0571; FRL–8324–1]

Approval and Promulgation of Implementation Plans for Arizona; Maricopa County PM–10 Nonattainment Area; Serious Area Plan for Attainment of the 24-Hour and Annual PM–10 Standards

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: On July 25, 2002, EPA approved under the Clean Air Act (CAA) the serious area particulate matter (PM–10) plan for the Maricopa County portion of the metropolitan Phoenix (Arizona) nonattainment area (Maricopa County area). Among other things, EPA approved the best available control measure (BACM) and most stringent measure (MSM) demonstrations in the plan and granted the State's request for an attainment date extension for the area. EPA's approval was challenged in the U.S. Court of Appeals for the Ninth Circuit. In response to the Court's remand, EPA reassessed the BACM and MSM demonstrations for the significant source categories of on-road motor vehicles and nonroad engines and equipment exhaust, specifically regarding whether California Air Resources Board (CARB) diesel is a BACM and/or MSM. As a result of this reassessment, EPA again approved the BACM and MSM demonstrations in the plan and granted the State's request to extend the attainment deadline from 2001 to 2006. In light of its recent finding that the Maricopa County area failed to attain the 24-hour PM–10 National Ambient Air Quality Standard (NAAQS) by December 31, 2006, EPA is again reassessing the BACM and MSM demonstrations in the plan and is again proposing to approve these demonstrations.

DATES: Any comments must arrive by July 9, 2007.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2006–0571, by one of the folling methods:

1. *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the on-line instructions.

2. *E-mail: weisner.carol@epa.gov.*

3. *Mail or deliver:* Marty Robin, Office of Air Planning (AIR–2), U.S. Environmental Protection Agency, Region 9, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available online at *http://www.regulations.gov*, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through the eRulemaking portal or e-mail. The eRulemaking portal is an anonymous access system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. 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.

Docket: The index to the docket for this action is available electronically at *http://www.regulations.gov* and in hard copy at EPA Region 9, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (e.g., copyrighted material), and some may not be publicly available in either location (e.g., CBI). To inspect the hard copy materials, please schedule an apointment during normal business hours with the contact listed directly below.

FOR FURTHER INFORMATION CONTACT: Carol Weisner, U.S. EPA Region 9, (415) 947–4107, *weisner.carol@epa.gov* or *http://www.epa.gov/region09/air/actions.*

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

I. Background

A. EPA's 2002 Approval

On July 25, 2002, EPA approved multiple documents submitted to EPA by Arizona for the Maricopa County area as meeting the CAA requirements

for serious PM–10 nonattainment areas for the 24-hour and annual PM–10 national ambient air quality standards.[1] Among these documents is the ''Revised MAG 1999 Serious Area Particulate Plan for PM–10 for the Maricopa County Nonattainment Area,'' February 2000 (MAG plan) that includes the BACM demonstrations for all significant source categories (except agriculture) for both the 24-hour and annual PM–10 standards and the State's request and supporting documentation, including the most stringent measure analysis (except for agriculture) for an attainment date extension for both standards. EPA's July 25, 2002 final action included approval of these elements of the MAG plan.[2]

Under CAA section 189(b)(2), serious area PM–10 plans must provide assurances that BACM will be implemented no later than four years after a moderate PM–10 nonattainment area is reclassified as serious. For the Maricopa County area, the BACM implementation deadline was June 10, 2000. In short, a BACM demonstration starts with the identification of all source categories contributing significantly to nonattainment of the PM–10 NAAQS. Once the significant categories are identified, all potential BACM for these categories must be identified and a reasoned justification must be provided for any BACM that are not implemented. All BACM that are economically and technologically feasible must be implemented.[3]

In the case of the Maricopa County area, the MAG plan identified eight significant PM–10 source categories, including on-road motor vehicle and nonroad engines and equipment exhaust.[4] [5] In our 2002 approval of the MAG plan, we stated that Arizona had one of the most comprehensive programs for addressing on-road motor vehicle emissions and that the additional measures in the MAG plan would strengthen and go beyond that program. For nonroad engines, EPA stated that Arizona had committed to adopt measures that would strengthen the overall nonroad engine program making it go beyond the existing federal program. 65 FR at 19972–19974; 66 FR at 50258–50260. Strengthening and expanding existing programs are key criteria for demonstrating the implementation of BACM. 59 FR at 42013. EPA noted that CARB diesel was rejected in the MAG plan as a BACM due to high costs, but believed the cost analysis was too uncertain to judge. 65 FR at 19973; 67 FR at 48725. EPA concluded that, overall, the on-road and nonroad measures in the MAG plan constituted BACM for the Maricopa County area without the implementation of CARB diesel. 67 FR at 48725.

As a serious PM–10 nonattainment area, the Maricopa County area was required to attain the annual and 24–hour PM–10 standards by no later than December 31, 2001. CAA section 188(c)(2). However, CAA section 188(e) allows us to extend the attainment date for a serious PM–10 nonattainment area for up to five years if attainment by 2001 is impracticable and certain specified additional conditions are met. Among these conditions is that the State must demonstrate to our satisfaction that its serious area plan includes the most stringent measures that are included in the implementation plan of any state and/or are achieved in practice in any state and are feasible for the area. EPA determined that CARB diesel was not required as a MSM because it did not advance the attainment date. Therefore EPA granted an attainment date extension for the Maricopa County area without it. *Id.* at 48739.

B. Vigil v. Leavitt

The Arizona Center for Law in the Public Interest (ACLPI), on behalf of Phoenix area residents, subsequently filed in the U.S. Court of Appeals for the Ninth Circuit a petition for review of EPA's approval of several elements in the MAG plan. As relevant to this proposed rule, ACLPI asserted that EPA's approval was arbitrary and capricious because the plan did not mandate the use of CARB diesel and thus did not satisfy the CAA requirements for BACM and MSM for mobile sources. ACLPI further asserted that we granted an extension of the statutory deadline for attainment to December 31, 2006 based on an inadequate MSM demonstration.

On May 10, 2004, the Court issued its opinion which upheld EPA's final approval in part but remanded to EPA the question of whether CARB diesel must be included in the serious area plan as a BACM and a MSM. Specifically, with respect to whether CARB diesel was appropriately rejected as BACM, the Court stated that ''* * * Arizona has offered one explanation, which EPA has declined to ratify, and EPA has not proffered an adequate explanation of its own.'' The Court further stated that ''[i]n light of our disposition with respect to CARB diesel as a BACM, we remand to EPA for further consideration of whether CARB diesel satisfies MSM as well.'' Finally, the Court remanded the question of Maricopa County area's eligibility for an extension of the attainment date to 2006, but only insofar as that question depends on EPA's determination regarding CARB diesel as a MSM. *Vigil* v. *Leavitt,* 366 F.3d 1025, amended at 381 F. 3d 826 (9th Cir. 2004).

C. EPA's 2006 Approval

In response to the Vigil Court's remand, on August 3, 2006, EPA again approved the BACM and MSM demonstrations in the MAG plan for the significant source categories of on-road motor vehicles and nonroad engines and equipment exhaust without CARB diesel and granted the State's request to extend the attainment deadline from 2001 to 2006. 71 FR 43979. In this final action, EPA concluded that CARB diesel is not feasible for on-road motor vehicles because Arizona would not be able to obtain a CAA section 211(c)(4)(C)(i) waiver for purposes of PM–10 attainment. In reaching this conclusion, EPA reasoned that Arizona would not be able to provide a demonstration that CARB diesel is ''necessary'' to achieve the PM–10 NAAQS, as required by that section, because EPA had already approved the State's demonstration of attainment of the PM–10 NAAQS without relying on CARB diesel. *Id.* at 43983. Also in this final action, EPA noted that in August 2005, CAA section 211(c)(4)(C) was amended by the Energy Policy Act of 2005 (EPAct), 42 U.S.C. 15801 *et seq.*, which placed additional restrictions on EPA's authority under that provision. We did not, however, address the effect of the new restrictions on our action

[1] Effective December 18, 2006, EPA revoked the annual PM–10 standard. 71 FR 61144 (October 17, 2006). References to the annual standard in this proposed rule for historical purposes only. EPA is not taking any regulatory action with regard to this former standard.

[2] For a detailed discussion of the MAG plan and the serious area PM–10 requirements, please see EPA's proposed and final approval actions at 65 FR 19964 (April 13, 2000), 66 FR 50252 (October 2, 2001) and 67 FR 48718 (July 25, 2002).

[3] For a detailed discussion of EPA's preliminary interpretation of the CAA's BACM requirements, see ''State Implementation Plans for Serious PM–10 Nonattainment Areas, and Attainment Date Waivers for PM–10 Nonattainment Areas Generally; Addendum to the General Preamble for the Implementation of Title I of the Clean Air Act Amendments of 1990,'' 59 FR 41998, 42008–42014 (August 16, 1994).

[4] ''Nonroad vehicles'' and ''nonroad engines'' are used interchangeably in EPA's proposed and final approval actions on the MAG plan. In addition, CARB and other state air agencies typically refer to these sources as ''off-road.'' ''Nonroad engines and equipment,'' ''nonroad vehicles,'' ''nonroad engines,'' ''nonroad'' and ''off-road'' are used interchangeably in today's proposed rule.

[5] A list of all potential BACM was compiled for each of the significant source categories and a detailed analysis of whether the potential BACM were technically and economically feasible was provided by the MAG plan and evaluated by EPA. 65 FR at 19964, 66 FR at 50252.

because of our conclusion that CARB diesel was not necessary to achieve the NAAQS. *Id.* at 43980, footnotes 2 and 3.

With respect to nonroad engines and equipment, EPA concluded that CARB diesel is not feasible because of the uncertainties with fuel availability, storage and segregation and concerns about program effectiveness due to owners and operators fueling outside the Maricopa County area. Id.

II. Proposed Action

On March 23, 2007, EPA proposed to find that the Maricopa County area [6] failed to attain the 24-hour PM–10 NAAQS by the December 31, 2006 deadline mandated by the CAA. 72 FR 13723. On May 24, 2007, the Regional Administrator signed a final rule finding that the Maricopa County area failed to attain.[7] As a result, the Agency can no longer rely on its August 3, 2006 conclusion that the State would not be able to obtain a section 211(c)(4)(C)(i) waiver for CARB diesel because it is not necessary for attainment of the PM–10 NAAQS. Thus EPA has reassessed the BACM demonstration for the onroad motor vehicle exhaust source category in light of the new EPAct provisions that it did not previously consider. As discussed further in section III.A. below, EPA has concluded it could not approve a CAA section 211(c)(4)(C)(i) waiver for Arizona for CARB diesel because the effect of such an approval would unlawfully increase the total number of fuels approved into SIPs under section 211(c)(4)(C) as of September 1, 2004. Therefore, EPA is again proposing to approve the BACM demonstration in the MAG plan without CARB diesel.

Because our August 2006 approval of the BACM demonstration for nonroad engines and equipment exhaust relied to some extent on our conclusion with respect to onroad motor vehicle exhaust, we are also proposing again to find that CARB diesel is not required as a BACM for the nonroad category because of the uncertainties with fuel availability, storage and segregation and program effectiveness due to owners and operators fueling outside the Maricopa County area.

Finally, since EPA granted the State's request for an attainment date extension in August 2006, the December 31, 2006 attainment deadline has passed. Therefore the extension request is now moot. However, if CARB diesel had been required as a MSM in order for EPA to grant the extension request, the State would now be required to continue to implement it absent the requisite showing under CAA section 110(1). Therefore EPA is again proposing to approve the MSM demonstration in the MAG plan without CARB diesel. We are also confirming that we appropriately granted Arizona's request for an attainment date extension in our 2002 and 2006 actions.

III. Reassessment of the BACM Demonstration for the Maricopa County Area

A. On-Road Motor Vehicle Exhaust

Section 211(c)(4)(A) of the CAA generally preempts states from prescribing or attempting to enforce controls respecting motor vehicle fuel characteristics or components that EPA has controlled under section 211(c)(1),[8] unless the state control is identical to the Federal control. EPA currently has nationwide regulations prescribing limits on various characteristics and components of motor vehicle diesel fuel (e.g., sulfur content limits, minimum cetane index and limits on aromatic content). 55 FR 34120 (August 21, 1990). Thus Arizona would need to obtain a CAA section 211(c)(4)(C) waiver in order to implement a different requirement governing these characteristics and components of on-road diesel fuel, i.e., CARB diesel, in the Maricopa County area.

Under section 211(c)(4)(C)(i), EPA may waive preemption by approving a non-identical state fuel control as a SIP provision, if the state demonstrates that the measure is necessary to achieve the NAAQS. We may approve a state fuel requirement as ''necessary'' if no other measures would bring about timely attainment, or if other measures exist and are technically possible to implement but are unreasonable or impracticable.

Section 211(c)(4)(C)(v)(I), added by the EPAct, further restricts EPA's authority to waive preemption by providing that the Agency cannot approve, under section 211(c)(4)(C)(i), any state fuel if the effect of such approval increases the total number of fuels approved into SIPs under section 211(c)(4)(C) as of September 1, 2004. The EPAct required EPA to determine the total number of fuels approved into SIPs under section 211(c)(4)(C) as of September 1, 2004, and to publish the list for public review and comment.

On June 6, 2006, EPA's notice of its draft list was published in the **Federal Register**. 71 FR 32532. On December 28, 2006, EPA's notice of its final list, known as the Boutique Fuels List, was published in the **Federal Register**. 71 FR 78192. The final list includes eight types of fuels approved into SIPs under section 211(c)(4)(C) as of September 1, 2004. CARB fuels are approved into California's SIP, but because the approval is not under CAA section 211(c)(4)(C)(i), we did not place CARB fuels on the list of fuel types. 71 FR 78196. Thus, CARB diesel is not one of these eight fuel types. As a result, EPA has no authority to approve, under section 211(c)(4)(C)(i), CARB diesel for on-road motor vehicles in the Maricopa County area because the effect of such approval would be to increase the total number of fuels approved into SIPs under section 211(c)(4)(C) as of September 1, 2004.[9] Thus, the State would not be able to obtain a section 211(c)(4)(C)(i) waiver necessary to implement CARB diesel for on-road motor vehicles. Consequently EPA is again proposing to approve the BACM demonstration for the on-road category in the MAG plan without CARB diesel.

B. Nonroad Engines and Equipment Exhaust

EPA is not changing its assessment in its August 3, 2006 final rule that requiring CARB diesel for the control of nonroad engines and equipment exhaust is not currently feasible and is therefore not required as BACM in the Maricopa County area. Therefore, except as specifically modified below, EPA is relying for this proposed rule on its discussion of Nonroad Engines and Equipment Exhaust in Section II.B(2) of the Agency's July 1, 2005 proposed rule. 70 FR at 38066–38067. We are also relying on our responses to public comments on this issue in Section II.B. of our August 3, 2006 final rule. 71 FR at 43981–43983.

We note one update to the information in footnote 7 of the August 2006 final rule. There are currently six, rather than four, approval letters on the

[6] In its proposed and final nonattainment finding actions, EPA refers to the Maricopa County area as the Phoenix nonattainment area. These terms are interchangeable.

[7] The final rule will be published shortly in the **Federal Register**.

[8] This prohibition applies to all states except California, as explained in section 211(c)(4)(B).

[9] Note that under the EPAct, in cases where our approval would not increase the total number of fuels on the list because the total number of fuels in SIPs at that point is below the number of fuels as of September 1, 2004, then our approval requires a finding that the new fuel will not cause supply or distribution problems or have significant adverse impacts on fuel producibility in the affected or contiguous areas. CAA section 211(c)(4)(C)(v)(IV). In addition, we may not approve a state fuel unless that fuel is already approved in at least one SIP in the applicable Petroleum Administration for Defense District (PADD). CAA section 211(c)(4)(C)(v)(V). Because we believe that approval of CARB diesel is not allowed as it would increase the total number of fuels on the Boutique Fuels list above the number of fuels as of September 1, 2004, we do not address these additional restrictions on our approval authority under CAA section 211(c)(4)(c)(i).

Texas Low Emission Diesel fuel program web site providing for the use of alternative diesel fuel formulations. The second sentence in footnote 7 should now read as follows: ''Although Section 114.312(f) provides that alternative diesel fuel formulations must provide comparable or better reductions of NO_X and PM, three of the six alternative diesel fuel formulation approval letters to date have cited NO_X reductions alone, or (in one case) reductions of NO_X and hydrocarbons, but not PM, as the basis for approval.''

IV. MSM Demonstration and Extension of Attainment Date

In our August 3, 2006 final action, we determined that CARB diesel was not required as a MSM because it did not advance the attainment date. Today's proposed approval of the BACM demonstration in the MAG plan for the on-road and nonroad vehicle exhaust source categories for the Maricopa County area without CARB diesel does not affect that determination. Therefore, we are again proposing to approve the MSM demonstration in the MAG plan. If we again take final action to approve the MSM demonstration, the attainment date extension granted to the Maricopa County area in our August 3, 2006 final action would not be affected.

V. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this proposed action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This proposed action merely proposes to approve state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this proposed rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule proposes to approve pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Public Law 104–4).

This proposed 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 proposes to approve a state rule implementing a Federal standard, and does not alter the relationship or the distribution of power and responsibilities established in the Clean Air Act. This proposed rule also is not subject to Executive Order 13045 ''Protection of Children from Environmental Health Risks and Safety Risks'' (62 FR 19885, April 23, 1997), because it approves a state rule implementing a Federal standard.

In reviewing SIP submission, 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 proposed 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.*).

List of Subjects in 40 CFR Part 52

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

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

Dated: May 31, 2007.

Wayne Nastri,

Regional Administrator, Region IX.

[FR Doc. 07–2848 Filed 6–7–07; 8:45 am]

BILLING CODE 6560–50–M

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2007–0165; FRL–8323–9]

Approval and Promulgation of Implementation Plans; Revisions to the Nevada State Implementation Plan; Stationary Source Permits

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule; extension of comment period.

SUMMARY: On April 17, 2007 (72 FR 19144), EPA proposed certain approvals and certain disapprovals of revisions to the Nevada State Implementation Plan (SIP) submitted to EPA by the Nevada Division of Environmental Protection. These revisions involve State rules governing applications for, and issuance of, permits for stationary sources, but not including review and permitting of major sources and major modifications under parts C and D of title I of the Clean Air Act. EPA is extending the comment period to August 17, 2007.

DATES: Any comments on this proposal must arrive by August 17, 2007.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2007–0165, by one of the following methods:

1. *Federal eRulemaking Portal: www.regulations.gov*. Follow the on-line instructions.

2. *E-mail: rios.gerardo@epa.gov*.

3. *Mail or deliver:* Gerardo Rios (Air-3), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105–3901.

Instructions: All comments will be included in the public docket without change and may be made available online at *www.regulations.gov*, including any personal information provided, unless the comment includes Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Information that you consider CBI or otherwise protected should be clearly identified as such and should not be submitted through *www.regulations.gov* or e-mail. *www.regulations.gov* is an ''anonymous access'' system, and EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send e-mail directly to EPA, your e-mail address will be automatically captured and included as part of the public comment. 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.

Docket: The index to the docket for this action is available electronically at www.regulations.gov and in hard copy at EPA Region IX, 75 Hawthorne Street, San Francisco, California. While all documents in the docket are listed in the index, some information may be publicly available only at the hard copy location (*e.g.*, copyrighted material), and some may not be publicly available in either location (*e.g.*, CBI). To inspect the hard copy materials, please schedule an appointment during normal business hours with the contact listed in the **FOR FURTHER INFORMATION CONTACT** section.

FOR FURTHER INFORMATION CONTACT: Laura Yannayon, EPA Region IX, (415) 972–3534, *Yannayon.Laura@epa.gov*.

SUPPLEMENTARY INFORMATION: On April 17, 2007, EPA proposed, under the Clean Air Act, approval of certain revisions to the applicable state implementation plan for the State of Nevada and disapproval of certain other revisions. These revisions involve State rules governing applications for, and issuance of, permits for stationary sources, but not including review and permitting of major sources and major modifications under parts C and D of title I of the Clean Air Act. These revisions involve submittal of certain new or amended State rules and requests by the State for rescission of certain existing rules from the state implementation plan. The proposed rule divides the SIP revisions into three categories: (1) Separable permit-related rules for which EPA has proposed action on a rule-by-rule basis; (2) submitted rules that comprise the bulk of the permitting program for which EPA has proposed disapproval as a whole; and (3) existing SIP rules for which NDEP has requested rescission and for which EPA has proposed action on a rule-by-rule basis. See tables 1, 2 and 3 in the proposed rule at 72 FR 19144, at 19146–19149 for the lists of affected rules.

The proposed action provided a 60-day public comment period. In response to a request from Leo M. Drozdoff, P.E., Administrator, Nevada Division of Environmental Protection, submitted by letter on May 7, 2007, EPA is extending the comment period for an additional 60 days.

Dated: May 29, 2007.

Wayne Nastri,

Regional Administrator, Region IX.

[FR Doc. E7–11109 Filed 6–7–07; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 96–115, WC Docket No. 04–36; FCC 07–22]

Customer Proprietary Network Information

AGENCY: Federal Communications Commission.

ACTION: Notice of proposed rulemaking.

SUMMARY: The Federal Communications Commission (Commission) adopted a further notice of proposed rulemaking (Further NPRM) seeking comment on what steps the Commission should take, if any, to implement section 222 of the Communications Act of 1934, as amended, which governs carriers' use and disclosure of customer proprietary network information. Through this Further NRPM, the Commission seeks comment on whether the Commission should act to expand its CPNI rules further, and whether it should expand the consumer protections to ensure that customer information and CPNI are protected in the context of mobile communication devices.

DATES: Comments are due on or before July 9, 2007, and reply comments are due on or before August 7, 2007.

ADDRESSES: You may submit comments, identified by CC Docket No. 96–115 and WC Docket No. 04–36, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov*. Follow the instructions for submitting comments.
- *Agency Web Site: http://www.fcc.gov*. Follow the instructions for submitting comments on *http://www.fcc.gov/cgb/ecfs/*.
- *E-mail: ecfs@fcc.gov*, and include the following words in the body of the message, ''get form.'' A sample form and directions will be sent in response.
- *Mail:* Secretary, Federal Communications Commission, 445 12th Street, SW., Washington DC 20554.
- *Hand Delivery/Courier:* 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002.

Instructions: All submissions received must include the agency name and docket numbers for this rulemaking, CC Docket No. 96–115 and WC Docket No. 04–36. All comments received will be posted without change to *http://www.fcc.gov/cgb/ecfs/*, including any personal information provided. For detailed instructions on submitting comments and additional information on the rulemaking process, see the ''Public Participation'' heading of the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: For access to the docket to read background documents or comments received, go to *http://www.fcc.gov/cgb/ecfs/*.

FOR FURTHER INFORMATION CONTACT: Adam Kirschenbaum, (202) 418–7280, Wireline Competition Bureau.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Further Notice of Proposed Rulemaking (Further NPRM) in CC Docket No. 96–115 and WC Docket No. 04–36, FCC 07–22, adopted March 13, 2007, and released April 2, 2007. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC, 20554. This document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (800) 378–3160 or (202) 863–2893, facsimile (202) 863–2898, or via e-mail at *http://www.bcpiweb.com*. It is also available on the Commission's Web site at *http://www.fcc.gov*.

Public Participation

Comments may be filed using (1) the Commission's Electronic Comment Filing System (ECFS), (2) the Federal Government's eRulemaking Portal, or (3) by filing paper copies. *See* Electronic Filing of Documents in Rulemaking Proceedings, 63 FR 24121 (May 1, 1998).

- *Electronic Filers:* Comments may be filed electronically using the Internet by accessing the ECFS: *http://www.fcc.gov/cgb/ecfs/* or the Federal eRulemaking Portal: *http://www.regulations.gov*. Filers should follow the instructions provided on the Web site for submitting comments.
- For ECFS filers, if multiple docket or rulemaking numbers appear in the caption of this proceeding, filers must transmit one electronic copy of the comments for each docket or rulemaking number referenced in the caption. In completing the transmittal screen, filers should include their full name, U.S. Postal Service mailing address, and the applicable docket or rulemaking number. Parties may also submit an electronic comment by Internet e-mail. To get filing instructions, filers should send an e-mail to *ecfs@fcc.gov*, and include the following words in the body of the message, ''get form.'' A sample form and directions will be sent in response.
- *Paper Filers:* Parties who choose to file by paper must file an original and

four copies of each filing. If more than one docket or rulemaking number appears in the caption of this proceeding, filers must submit two additional copies for each additional docket or rulemaking number.

Filings can be sent by hand or messenger delivery, by commercial overnight courier, or by first-class or overnight U.S. Postal Service mail (although the Commission continues to experience delays in receiving U.S. Postal Service mail). All filings must be addressed to the Commission's Secretary, Office of the Secretary, Federal Communications Commission.

- The Commission's contractor will receive hand-delivered or messenger-delivered paper filings for the Commission's Secretary at 236 Massachusetts Avenue, NE., Suite 110, Washington, DC 20002. The filing hours at this location are 8 a.m. to 7 p.m. All hand deliveries must be held together with rubber bands or fasteners. Any envelopes must be disposed of *before* entering the building.
- Commercial overnight mail (other than U.S. Postal Service Express Mail and Priority Mail) must be sent to 9300 East Hampton Drive, Capitol Heights, MD 20743.
- U.S. Postal Service first-class, Express, and Priority mail should be addressed to 445 12th Street, SW., Washington DC 20554.

All filings must be addressed to the Commission's Secretary, Marlene H. Dortch, Office of the Secretary, Federal Communications Commission, 445 12th Street, SW., Washington, DC 20554. Parties must also send a courtesy copy of their filing to Janice Myles, Competition Policy Division, Wireline Competition Bureau, Federal Communications Commission, 445 12th Street, SW., Room 5–C140, Washington, DC 20554 or by e-mail to *Janice.myles@fcc.gov*. Parties should also serve one copy with the Commission's copy contractor, Best Copy and Printing, Inc. (BCPI), Portals II, 445 12th Street, SW., Washington, DC 20554 or via e-mail to *fcc@bcpiweb.com*.

Synopsis of the Further Notice of Proposed Rulemaking (Further NPRM)

1. In this Further NPRM, the Commission seeks comment on what steps the Commission should take, if any, to secure further the privacy of customer information. The Commission has a duty to ensure that, as technologies evolve, the consumer protection objectives of the Act are maintained. Through this Further NRPM, the Commission seeks comment on whether the Commission should act to expand its CPNI rules further, and whether it should expand the consumer protections to ensure that customer information and CPNI are protected in the context of mobile communication devices.

A. Additional CPNI Protective Measures

2. *Password Protection*. In light of the rules the Commission adopts in the Order (FCC 07–22) and the recent enactment of criminal penalties against pretexters, the Commission seeks comment on whether it should adopt any further carrier requirements to protect CPNI. Specifically, while the Commission limited its rules to password protecting call detail information for customer-initiated telephone contact, it seeks comment on whether to extend these rules to include optional or mandatory password protection for non-call detail CPNI. Should this password protection be for all non-call detail CPNI or should it only include certain account changes? Further, if the Commission were to adopt password protection for certain account changes, what should that include (e.g., changes in the address of record, account plans, or billing methods)? Would requiring these forms of password protection place an undue burden on carriers, customers, or others, including any burdens placed on small carriers? The Commission solicits further comment on any other modifications to its rules that the Commission should adopt in light of pretexting activity, and a carrier's duty to protect CPNI.

3. *Audit Trails*. While the Commission does not adopt rules requiring audit trails at this time, in light of its new rules and the recent enactment of criminal penalties against pretexters, the Commission seeks comment on whether it should adopt rules pertinent to audit trails. Are audit trails generally used by carriers to track customer contact? The Commission asks carriers to assess the benefits and burdens, including the burdens on small carriers, of recording the disclosure of CPNI and customer contact. The Commission's current record indicates that the broad use of audit trails likely would be of limited value in ending pretexting because such a log would record enormous amounts of data, the vast majority of it being legitimate customer inquiry. Commenters also report that implementing and maintaining audit trails would be costly with little to no corresponding benefit to the consumer. However, would an audit trail assist law enforcement with its criminal investigations against pretexters? Further, in the interim period since the Commission sought comment on this issue, have carriers' reactions to audit trails changed or has the technology changed such that audit trails are now an economically feasible option?

4. *Physical Safeguards*. The Commission also seeks comment on whether the Commission, in light of the rules it adopts in its Order (FCC 07–22) and the recent enactment of criminal penalties against pretexters, should adopt rules that govern the physical transfer of CPNI among companies, such as between a carrier and its affiliates, or the transfer of CPNI to any other third party authorized to access or maintain CPNI, including a carrier's joint venture partners and independent contractors. Specifically, the Commission seeks comment on what physical safeguards carriers currently are using when they transfer, or allow access to, CPNI to ensure that they maintain the security and confidentiality of CPNI? The Commission also seeks comment on whether these safeguards for the physical transfer of, or for access to, CPNI are sufficient? Further, the Commission seeks comment on what steps it should require of a carrier to protect CPNI when CPNI is being transferred or accessed by the carrier, its affiliates, or its third parties (e.g., encryption, audit trails, logs, etc.). Additionally, the Commission seeks comment on the benefits and burdens, including the burdens on small carriers, of requiring carriers to physically safeguard the security and confidentiality of CPNI.

5. *Limiting Data Retention*. The Commission also seeks comment on whether the Commission, in light of the rules it adopts in its Order (FCC 07–22) and the recent enactment of criminal penalties against pretexters, should adopt rules that require carriers to limit data retention. If the Commission did adopt such a rule, what should be the maximum amount of time that a carrier should be able to retain customer records? Additionally, should all customer records be eliminated or is there a subset of customer records that are more susceptible to abuse and should be destroyed? Also, should the Commission define exceptions where a carrier is permitted to retain certain records (e.g., for the length of carrier-carrier or carrier-customer disputes)? The Department of Justice argues that destruction of CPNI after a specified period would hamper law enforcement efforts by destroying data sometimes needed for criminal and other lawful investigations. The Commission also seeks comment on whether there are any state or Commission data retention requirements that might conflict with a

carrier's data limitation. Additionally, does a limitation on data retention enhance protection of CPNI? Alternatively, should the Commission require carriers to de-identify customer records after a certain period? The Commission seeks comment on the benefits and burdens, including the burdens on small carriers, of requiring carriers to limit their data retention or to de-identify customer records.

B. Protection of Information Stored in Mobile Communications Devices

6. The Commission seeks comment on what steps it should take, if any, to secure the privacy of customer information stored in mobile communications devices. Specifically, the Commission seeks comment on what methods carriers currently use, if any, for erasing customer information on mobile equipment prior to refurbishing the equipment, and the extent to which carriers enable customers to permanently erase their personal information prior to discarding the device. The Commission also seeks comment on whether it should require carriers to permanently erase, or allow customers to permanently erase, customer information in such circumstances. Should the Commission require manufacturers to configure wireless devices so consumers can easily and permanently delete personal information from those devices? Further, the Commission seeks comment on the burdens, including those placed on small carriers, associated with a Commission rule requiring carriers and manufacturers to fully expunge existing customer data from a mobile device at the customer's request.

Paperwork Reduction Act

7. This Further NPRM contains proposed information collection requirements. The Commission, as part of its continuing effort to reduce paperwork burdens, invited the general public and the Office of Management and Budget (OMB) to comment on the information collection requirements contained in this Further NPRM, as required by the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. Public and agency comments are due August 7, 2007. Comments should address: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimates; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the Commission seeks comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

Initial Regulatory Flexibility Analysis

8. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), the Commission has prepared the present Initial Regulatory Flexibility Analysis (IRFA) of the possible significant economic impact on small entities that might result from this Further NPRM. Written public comments are requested on this IRFA. Comments must be identified as responses to the IRFA and must be filed by the deadlines for comments on the Further NPRM provided above. The Commission will send a copy of the Further NPRM, including this IRFA, to the Chief Counsel for Advocacy of the Small Business Administration. In addition, the Further NPRM and the IRFA (or summaries thereof) will be published in the **Federal Register**.

A. Need for, and Objectives of, the Proposed Rules

9. In the Further NPRM, the Commission seeks comment on what steps the Commission should take, if any, to expand its CPNI rules further, and whether it should expand the consumer protections to ensure that customer information and CPNI are protected in the context of mobile communications devices. In particular, the Commission seeks comment on whether it should adopt any further carrier requirements to protect CPNI, including password protection, audit trails, physical security, and limits on data retention. Further, the Commission seeks comment on what methods carriers currently use, if any, for erasing customer information on mobile equipment prior to refurbishing the equipment, and the extent to which carriers enable customers to permanently erase their personal information prior to discarding the device. The Commission also seeks comment on whether it should require carriers or manufacturers to permanently erase, or allow customers to permanently erase, customer information in such circumstances. For each of these issues, the Commission seeks comment on the burdens, including those placed on small carriers, associated with corresponding Commission rules related to each issue.

B. Legal Basis

10. The legal basis for any action that may be taken pursuant to this Further NPRM is contained in sections 1, 4(i), 4(j), and 222 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i)–(j), 222.

C. Description and Estimate of the Number of Small Entities To Which the Proposed Rules May Apply

11. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the proposed rules. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

12. *Small Businesses*. Nationwide, there are a total of approximately 22.4 million small businesses, according to SBA data.

13. *Small Organizations*. Nationwide, there are approximately 1.6 million small organizations.

14. *Small Governmental Jurisdictions.* The term ''small governmental jurisdiction'' is defined generally as ''governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States. The Commission estimates that, of this total, 84,377 entities were ''small governmental jurisdictions.'' Thus, the Commission estimates that most governmental jurisdictions are small.

1. Telecommunications Service Entities

a. Wireline Carriers and Service Providers

15. The Commission has included small incumbent local exchange carriers in this present RFA analysis. As noted above, a ''small business'' under the RFA is one that, *inter alia,* meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its

field of operation.'' The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent local exchange carriers are not dominant in their field of operation because any such dominance is not ''national'' in scope. The Commission has therefore included small incumbent local exchange carriers in this RFA analysis, although the Commission emphasizes that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

16. *Incumbent Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,303 carriers have reported that they are engaged in the provision of incumbent local exchange services. Of these 1,303 carriers, an estimated 1,020 have 1,500 or fewer employees and 283 have more than 1,500 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by its action.

17. *Competitive Local Exchange Carriers, Competitive Access Providers (CAPs), ''Shared-Tenant Service Providers,'' and ''Other Local Service Providers.''* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 769 carriers have reported that they are engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 769 carriers, an estimated 676 have 1,500 or fewer employees and 93 have more than 1,500 employees. In addition, 12 carriers have reported that they are ''Shared-Tenant Service Providers,'' and all 12 are estimated to have 1,500 or fewer employees. In addition, 39 carriers have reported that they are ''Other Local Service Providers.'' Of the 39, an estimated 38 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, ''Shared-Tenant Service Providers,'' and ''Other Local Service Providers'' are small entities that may be affected by its action.

18. *Local Resellers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 143 carriers have reported that they are engaged in the provision of local resale services. Of these, an estimated 141 have 1,500 or fewer employees and two have more than 1,500 employees. Consequently, the Commission estimates that the majority of local resellers are small entities that may be affected by its action.

19. *Toll Resellers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 770 carriers have reported that they are engaged in the provision of toll resale services. Of these, an estimated 747 have 1,500 or fewer employees and 23 have more than 1,500 employees. Consequently, the Commission estimates that the majority of toll resellers are small entities that may be affected by its action.

20. *Payphone Service Providers (PSPs).* Neither the Commission nor the SBA has developed a small business size standard specifically for payphone services providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 613 carriers have reported that they are engaged in the provision of payphone services. Of these, an estimated 609 have 1,500 or fewer employees and four have more than 1,500 employees. Consequently, the Commission estimates that the majority of payphone service providers are small entities that may be affected by its action.

21. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA has developed a small business size standard specifically for providers of interexchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 316 carriers have reported that they are engaged in the provision of interexchange service. Of these, an estimated 292 have 1,500 or fewer employees and 24 have more than 1,500 employees. Consequently, the Commission estimates that the majority of IXCs are small entities that may be affected by its action.

22. *Operator Service Providers (OSPs).* Neither the Commission nor the SBA has developed a small business size standard specifically for operator service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 23 carriers have reported that they are engaged in the provision of operator services. Of these, an estimated 20 have 1,500 or fewer employees and three have more than 1,500 employees. Consequently, the Commission estimates that the majority of OSPs are small entities that may be affected by its action.

23. *Prepaid Calling Card Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for prepaid calling card providers. The appropriate size standard under SBA rules is for the category Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 89 carriers have reported that they are engaged in the provision of prepaid calling cards. Of these, 88 are estimated to have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that all or the majority of prepaid calling card providers are small entities that may be affected by its action.

24. *800 and 800-Like Service Subscribers.* Neither the Commission nor the SBA has developed a small business size standard specifically for 800 and 800-like service (''toll free'') subscribers. The appropriate size standard under SBA rules is for the category Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. The most reliable source of information regarding the number of these service subscribers appears to be data the Commission collects on the 800, 888, and 877 numbers in use. According to the Commission's data, at the end of January, 1999, the number of 800 numbers assigned was 7,692,955; the number of 888 numbers assigned was 7,706,393; and the number of 877 numbers assigned was 1,946,538. The Commission does not have data specifying the number of these subscribers that are not independently owned and operated or have more than 1,500 employees, and thus are unable at

this time to estimate with greater precision the number of toll free subscribers that would qualify as small businesses under the SBA size standard. Consequently, the Commission estimates that there are 7,692,955 or fewer small entity 800 subscribers; 7,706,393 or fewer small entity 888 subscribers; and 1,946,538 or fewer small entity 877 subscribers.

b. International Service Providers

25. The Commission has not developed a small business size standard specifically for providers of international service. The appropriate size standards under SBA rules are for the two broad census categories of ''Satellite Telecommunications'' and ''Other Telecommunications.'' Under both categories, such a business is small if it has $12.5 million or less in average annual receipts.

26. The first category of Satellite Telecommunications ''comprises establishments primarily engaged in providing point-to-point telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.'' For this category, Census Bureau data for 2002 show that there were a total of 371 firms that operated for the entire year. Of this total, 307 firms had annual receipts of under $10 million, and 26 firms had receipts of $10 million to $24,999,999. Consequently, the Commission estimates that the majority of Satellite Telecommunications firms are small entities that might be affected by its action.

27. The second category of Other Telecommunications ''comprises establishments primarily engaged in (1) providing specialized telecommunications applications, such as satellite tracking, communications telemetry, and radar station operations; or (2) providing satellite terminal stations and associated facilities operationally connected with one or more terrestrial communications systems and capable of transmitting telecommunications to or receiving telecommunications from satellite systems.'' For this category, Census Bureau data for 2002 show that there were a total of 332 firms that operated for the entire year. Of this total, 259 firms had annual receipts of under $10 million and 15 firms had annual receipts of $10 million to $24,999,999. Consequently, the Commission estimates that the majority of Other Telecommunications firms are small entities that might be affected by its action.

c. Wireless Telecommunications Service Providers

28. Below, for those services subject to auctions, the Commission notes that, as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Also, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated.

29. *Wireless Service Providers.* The SBA has developed a small business size standard for wireless firms within the two broad economic census categories of ''Paging'' and ''Cellular and Other Wireless Telecommunications.'' Under both SBA categories, a wireless business is small if it has 1,500 or fewer employees. For the census category of Paging, Census Bureau data for 2002 show that there were 807 firms in this category that operated for the entire year. Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more. Thus, under this category and associated small business size standard, the majority of firms can be considered small. For the census category of Cellular and Other Wireless Telecommunications, Census Bureau data for 2002 show that there were 1,397 firms in this category that operated for the entire year. Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more. Thus, under this second category and size standard, the majority of firms can, again, be considered small.

30. *Cellular Licensees.* The SBA has developed a small business size standard for wireless firms within the broad economic census category ''Cellular and Other Wireless Telecommunications.'' Under this SBA category, a wireless business is small if it has 1,500 or fewer employees. For the census category of Cellular and Other Wireless Telecommunications, Census Bureau data for 2002 show that there were 1,397 firms in this category that operated for the entire year. Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more. Thus, under this category and size standard, the great majority of firms can be considered small. Also, according to Commission data, 437 carriers reported that they were engaged in the provision of cellular service, Personal Communications Service (PCS), or Specialized Mobile Radio (SMR) Telephony services, which are placed together in the data. The Commission has estimated that 260 of these are small, under the SBA small business size standard.

31. *Common Carrier Paging.* The SBA has developed a small business size standard for wireless firms within the broad economic census category, ''Cellular and Other Wireless Telecommunications.'' Under this SBA category, a wireless business is small if it has 1,500 or fewer employees. For the census category of Paging, Census Bureau data for 2002 show that there were 807 firms in this category that operated for the entire year. Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more. Thus, under this category and associated small business size standard, the majority of firms can be considered small. In the Paging *Third Report and Order,* the Commission developed a small business size standard for ''small businesses'' and ''very small businesses'' for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A ''small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. Additionally, a ''very small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. The SBA has approved these small business size standards. An auction of Metropolitan Economic Area licenses commenced on February 24, 2000, and closed on March 2, 2000. Of the 985 licenses auctioned, 440 were sold. Fifty-seven companies claiming small business status won. Also, according to Commission data, 375 carriers reported that they were engaged in the provision of paging and messaging services. Of those, the Commission estimates that 370 are small, under the SBA-approved small business size standard.

32. *Wireless Telephony.* Wireless telephony includes cellular, personal communications services (PCS), and specialized mobile radio (SMR) telephony carriers. As noted earlier, the SBA has developed a small business size standard for ''Cellular and Other Wireless Telecommunications'' services. Under that SBA small business size standard, a business is small if it has 1,500 or fewer employees. According to Commission data, 445 carriers reported that they were engaged in the provision

of wireless telephony. The Commission has estimated that 245 of these are small under the SBA small business size standard.

33. *Broadband Personal Communications Service.* The broadband Personal Communications Service (PCS) spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined ''small entity'' for Blocks C and F as an entity that has average gross revenues of $40 million or less in the three previous calendar years. For Block F, an additional classification for ''very small business'' was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years.'' These standards defining ''small entity'' in the context of broadband PCS auctions have been approved by the SBA. No small businesses within the SBA-approved small business size standards bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40 percent of the 1,479 licenses for Blocks D, E, and F. On March 23, 1999, the Commission re-auctioned 347 C, D, E, and F Block licenses. There were 48 small business winning bidders. On January 26, 2001, the Commission completed the auction of 422 C and F Broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in this auction, 29 qualified as ''small'' or ''very small'' businesses. Subsequent events, concerning Auction 35, including judicial and agency determinations, resulted in a total of 163 C and F Block licenses being available for grant.

34. *Narrowband Personal Communications Services.* To date, two auctions of narrowband personal communications services (PCS) licenses have been conducted. For purposes of the two auctions that have already been held, ''small businesses'' were entities with average gross revenues for the prior three calendar years of $40 million or less. Through these auctions, the Commission has awarded a total of 41 licenses, out of which 11 were obtained by small businesses. To ensure meaningful participation of small business entities in future auctions, the Commission has adopted a two-tiered small business size standard in the *Narrowband PCS Second Report and Order*. A ''small business'' is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $40 million. A ''very small business'' is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $15 million. The SBA has approved these small business size standards. In the future, the Commission will auction 459 licenses to serve Metropolitan Trading Areas (MTAs) and 408 response channel licenses. There is also one megahertz of narrowband PCS spectrum that has been held in reserve and that the Commission has not yet decided to release for licensing. The Commission cannot predict accurately the number of licenses that will be awarded to small entities in future auctions. However, four of the 16 winning bidders in the two previous narrowband PCS auctions were small businesses, as that term was defined. The Commission assumes, for purposes of this analysis that a large portion of the remaining narrowband PCS licenses will be awarded to small entities. The Commission also assumes that at least some small businesses will acquire narrowband PCS licenses by means of the Commission's partitioning and disaggregation rules.

35. *Rural Radiotelephone Service.* The Commission has not adopted a size standard for small businesses specific to the Rural Radiotelephone Service. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio System (BETRS). The Commission uses the SBA's small business size standard applicable to ''Cellular and Other Wireless Telecommunications,'' *i.e.*, an entity employing no more than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and the Commission estimates that there are 1,000 or fewer small entity licensees in the Rural Radiotelephone Service that may be affected by the rules and policies adopted herein.

36. *Air-Ground Radiotelephone Service.* The Commission has not adopted a small business size standard specific to the Air-Ground Radiotelephone Service. The Commission will use SBA's small business size standard applicable to ''Cellular and Other Wireless Telecommunications,'' *i.e.*, an entity employing no more than 1,500 persons. There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and the Commission estimates that almost all of them qualify as small under the SBA small business size standard.

37. *Offshore Radiotelephone Service.* This service operates on several UHF television broadcast channels that are not used for television broadcasting in the coastal areas of states bordering the Gulf of Mexico. There are presently approximately 55 licensees in this service. The Commission is unable to estimate at this time the number of licensees that would qualify as small under the SBA's small business size standard for ''Cellular and Other Wireless Telecommunications'' services. Under that SBA small business size standard, a business is small if it has 1,500 or fewer employees.

2. Cable and OVS Operators

38. *Cable and Other Program Distribution.* This category includes cable systems operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems, and subscription television services. The SBA has developed small business size standard for this census category, which includes all such companies generating $12.5 million or less in revenue annually. According to Census Bureau data for 2002, there were a total of 1,191 firms in this category that operated for the entire year. Of this total, 1,087 firms had annual receipts of under $10 million, and 43 firms had receipts of $10 million or more but less than $25 million. Consequently, the Commission estimates that the majority of providers in this service category are small businesses that may be affected by the rules and policies adopted herein.

39. *Cable System Operators.* The Commission has developed its own small business size standards for cable system operators, for purposes of rate regulation. Under the Commission's rules, a ''small cable company'' is one serving fewer than 400,000 subscribers nationwide. In addition, a ''small system'' is a system serving 15,000 or fewer subscribers.

40. *Cable System Operators (Telecom Act Standard).* The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' The Commission has determined that there are approximately 67,700,000 subscribers in the United States. Therefore, an operator serving fewer than 677,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all its affiliates, do

not exceed $250 million in the aggregate. Based on available data, the Commission estimates that the number of cable operators serving 677,000 subscribers or fewer, totals 1,450. The Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million, and therefore is unable, at this time, to estimate more accurately the number of cable system operators that would qualify as small cable operators under the size standard contained in the Communications Act of 1934.

41. *Open Video Services.* Open Video Service (OVS) systems provide subscription services. The SBA has created a small business size standard for Cable and Other Program Distribution. This standard provides that a small entity is one with $12.5 million or less in annual receipts. The Commission has certified approximately 25 OVS operators to serve 75 areas, and some of these are currently providing service. Affiliates of Residential Communications Network, Inc. (RCN) received approval to operate OVS systems in New York City, Boston, Washington, DC., and other areas. RCN has sufficient revenues to assure that they do not qualify as a small business entity. Little financial information is available for the other entities that are authorized to provide OVS and are not yet operational. Given that some entities authorized to provide OVS service have not yet begun to generate revenues, the Commission concludes that up to 24 OVS operators (those remaining) might qualify as small businesses that may be affected by the rules and policies adopted herein.

3. Internet Service Providers

42. *Internet Service Providers.* The SBA has developed a small business size standard for Internet Service Providers (ISPs). ISPs ''provide clients access to the Internet and generally provide related services such as web hosting, web page designing, and hardware or software consulting related to Internet connectivity.'' Under the SBA size standard, such a business is small if it has average annual receipts of $21 million or less. According to Census Bureau data for 2002, there were 2,529 firms in this category that operated for the entire year. Of these, 2,437 firms had annual receipts of under $10 million, and 47 firms had receipts of $10 million or more but less then $25 million. Consequently, the Commission estimates that the majority of these firms are small entities that may be affected by its action.

43. *All Other Information Services.* ''This industry comprises establishments primarily engaged in providing other information services (except new syndicates and libraries and archives).'' The SBA has developed a small business size standard for this category; that size standard is $6 million or less in average annual receipts. According to Census Bureau data for 1997, there were 195 firms in this category that operated for the entire year. Of these, 172 had annual receipts of under $5 million, and an additional nine firms had receipts of between $5 million and $9,999,999. Consequently, the Commission estimates that the majority of these firms are small entities that may be affected by its action.

4. Equipment Manufacturers

44. *Wireless Communications Equipment Manufacturers.* The SBA has established a small business size standard for Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing. Examples of products in this category include ''transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment'' and may include other devices that transmit and receive IP-enabled services, such as personal digital assistants (PDAs). Under the SBA size standard, firms are considered small if they have 750 or fewer employees. According to Census Bureau data for 1997, there were 1,215 establishments in this category that operated for the entire year. Of those, there were 1,150 that had employment of under 500, and an additional 37 that had employment of 500 to 999. The percentage of wireless equipment manufacturers in this category was approximately 61.35%, so the Commission estimates that the number of wireless equipment manufacturers with employment of under 500 was actually closer to 706, with and additional 23 establishments having employment of between 500 and 999. Consequently, the Commission estimates that the majority of wireless communications equipment manufacturers are small entities that may be affected by its action.

45. *Telephone Apparatus Manufacturing.* This category ''comprises establishments primarily engaged primarily in manufacturing wire telephone and data communications equipment.'' Examples of pertinent products are ''central office switching equipment, cordless telephones (except cellular), PBX equipment, telephones, telephone answering machines, and data communications equipment, such as bridges, routers, and gateways.'' The SBA has developed a small business size standard for this category of manufacturing; that size standard is 1,000 or fewer employees. According to Census Bureau data for 1997, there were 598 establishments in this category that operated for the entire year. Of these, 574 had employment of under 1,000, and an additional 17 establishments had employment of 1,000 to 2,499. Consequently, the Commission estimates that the majority of these establishments are small entities that may be affected by its action.

46. *Semiconductor and Related Device Manufacturing.* These establishments manufacture ''computer storage devices that allow the storage and retrieval of data from a phase change, magnetic, optical, or magnetic/optical media.'' The SBA has developed a small business size standard for this category of manufacturing; that size standard is 500 or fewer employees. According to Census Bureau data for 1997, there were 1,082 establishments in this category that operated for the entire year. Of these, 987 had employment of under 500, and 52 establishments had employment of 500 to 999.

47. *Computer Storage Device Manufacturing.* These establishments manufacture ''computer storage devices that allow the storage and retrieval of data from a phase change, magnetic, optical, or magnetic/optical media.'' The SBA has developed a small business size standard for this category of manufacturing; that size standard is 1,000 or fewer employees. According to Census Bureau data for 1997, there were 209 establishments in this category that operated for the entire year. Of these, 197 had employment of under 500, and eight establishments had employment of 500 to 999.

D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

48. Should the Commission decide to adopt any further regulations to ensure that all providers of telecommunication services meet consumer protection needs in regard to CPNI, including the security of the privacy of customer information stored in mobile communications devices, the associated rules potentially could modify the reporting and recordkeeping requirements of certain telecommunications providers. The Commission could, for instance, require

that telecommunications providers require further customer password-related security procedures to access CPNI data. The Commission could also require telecommunications providers to track customer contact through the use of audit trails or to limit their retention of data related to CPNI. Additionally, the Commission could require additional physical safeguards be implemented to protect the transfer of CPNI. Further, the Commission could require telecommunications providers and/or manufacturers to configure wireless devices so consumers can easily and permanently delete personal information from mobile communications devices. These proposals may impose additional reporting and recordkeeping requirements on entities. Also, the Commission seeks comment on whether any of these proposals places burdens on small entities. Entities, especially small businesses, are encouraged to quantify the costs and benefits or any reporting requirement that may be established in this proceeding.

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

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

50. The Commission's primary objective is to secure the privacy of customer information collected by telecommunications carriers and stored in mobile communications devices. The Commission seeks comment on the burdens, including those placed on small carriers, associated with related Commission rules and whether the Commission should adopt different requirements for small businesses.

F. Federal Rules That May Duplicate, Overlap, or Conflict With the Proposed Rules

51. None.

Ordering Clauses

52. Accordingly, IT IS ORDERED that pursuant to sections 1, 4(i), 4(j), 222, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i)–(j), 222, 303(r), this Report and Order and Further Notice of Proposed Rulemaking in CC Docket No. 96–115 and WC Docket No. 04–36 IS ADOPTED, and that Part 64 of the Commission's rules, 47 CFR part 64, is amended as set forth in Appendix B. The Order shall become effective upon publication in the **Federal Register** subject to OMB approval for new information collection requirements or six months after the Order's effective date, whichever is later.

53. It Is Further Ordered that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, Shall Send a copy of this Report and Order and Further Notice of Proposed Rulemaking, including the Final Regulatory Flexibility Analysis and the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–10734 Filed 6–7–07; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 20

RIN: 1018–AV12

Migratory Bird Hunting; Supplemental Proposals for Migratory Game Bird Hunting Regulations for the 2007–08 Hunting Season; Notice of Meetings

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; supplemental.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), proposed in an earlier document to establish annual hunting regulations for certain migratory game birds for the 2007–08 hunting season. This supplement to the proposed rule provides the regulatory schedule, announces the Service Migratory Bird Regulations Committee and Flyway Council meetings, provides Flyway Council recommendations resulting from their March meetings, and provides regulatory alternatives for the 2007–08 duck hunting seasons.

DATES: The Service Migratory Bird Regulations Committee will meet to consider and develop proposed regulations for early-season migratory bird hunting on June 20 and 21, 2007, and for late-season migratory bird hunting and the 2008 spring/summer migratory bird subsistence seasons in Alaska on August 1 and 2, 2007. All meetings will commence at approximately 8:30 a.m. Following later **Federal Register** documents, you will be given an opportunity to submit comments for proposed early-season frameworks by July 31, 2007, and for proposed late-season frameworks and subsistence migratory bird seasons in Alaska by August 31, 2007.

ADDRESSES: The Service Migratory Bird Regulations Committee will meet in room 200 of the U.S. Fish and Wildlife Service's Arlington Square Building, 4401 N. Fairfax Dr., Arlington, VA. Send your comments on the proposals to the Chief, Division of Migratory Bird Management, U.S. Fish and Wildlife Service, Department of the Interior, MS MBSP–4107–ARLSQ, 1849 C Street, NW., Washington, DC 20240. All comments received, including names and addresses, will become part of the public record. You may inspect comments during normal business hours in room 4107, Arlington Square Building, 4501 North Fairfax Dr., Arlington, VA.

FOR FURTHER INFORMATION CONTACT: Ron W. Kokel, U.S. Fish and Wildlife Service, Department of the Interior, MS MBSP–4107–ARLSQ, 1849 C Street, NW., Washington, DC 20240; (703) 358–1714. For information on the migratory bird subsistence season in Alaska, contact Fred Armstrong, (907) 786–3887, or Donna Dewhurst, (907) 786–3499, U.S. Fish and Wildlife Service, 1011 E. Tudor Road, MS–201, Anchorage, AK 99503.

SUPPLEMENTARY INFORMATION:

Regulations Schedule for 2007

On April 11, 2007, we published in the **Federal Register** (72 FR 18328) a proposal to amend 50 CFR part 20. The proposal provided a background and overview of the migratory bird hunting regulations process, and dealt with the establishment of seasons, limits, and other regulations for hunting migratory game birds under §§ 20.101 through 20.107, 20.109, and 20.110 of subpart K. This document is the second in a series of proposed, supplemental, and final rules for migratory game bird hunting regulations. We will publish proposed early-season frameworks in early July and late-season frameworks in early August. We will publish final regulatory frameworks for early seasons on or about August 17, 2007, and for late seasons on or about September 14, 2007.

Service Migratory Bird Regulations Committee Meetings

The Service Migratory Bird Regulations Committee will meet June 20–21, 2007, to review information on the current status of migratory shore and upland game birds and develop 2007–08 migratory game bird regulations recommendations for these species, plus regulations for migratory game birds in Alaska, Puerto Rico, and the Virgin Islands. The Committee will also develop regulations recommendations for September waterfowl seasons in designated States, special sea duck seasons in the Atlantic Flyway, and extended falconry seasons. In addition, the Committee will review and discuss preliminary information on the status of waterfowl.

At the August 1–2, 2007, meetings, the Committee will review information on the current status of waterfowl and develop 2007–08 migratory game bird regulations recommendations for regular waterfowl seasons and other species and seasons not previously discussed at the early-season meetings. In addition, the Committee will develop recommendations for the 2008 spring/summer migratory bird subsistence season in Alaska. In accordance with Departmental policy, these meetings are open to public observation. You may submit written comments to the Service on the matters discussed.

Announcement of Flyway Council Meetings

Service representatives will be present at the individual meetings of the four Flyway Councils this July. Although agendas are not yet available, these meetings usually commence at 8 a.m. on the days indicated.

Atlantic Flyway Council: July 26–27, Sheraton Harborside Hotel, Portsmouth, NH.

Mississippi Flyway Council: July 28–29, Sawmill Creek Resort, Huron, OH.

Central Flyway Council: July 26–27, Holiday Inn of the Northern Black Hills, Spearfish, SD.

Pacific Flyway Council: July 27, Red Lion Hotel at the Park, Spokane, WA.

Review of Public Comments

This supplemental rulemaking describes Flyway Council recommended changes based on the preliminary proposals published in the April 11, 2007, **Federal Register**. We have included only those recommendations requiring either new proposals or substantial modification of the preliminary proposals and do not include recommendations that simply support or oppose preliminary proposals and provide no recommended alternatives. We will publish responses to all proposals and written comments when we develop final frameworks. In addition, this supplemental rulemaking contains the regulatory alternatives for the 2007–08 duck hunting seasons. We have included all Flyway Council recommendations received relating to the development of these alternatives.

We seek additional information and comments on the recommendations in this supplemental proposed rule. New proposals and modifications to previously described proposals are discussed below. Wherever possible, they are discussed under headings corresponding to the numbered items identified in the April 11 proposed rule. Only those categories requiring your attention or for which we received Flyway Council recommendations are discussed below.

1. Ducks

Duck harvest management categories are: (A) General Harvest Strategy; (B) Regulatory Alternatives, including specification of framework dates, season length, and bag limits; (C) Zones and Split Seasons; and (D) Special Seasons/Species Management.

A. General Harvest Strategy

Council Recommendations: The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended that regulations changes be restricted to one step per year, both when restricting as well as liberalizing hunting regulations.

The Pacific Flyway Council recommended that the proposal developed by the Service for a revised protocol for managing the harvest of mallards in Western North America be implemented in 2008. The Council stated that this delay is needed to fully understand and pick a management objective, to incorporate explicit consideration of mallards derived from those portions of Alberta that contribute mallards to the Pacific Flyway, to determine how this strategy relates to Alaska's early season regulations, and to investigate the addition of alternative models.

Service Response: As we stated in the April 11 **Federal Register**, the final Adaptive Harvest Management protocol for the 2007–08 season will be detailed in the early-season proposed rule, which will be published in July.

B. Regulatory Alternatives

Council Recommendations: The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council and the Central Flyway Council recommended that regulatory alternatives for duck hunting seasons remain the same as those used in 2006.

Public Comments: The Wisconsin Department of Natural resources recommended that regulatory alternatives for duck hunting seasons remain the same as those used in 2006.

Service Response: Last year in the May 30, 2006, **Federal Register** (71 FR 30786), we discussed the March 11, 2005, Adaptive Harvest Management (AHM) Task Force draft final report (*http://www.fws.gov/migratorybirds/mgmt/ahm/taskforce/taskforce.htm*) to the IAFWA Executive Committee concerning the future development and direction of AHM. The Task Force endeavored to develop a strategic approach that was comprehensive and integrative, that recognized the diverse perspectives and desires of stakeholders, that was consistent with resource monitoring and assessment capabilities, and that hopefully could be embraced by all four Flyways Councils. We stated then, and reiterate here, that we appreciate the extensive discussion the report has received and look forward to continuing dialogue concerning the future strategic course for AHM.

One of the most widely debated issues continues to be the nature of the regulatory alternatives. The Task Force recommended a simpler and more conservative approach than is reflected in the regulatory alternatives used since 1997, which are essentially those we proposed for the 2007–08 hunting season (April 11 **Federal Register**). As yet, however, no consensus has emerged among the Flyway Councils concerning modifications to the regulatory alternatives, nor is such consensus expected in time to select a regulatory alternative for the 2007–08 hunting season.

Therefore, the regulatory alternatives proposed in the April 11 **Federal Register** will be used for the 2007–08 hunting season. In 2005, the AHM regulatory alternatives were modified to consist only of the maximum season lengths, framework dates, and bag limits for total ducks and mallards. Restrictions for certain species within these frameworks that are not covered by existing harvest strategies will be addressed during the late-season regulations process. For those species with existing harvest strategies (canvasbacks and pintails), those strategies to be used for the 2007–08 hunting season.

D. Special Seasons/Species Management

iii. Black Ducks

Council Recommendations: The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council endorsed the draft International Harvest Strategy for Black Ducks developed by the Black Duck AHM Working Group until such time that a full AHM model is available and requested a dialogue with the Service on options for implementing harvest restrictions, assuming harvest restrictions are warranted.

v. Pintails

Council Recommendations: The Pacific Flyway Council recommended that the proposal developed by the Service for the addition of a compensatory model for Northern Pintail harvest management be incorporated in 2007 and that work continue on improving the harvest management decision-making process for pintail. Additionally, the Council urged the Service to complete its banding needs assessment and to work with the Flyways and the Canadian Wildlife Service to improve the basic biological data to more fully inform decision making.

vi. Scaup

Council Recommendations: The Central Flyway Council recommended not implementing a scaup harvest strategy that uses an objective function based on Maximum Sustained Yield (MSY). They suggested that scaup regulatory alternatives for the Central Flyway in 2009 be based on the most recent 3-year running mean of the May Breeding Population estimates (BPOP) as follows:

a. BPOP mean > 4.0 million, daily bag limit of 3.

b. BPOP mean 3.25—4.0 million, daily bag limit of 2.

c. BPOP mean 2.5—3.25 million, daily bag limit of 1.

d. BPOP mean < 2.5 million, Hunter's Choice or 1-bird daily bag limit with a season-within-a-season.

The Pacific Flyway Council was supportive of the proposed approach outlined in the recently proposed Service assessment and decision-making framework to inform scaup harvest management, and endorsed a shoulder strategy of less than Maximum Sustained Yield (MSY). In developing regulation packages to implement the framework, the Council further requested recognition of flyway differences in scaup populations and harvest potential.

Service Response: In 2006, we did not change scaup harvest regulations with the understanding that a draft harvest strategy would be available for Flyway Council review prior to the 2007 winter meetings (see September 22, 2007, **Federal Register**, 71 FR 55654) and be in place to guide development of scaup hunting regulations in 2007. As part of this effort, we developed an assessment framework that uses available data to help predict the effects of harvest and other uncontrollable environmental factors on the scaup population. The final assessment was presented during the Winter Flyway Technical Section meetings, made available to the public in the April 11 **Federal Register**, and has been subject to both extensive and rigorous peer review. That peer review has resulted in many improvements in the assessment, and we believe it now represents an objective, efficient, and comprehensive synthesis of data relevant to scaup harvest management. Also, we have now completed additional work that we believe can help frame a viable scaup harvest strategy. The most recent technical analysis focuses on predicting scaup harvest from various combinations of Flyway-specific season lengths and bag limits, and this analysis has been appended to the assessment report previously available (*http://www.fws.gov/reports*).

We have received a number of comments from the Flyway Councils, States, and other interested publics on the assessment. As we indicated in the April 11 proposed rule, the final scaup harvest strategy will be detailed in the July early-season proposed rule (see Schedule of Regulations Meetings and **Federal Register** Publications in the April 11 **Federal Register** for further information). Of immediate concern, however, is the Flyway Councils' review of our most recent assessment. We urge the Flyway Councils to evaluate our latest assessments.

vii. Mottled Ducks

Council Recommendations: The Central Flyway Council recommended that the Service take no action with respect to further harvest reduction for West Gulf Coast mottled ducks until there is a better understanding of population dynamics and until implications of the Central Flyway's Hunter's Choice evaluation have been reviewed.

4. Canada Geese

A. Special Seasons

Council Recommendations: The Atlantic Flyway Council made several recommendations dealing with early Canada goose seasons. First, the Council recommended that the Service allow the use of special regulations (electronic calls, unplugged guns, extended hunting hours) later than September 15 during existing September Canada goose hunting seasons in Atlantic Flyway States. Use of these special regulations would be limited to the geographic areas of States that were open to hunting and under existing September season ending dates as approved by the Service for the 2007 regulation cycle. Lastly, the Council recommended allowing the experimental seasons in portions of Florida, Georgia, New York, North Carolina, South Carolina, and Vermont to become operational in 2007.

The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended that the closing dates for Canada goose hunting during the September goose season in the Northwest goose zone of Minnesota be extended through September 22 to coincide with the remainder of the state with a waiver of the experimental season requirements of collecting Canada goose parts.

B. Regular Seasons

Council Recommendations: The Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended that the framework opening date for all species of geese for the regular goose seasons in Michigan and Wisconsin be September 16, 2007.

9. Sandhill Cranes

Council Recommendations: The Central Flyway Council recommended using the 2007 Rocky Mountain Population sandhill crane harvest allocation of 1,321 birds as proposed in the allocation formula using the 2004–06 3-year running average.

The Pacific Flyway Council recommended initiating a limited hunt for Lower Colorado River sandhill cranes in Arizona, with the goal of the hunt being a limited harvest of 5 cranes in January. To limit harvest, Arizona would issue permit tags to hunters and require mandatory check of all harvested cranes. To limit disturbance of wintering cranes, Arizona would restrict the hunt to one 3-day period. Arizona would also coordinate with the National Wildlife Refuges where cranes occur.

14. Woodcock

Council Recommendations: The Atlantic Flyway Council recommended allowing compensatory days for

woodcock hunting in States where Sunday hunting is prohibited by State law.

16. Mourning Doves

Council Recommendations: The Atlantic Flyway Council and the Upper- and Lower-Region Regulations Committees of the Mississippi Flyway Council recommended that, based on criteria set forth in the current version of the Mourning Dove Harvest Management Strategy for the Eastern Management Unit (EMU), no changes in bag limit and season length components of the mourning dove harvest framework are warranted. They both further recommended that EMU States should be offered the choice of either a 12-bird daily bag limit and 70-day season or a 15-bird daily bag limit and 60-day season for the 2007–08 mourning dove hunting season, with a standardized 15-bird daily bag limit and 70-day season beginning with the 2008–09 mourning dove hunting season. The standardized bag limit and season length will then be used as the ''moderate'' harvest option for revising the Initial Mourning Dove Harvest Management Strategy.

18. Alaska

Council Recommendations: The Pacific Flyway Council recommended maintaining status quo in the Alaska early-season framework, except for increasing the dark goose daily bag limit in selected units to provide more harvest opportunity for white-fronted geese.

Public Comments Solicited

The Department of the Interior's policy is, whenever practicable, to afford the public an opportunity to participate in the rulemaking process. Accordingly, we invite interested persons to submit written comments, suggestions, or recommendations regarding the proposed regulations. Before promulgation of final migratory game bird hunting regulations, we will take into consideration all comments received. Such comments, and any additional information received, may lead to final regulations that differ from these proposals. We invite interested persons to participate in this rulemaking by submitting written comments to the address indicated under the caption **ADDRESSES.** 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 publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

You may inspect comments received on the proposed annual regulations during normal business hours at the Service's Division of Migratory Bird Management office in room 4107, 4501 North Fairfax Drive, Arlington, VA, 22203. For each series of proposed rulemakings, we will establish specific comment periods. We will consider, but possibly may not respond in detail to, each comment. As in the past, we will summarize all comments received during the comment period and respond to them after the closing date in any final rules.

NEPA Consideration

NEPA considerations are covered by the programmatic document ''Final Supplemental Environmental Impact Statement: Issuance of Annual Regulations Permitting the Sport Hunting of Migratory Birds (FSES 88–14),'' filed with the Environmental Protection Agency on June 9, 1988. We published a notice of availability in the **Federal Register** on June 16, 1988 (53 FR 22582). We published our Record of Decision on August 18, 1988 (53 FR 31341). In addition, an August 1985 environmental assessment entitled ''Guidelines for Migratory Bird Hunting Regulations on Federal Indian Reservations and Ceded Lands'' is available (see **ADDRESSES**).

In a notice published in the September 8, 2005, **Federal Register** (70 FR 53376), we announced our intent to develop a new Supplemental Environmental Impact Statement for the migratory bird hunting program. Public scoping meetings were held in the spring of 2006, as detailed in a March 9, 2006, **Federal Register** (71 FR 12216). A scoping report summarizing the scoping comments and scoping meetings is available by either writing to the address indicated under **ADDRESSES** or by viewing on our Web site at *http://www.fws.gov/migratorybirds.*

Endangered Species Act Consideration

Prior to issuance of the 2007–08 migratory game bird hunting regulations, we will comply with provisions of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531–1543; hereinafter, the Act), to ensure that hunting is not likely to jeopardize the continued existence of any species designated as endangered or threatened, or modify or destroy its critical habitat, and is consistent with conservation programs for those species. Consultations under Section 7 of this Act may cause us to change proposals in this and future supplemental rulemaking documents.

Executive Order 12866

The migratory bird hunting regulations are economically significant and were reviewed by the Office of Management and Budget (OMB) under Executive Order 12866. As such, a cost/benefit analysis was initially prepared in 1981. This analysis was subsequently revised annually from 1990 through 1996, updated in 1998, and updated again in 2004. It is further discussed below under the heading Regulatory Flexibility Act. Results from the 2004 analysis indicate that the expected welfare benefit of the annual migratory bird hunting frameworks is on the order of $734 to $1,064 million, with a midpoint estimate of $899 million. Copies of the cost/benefit analysis are available upon request from the address indicated under **ADDRESSES** or from our Web site at *http://www.fws.gov/migratorybirds/reports/SpecialTopics/EconomicAnalysis-Final-2004.pdf.*

Executive Order 12866 also requires each agency to write regulations that are easy to understand. We invite comments on how to make this rule easier to understand, including answers to questions such as the following: (1) Are the requirements in the rule clearly stated? (2) Does the rule contain technical language or jargon that interferes with its clarity? (3) Does the format of the rule (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce its clarity? (4) Would the rule be easier to understand if it were divided into more sections? (5) Is the description of the rule in the **SUPPLEMENTARY INFORMATION** section of the preamble helpful in understanding the rule? (6) What else could we do to make the rule easier to understand?

Send a copy of any comments that concern how we could make this rule easier to understand to: Office of Regulatory Affairs, Department of the Interior, Room 7229, 1849 C Street NW., Washington, DC 20240, or e-mail to *Exsec@ios.doi.gov.*

Regulatory Flexibility Act

These regulations have a significant economic impact on substantial numbers of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). We analyzed the economic impacts of the annual hunting regulations on small business entities in detail as part of the 1981 cost-benefit analysis discussed under Executive Order 12866. This analysis was revised

annually from 1990 through 1995. In 1995, the Service issued a Small Entity Flexibility Analysis (Analysis), which was subsequently updated in 1996, 1998, and 2004. The primary source of information about hunter expenditures for migratory game bird hunting is the National Hunting and Fishing Survey, which is conducted at 5-year intervals. The 2004 Analysis was based on the 2001 National Hunting and Fishing Survey and the U.S. Department of Commerce's County Business Patterns, from which it was estimated that migratory bird hunters would spend between $481 million and $1.2 billion at small businesses in 2004. Copies of the Analysis are available upon request from the address indicated under **ADDRESSES** or from our Web site at *htttp://www.fws.gov/migratorybirds/reports/SpecialTopics/EconomicAnalysis-Final-2004.pdf.*

Small Business Regulatory Enforcement Fairness Act

This rule is a major rule under 5 U.S.C. 804(2), the Small Business Regulatory Enforcement Fairness Act. For the reasons outlined above, this rule has an annual effect on the economy of $100 million or more. However, because this rule establishes hunting seasons, we do not plan to defer the effective date under the exemption contained in 5 U.S.C. 808 (1).

Paperwork Reduction Act

We examined these regulations under the Paperwork Reduction Act of 1995. The various recordkeeping and reporting requirements imposed under regulations established in 50 CFR part 20, Subpart K, are utilized in the formulation of migratory game bird hunting regulations. Specifically, OMB has approved the information collection requirements of the surveys associated with the Migratory Bird Harvest Information Program and assigned clearance number 1018–0015 (expires 2/29/2008). This information is used to provide a sampling frame for voluntary national surveys to improve our harvest estimates for all migratory game birds in order to better manage these populations. OMB has also approved the information collection requirements of the Sandhill Crane Harvest Survey and assigned clearance number 1018–0023 (expires 11/30/2007). The information from this survey is used to estimate the magnitude and the geographical and temporal distribution of the harvest, and the portion it constitutes of the total population. A Federal agency may not conduct or sponsor and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number.

Unfunded Mandates Reform Act

We have determined and certify, in compliance with the requirements of the Unfunded Mandates Reform Act, 2 U.S.C. 1502 *et seq.*, that this rulemaking will not impose a cost of $100 million or more in any given year on local or State government or private entities. Therefore, this rule is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Civil Justice Reform—Executive Order 12988

The Department, in promulgating this proposed rule, has determined that this proposed rule will not unduly burden the judicial system and that it meets the requirements of sections 3(a) and 3(b)(2) of Executive Order 12988.

Takings Implication Assessment

In accordance with Executive Order 12630, this proposed rule, authorized by the Migratory Bird Treaty Act, does not have significant takings implications and does not affect any constitutionally protected property rights. This rule will not result in the physical occupancy of property, the physical invasion of property, or the regulatory taking of any property. In fact, these rules allow hunters to exercise otherwise unavailable privileges and, therefore, reduce restrictions on the use of private and public property.

Energy Effects—Executive Order 13211

On May 18, 2001, the President issued Executive Order 13211 on regulations that significantly affect energy supply, distribution, and use. Executive Order 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this proposed rule is a significant regulatory action under Executive Order 12866, it is not expected to adversely affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action and no Statement of Energy Effects is required.

Federalism Effects

Due to the migratory nature of certain species of birds, the Federal Government has been given responsibility over these species by the Migratory Bird Treaty Act. We annually prescribe frameworks from which the States make selections regarding the hunting of migratory birds, and we employ guidelines to establish special regulations on Federal Indian reservations and ceded lands. This process preserves the ability of the States and tribes to determine which seasons meet their individual needs. Any State or Indian tribe may be more restrictive than the Federal frameworks at any time. The frameworks are developed in a cooperative process with the States and the Flyway Councils. This process allows States to participate in the development of frameworks from which they will make selections, thereby having an influence on their own regulations. These rules do not have a substantial direct effect on fiscal capacity, change the roles or responsibilities of Federal or State governments, or intrude on State policy or administration. Therefore, in accordance with Executive Order 13132, these regulations do not have significant federalism effects and do not have sufficient federalism implications to warrant the preparation of a Federalism Assessment.

List of Subjects in 50 CFR Part 20

Exports, Hunting, Imports, Reporting and recordkeeping requirements, Transportation, Wildlife.

The rules that eventually will be promulgated for the 2007–08 hunting season are authorized under 16 U.S.C. 703–712 and 16 U.S.C. 742 a–j.

Dated: May 29, 2007.

David M. Verhey,

Acting Assistant Secretary for Fish and Wildlife and Parks.

BILLING CODE 4310–55–P

FINAL REGULATORY ALTERNATIVES FOR DUCK HUNTING DURING THE 2007-08 SEASON

	ATLANTIC FLYWAY			MISSISSIPPI FLYWAY			CENTRAL FLYWAY (a)			PACIFIC FLYWAY (b)(c)		
	RES	MOD	LIB	RES	MOD	LIB	RES	MOD	LIB	RES	MOD	LIB
Beginning Shooting Time	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise	1/2 hr. before sunrise
Ending Shooting Time	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset	Sunset
Opening Date	Oct. 1	Sat. nearest Sept. 24	Sat. nearest Sept. 24	Sat. nearest Oct. 1	Sat. nearest Sept. 24	Sat. nearest Sept. 24	Sat. nearest Oct. 1	Sat. nearest Sept. 24	Sat. nearest Sept. 24	Sat. nearest Oct. 1	Sat. nearest Sept. 24	Sat. nearest Sept. 24
Closing Date	Jan. 20	Last Sunday in Jan.	Last Sunday in Jan.	Sun. nearest Jan. 20	Last Sunday in Jan.	Last Sunday in Jan.	Sun. nearest Jan. 20	Last Sunday in Jan.	Last Sunday in Jan.	Sun. nearest Jan. 20	Last Sunday in Jan.	Last Sunday in Jan.
Season Length (in days)	30	45	60	30	45	60	39	60	74	60	86	107
Daily Bag/ Possession Limit	3 6	6 12	6 12	3 6	6 12	6 12	3 6	6 12	6 12	4 8	7 14	7 14
Species/Sex Limits within the Overall Daily Bag Limit												
Mallard (Total/Female)	3/1	4/2	4/2	2/1	4/1	4/2	3/1	5/1	5/2	3/1	5/2	7/2

(a) In the High Plains Mallard Management Unit, all regulations would be the same as the remainder of the Central Flyway, with the exception of season length. Additional days would be allowed under the various alternatives as follows: restrictive - 12, moderate and liberal - 23. Under all alternatives, additional days must be on or after the Saturday nearest December 10.

(b) In the Columbia Basin Mallard Management Unit, all regulations would be the same as the remainder of the Pacific Flyway, with the exception of season length. Under all alternatives except the liberal alternative, an additional 7 days would be allowed.

(c) In Alaska, framework dates, bag limits, and season length would be different from the remainder of the Pacific Flyway. The bag limit would be 5-7 under the restrictive alternative, and 8-10 under the moderate and liberal alternatives. Under all alternatives, season length would be 107 days and framework dates would be Sep. 1 - Jan. 26.

[FR Doc. 07–2838 Filed 6–7–07; 8:45 am]
BILLING CODE 4310–55–C

Notices

Federal Register
Vol. 72, No. 110
Friday, June 8, 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

Rural Housing Service

Notice of Funds Availability (NOFA) Inviting Applications for the Rural Community Development Initiative (RCDI)

AGENCY: Rural Housing Service, USDA.

ACTION: Notice of solicitation of applications.

SUMMARY: This Notice announces the availability of $6,286,500 of competitive grant funds for the RCDI program through the Rural Housing Service (RHS), an agency within the USDA Rural Development mission area herein referred to as the Agency. Applicants must provide matching funds in an amount at least equal to the Federal grant. These grants will be made to qualified intermediary organizations that will provide financial and technical assistance to recipients to develop their capacity and ability to undertake projects related to housing, community facilities, or community and economic development. This Notice lists the information needed to submit an application for these funds.

DATES: The deadline for receipt of an application is 4 p.m. eastern time, September 6, 2007. The application date and time are firm. The Agency will not consider any application received after the deadline.

ADDRESSES: Entities wishing to apply for assistance may download the application requirements delineated in this Notice from the RCDI Web site: *http://www.rurdev.usda.gov/rhs/rcdi/index.htm.* Applicants may also request application packages from the Rural Development office in their State. A list of Rural Development offices is included in this Notice.

FOR FURTHER INFORMATION CONTACT: The Rural Development office for the State the applicant is located in. A list of Rural Development State Office contacts is included in this Notice.

Programs Affected

This program is listed in the Catalog of Federal Domestic Assistance under Number 10.446. This program is not subject to the provisions of Executive Order 12372, which requires intergovernmental consultation with State and local officials because it is not listed by the Secretary of Agriculture, pursuant to 7 CFR 3015.302, as a covered program.

Paperwork Reduction Act

The paperwork burden has been cleared by the Office of Management and Budget (OMB) under OMB Control Number 0575–0180.

National Environmental Policy Act

This document has been reviewed in accordance with 7 CFR part 1940–G, ''Environmental Program.'' Rural Development has determined that this NOFA does not constitute a major federal action significantly affecting the quality of the human environment, and an Environmental Impact Statement is not required. Furthermore, individual awards under this NOFA are hereby classified as Categorial Exclusions which do not require any additional documentation.

SUPPLEMENTARY INFORMATION:

Overview

Federal Agency: Rural Housing Service.

Funding Opportunity Title: Rural Community Development Initiative.

Announcement Type: Initial Announcement.

Catalog of Federal Domestic Assistance (CFDA) Number: 10.446.

Part I—Funding Opportunity Description

Congress initially created the RCDI in fiscal year (FY) 2000 to develop the capacity and ability of nonprofit organizations, low-income rural communities, or federally recognized tribes to undertake projects related to housing, community facilities, or community and economic development in rural areas.

Part II—Award Information

Congress appropriated $6,286,500 in FY 2007 for the RCDI. Qualified private, nonprofit and public (including tribal) intermediary organizations proposing to carry out financial and technical assistance programs will be eligible to receive the funding. The intermediary will be required to provide matching funds in an amount at least equal to the RCDI grant. The respective minimum and maximum grant amount per intermediary is $50,000 and $300,000. The intermediary must provide a program of financial and technical assistance to a private nonprofit, community-based housing and development organization, a low-income rural community or a federally recognized tribe.

Part III—Eligibility Information

A. Eligible Applicants

1. Qualified private, nonprofit including faith-based and community organizations in accordance with 7 CFR part 16 and public (including tribal) intermediary organizations. Definitions that describe eligible organizations and other key terms are listed below.

2. RCDI grantees that have an outstanding grant over 3 years old, as of the application due date in this Notice, will not be eligible to apply for this round of funding. Grant and matching funds must be utilized in a timely manner to ensure that the goals and objectives of the program are met.

B. Program Definitions

Agency—The Rural Housing Service (RHS) or its successor.

Beneficiary—Entities or individuals that receive benefits from assistance provided by the recipient.

Capacity—The ability of a recipient to implement housing, community facilities, or community and economic development projects.

Federally recognized tribes—Tribal entities recognized and eligible for funding and services from the Bureau of Indian Affairs, based on the current notice in the **Federal Register** published by the Bureau of Indian Affairs. Tribally Designated Housing Entities are eligible RCDI recipients.

Financial Assistance—Funds used by the intermediary to purchase supplies and equipment, not to exceed $10,000 per award, to build the recipients capacity.

Funds—The RCDI grant and matching money.

Intermediary—A qualified private, nonprofit, or public (including tribal)

organization that provides financial and technical assistance to multiple recipients. The intermediary is the primary recipient of the federal financial assistance.

Low-income rural community—An authority, district, economic development authority, regional council, or unit of government representing an incorporated city, town, village, county, township, parish, or borough.

Recipient—The entity that receives the financial and technical assistance from the intermediary. The recipient must be a private nonprofit community-based housing and development organization, a low-income rural community, or a federally recognized tribe.

Rural and rural area—Any area other than (i) a city or town that has a population of greater than 50,000 inhabitants; and (ii) the urbanized area contiguous and adjacent to such city or town.

Technical assistance—Skilled help in improving the recipient's abilities in the areas of housing, community facilities, or community and economic development.

C. Cost Sharing or Matching

Matching funds—Cash or confirmed funding commitments. Matching funds must be at least equal to the grant amount. These funds can only be used for eligible RCDI activities. In-kind contributions such as salaries, donated time and effort, real and nonexpendable personal property and good and services cannot be used as matching funds. Grant funds and matching funds must be used in equal proportions. This does not mean funds have to be used equally by line item. The request for advance or reimbursement and supporting documentation must show that RCDI fund usage does not exceed the cumulative amount of matching funds used. Grant funds will be disbursed pursuant to relevant provisions of 7 CFR parts 3015, 3016, and 3019, as applicable. Verification of matching funds must be submitted with the application.

The intermediary is responsible for demonstrating that matching funds are available, and committed to the RCDI proposal. Matching funds may be provided by the intermediary or a third party. Other Federal funds may be used as matching funds if authorized by statute and the purpose of the funds is an eligible RCDI purpose. Matching funds must be used to support the overall purpose of the RCDI program. RCDI funds will be disbursed on an advance or reimbursement basis. Matching funds cannot be expended prior to execution of the RCDI Grant Agreement. No reimbursement will be made for any funds expended prior to execution of the RCDI Grant Agreement unless the grantee has requested and received written Agency approval of the costs prior to the actual expenditure. This exception is applicable for up to 90 days prior to grant closing and only applies to grantees that have received written approval but have not executed the RCDI Grant Agreement. The Agency cannot retroactively approve reimbursement for expenditures prior to execution of the RCDI Grant Agreement.

D. Other Program Requirements

1. The recipient and beneficiary, but not the intermediary, must be located in an eligible rural area. The physical location of the recipient's office that will be receiving the financial and technical assistance must be in an eligible rural area. If the recipient is a low-income community, the median household income of the area where the office is located must be at or below 80 percent of the State or national median household income. The applicable Rural Development State Office can assist in determining the eligibility of an area. A listing of Rural Development State Offices is included in this Notice.

2. The recipients must be private nonprofit community-based housing and development organizations, low-income rural communities, or federally recognized tribes based on the RCDI definitions of these groups.

3. Documentation must be submitted to verify recipient eligibility. Acceptable documentation varies depending on the type of recipient. Private nonprofit community-based housing and development organizations must provide a certificate of incorporation and good standing from the Secretary of the State of incorporation, or other similar and valid documentation of nonprofit status. For low-income rural community recipients, the Agency requires evidence that the entity is a public body and census data verifying that the median household income of the community where the office receiving the financial and technical assistance is located is at, or below, 80 percent of the State or national median household income. For Federally recognized tribes, the Agency needs the page listing their name from the current **Federal Register** list of tribal entities recognized and eligible for funding services (see the definition of federally recognized tribes in this Notice for details on this list).

4. Individuals cannot be recipients.

5. The intermediary must provide matching funds at least equal to the amount of the grant.

6. The intermediary must provide a program of financial and technical assistance to the recipient.

7. The intermediary organization must have been legally organized for a minimum of 3 years and have at least 3 years prior experience working with private nonprofit community-based housing and development organizations, low-income rural communities, or tribal organizations in the areas of housing, community facilities, or community and economic development.

8. Proposals must be structured to utilize the grant funds within 3 years from the date of the award.

9. Each applicant, whether singularly or jointly, may only submit one application for RCDI funds under this NOFA. This restriction does not preclude the applicant from providing matching funds for other applications.

10. Recipients can participate in more than one RCDI application; however, after grant selections are made, the recipient can only participate in multiple RCDI grants if the type of financial and technical assistance they will receive is not duplicative.

11. The intermediary and the recipient cannot be the same entity. The recipient can be a related entity to the intermediary, if it meets the definition of a recipient.

12. A nonprofit recipient must provide evidence that it is a valid nonprofit when the intermediary applies for the RCDI grant. Organizations with pending requests for nonprofit designations are not eligible.

13. If the recipient is a low-income rural community, identify the unit of government to which the financial and technical assistance will be provided, *e.g.*, town council or village board. The financial and technical assistance must be provided to the organized unit of government representing that community, not the community at large.

14. Nonprofit recipients located in a rural area that is also a census designated place (CDP) are eligible recipients.

15. If a grantee has an outstanding RCDI grant over 3 years old, as of the application due date in this Notice, they are not eligible to apply for this round of funding.

16. The indirect cost category in the project budget should be used only when a grant applicant has a federally negotiated indirect cost rate. If the applicant will charge indirect costs to the grant, enclose a copy of the current rate agreement. If the applicant is in the process of initially developing or

renegotiating a rate, the applicant must submit the indirect cost proposal to the cognizant agency immediately after the applicant is advised that an award will be made. In no event, shall the indirect cost proposal be submitted later than three months after the effective date of the award. Consult OMB Circular A–122 for information about indirect costs.

Eligible Fund Uses

Fund uses must be consistent with the RCDI purpose. A nonexclusive list of eligible grant uses includes the following:

1. Provide technical assistance to develop recipients' capacity and ability to undertake projects related to housing, community facilities, or community and economic development, *i.e.*, the intermediary hires a staff person to provide technical assistance to the recipient or the recipient hires a staff person, under the supervision of the intermediary, to carry out the technical assistance provided by the intermediary.

2. Develop the capacity of recipients to conduct community development programs, *e.g.*, homeownership education or training for business entrepreneurs.

3. Develop the capacity of recipients to conduct development initiatives, *e.g.*, programs that support micro-enterprise and sustainable development.

4. Develop the capacity of recipients to increase their leveraging ability and access to alternative funding sources by providing training and staffing.

5. Develop the capacity of recipients to provide the technical assistance component for essential community facilities projects.

6. Assist recipients in completing pre-development requirements for housing, community facilities, or community and economic development projects by providing resources for professional services, *e.g.*, architectural, engineering, or legal.

7. Improve recipient's organizational capacity by providing training and resource material on developing strategic plans, board operations, management, financial systems, and information technology.

8. Purchase computers, software, and printers at the recipient level when directly related to the technical assistance program being undertaken by the intermediary.

9. Provide funds to recipients for training-related travel costs and training expenses related to RCDI.

Ineligible Fund Uses

1. Pass-through grants, capacity grants, and any funds provided to the recipient in a lump sum that are not reimbursements.

2. Funding a revolving loan fund (RLF).

3. Construction (in any form).

4. Salaries for positions involved in construction, renovations, rehabilitation, and any oversight of these types of activities.

5. Intermediary preparation of strategic plans for recipients.

6. Funding prostitution, gambling, or any illegal activities.

7. Grants to individuals.

8. Funding a grant where there may be a conflict of interest, or an appearance of a conflict of interest, involving any action by the Agency.

9. Paying obligations incurred before the beginning date without prior Agency approval or after the ending date of the grant agreement.

10. Purchasing real estate.

11. Improvement or renovation of the grantee's, or recipient's office space or for the repair or maintenance of privately owned vehicles.

12. Any other purpose prohibited in 7 CFR parts 3015, 3016, and 3019, as applicable.

13. Using funds for recipient's general operating costs.

14. Using grant or matching funds for Individual Development Accounts.

15. Purchasing vehicles.

Program Examples

The purpose of this initiative is to develop or increase the recipient's capacity through a program of financial and technical assistance to perform in the areas of housing, community facilities, or community and economic development. Strengthening the recipient's capacity in these areas will benefit the communities they serve. The RCDI structure requires the intermediary (grantee) to provide a program of financial and technical assistance to recipients. The recipients will, in turn, provide programs to their communities (beneficiaries). The following are examples of eligible and ineligible purposes under the RCDI program. (These examples are illustrative and are not meant to limit the activities proposed in the application. Activities that meet the objective of the RCDI program will be considered eligible.)

1. The intermediary must work directly with the recipient, not the ultimate beneficiaries. As an example: The intermediary provides training to the recipient on how to conduct homeownership education classes. The recipient then provides ongoing homeownership education to the residents of the community—the ultimate beneficiaries. This ''train the trainer'' concept fully meets the intent of this initiative. The intermediary is providing technical assistance that will build the recipient's capacity by enabling them to conduct homeownership education classes for the public. This is an eligible purpose. However, if the intermediary directly provided homeownership education classes to individuals in the recipient's service area, this would not be an eligible purpose because the recipient would be bypassed.

2. If the intermediary is working with a low-income community as the recipient, the intermediary must provide the technical assistance to the entity that represents the low-income community and is identified in the application. Examples of entities representing a low-income community are a village board or a town council. If the intermediary provides technical assistance to the board of directors of the low-income community on how to establish a cooperative, this would be an eligible purpose. However, if the intermediary works directly with individuals from the community to establish the cooperative, this is not an eligible purpose. The recipient's capacity is built by learning skills that will enable them to support sustainable economic development in their communities on an ongoing basis.

3. The intermediary may provide technical assistance to the recipient on how to create and operate a RLF. The intermediary may not monitor or operate the RLF. RCDI funds, including matching funds, cannot be used to fund RLFs.

Part IV—Application and Submission Information

A. Address to Request Application Package

Entities wishing to apply for assistance may download the application documents and requirements delineated in this Notice from the RCDI Web site: *http://www.rurdev.usda.gov/rhs/rcdi/index.htm*. Application information for electronic submissions may be found at *http://www.grants.gov*. Applicants may also request paper application packages from the Rural Development office in their State. A list of Rural Development offices is included in this Notice.

B. Content and Form of Application Submission

If the applicant is ineligible or the application is incomplete, the Agency will inform the applicant in writing of the decision, reasons therefore, and its

appeal rights, and no further evaluation of the application will occur.

A complete application for RCDI funds must include the following:

1. A summary page, double-spaced between items, listing the following: (This information should not be presented in narrative form.)

a. Applicant's name,

b. Applicant's address,

c. Applicant's telephone number,

d. Name of applicant's contact person and telephone number,

e. Applicant's fax number,

f. County where applicant is located,

g. Congressional district number where applicant is located,

h. Amount of grant request,

i. Applicant's Tax Identification Number,

j. Data Universal Numbering System (DUNS) number (Applicant Only),

k. Number of recipients, and

l. Source and amount of matching funds.

2. A detailed Table of Contents containing page numbers for each component of the application.

3. A project overview, no longer than five pages, including the following items, which will also be addressed separately and in detail under ''Building Capacity'' of the ''Evaluation Criteria.''

a. The type of technical assistance to be provided to the recipients and how it will be implemented.

b. How the capacity and ability of the recipients will be improved.

c. The overall goals to be accomplished.

d. The benchmarks to be used to measure the success of the program.

4. Organizational documents, such as a certificate of incorporation and a current good standing certification from the Secretary of State where the applicant is incorporated and other similar and valid documentation of non-profit status, from the intermediary that confirms it has been legally organized for a minimum of 3 years as the applicant entity.

5. Verification of matching funds, *i.e.*, a copy of a bank statement if matching funds are in cash or a copy of the confirmed funding commitment from the funding source. The verification of matching funds must be submitted with the application. The applicant will be contacted by the Agency prior to grant award to verify that the matching funds continue to be available. The applicant will have 10 working days from the date contacted to submit verification of matching funds. If the applicant is unable to provide the verification within that timeframe, the application will be considered ineligible. The applicant must maintain bank statements on file or other documentation for a period of at least three years after grant closing except that the records shall be retained beyond the three-year period if audit findings have not been resolved.

6. Applicant should verify that they have a DUNS number. Applicants can receive a DUNS number at no cost by calling the dedicated toll-free DUNS Number request line at 1–866–705–5711.

7. The following information for each recipient:

a. Recipient's entity name,

b. Complete address (mailing and physical location, if different),

c. County where located,

d. Number of Congressional district where recipient is located, and

e. Contact person's name and telephone number.

8. Submit evidence that each recipient entity is eligible:

a. Nonprofits—provide a current valid letter confirming non-profit status from the Secretary of the State of incorporation or the IRS, a current good standing certification from the Secretary of the State of incorporation, or other valid documentation of nonprofit status of each recipient.

b. Low-income rural community—provide evidence the entity is a public body, and a copy of the 2000 census data to verify the population, and evidence that the median household income is at, or below, 80 percent of either the State or national median household income. We will only accept data from *http://www.census.gov*. The specific instructions to retrieve data from this site are detailed under the ''Evaluation Criteria'' for ''Population'' and ''Income.''

c. Federally recognized tribes—provide the page listing their name from the current **Federal Register** list of tribal entities published on November 25, 2005 (70 FR 71194) by the Bureau of Indian Affairs.

9. Each of the ''Evaluation Criteria'' must be addressed specifically and individually by category. Present these criteria in narrative form. Documentation must be limited to three pages per criterion. The ''Population'' and ''Income'' criterions for recipient locations can be provided in the form of a list; however, the source of the data must be included on the page(s).

10. A timeline identifying specific activities and proposed dates for completion.

11. A detailed project budget that includes the RCDI grant amount and matching funds for the duration of the grant. This should be a line-item budget, by category. Categories such as salaries, administrative, other, and indirect costs that pertain to the proposed project must be clearly defined. Supporting documentation listing the components of these categories must be included. The budget should be dated: year 1, year 2, year 3.

12. Form SF–424, ''Application for Federal Assistance.'' (Do not complete Form SF–424A, ''Budget Information.'' A separate line-item budget should be presented as described in No. 11 of this section.)

13. Form SF–424B, ''Assurances—Non-Construction Programs.''

14. Form AD–1047, ''Certification Regarding Debarment, Suspension, and Other Responsibility Matters—Primary Covered Transactions.''

15. Form AD–1048, ''Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion—Lower Tier Covered Transactions.

16. Form AD–1049, ''Certification Regarding Drug-Free Workplace Requirements.''

17. Certification of Non-Lobbying Activities.

18. Standard Form LLL, ''Disclosure of Lobbying Activities,'' if applicable.

19. Form RD 400–4, ''Assurance Agreement,'' for the applicant and each recipient.

20. Identify and report any association or relationship with Rural Development employees.

The required forms and certifications can be downloaded from the RCDI Web site at: *http://www.rurdev.usda.gov/rhs/rcdi/index.htm.*

C. Other Submission Information

The original application package must be submitted to the Rural Development State Office where the applicant is located. A listing of Rural Development State Offices is included in this Notice.

Applicants may file an electronic application at *http://www.grants.gov*. Applications will not be accepted via facsimile or electronic mail. Applicants must still submit a paper copy of the application to the Rural Development State Office even though the application is being submitted electronically. Grants.gov contains full instructions on all required passwords, credentialing, and software. Follow the instructions at Grants.gov for registering and submitting an electronic application. If a system problem or technical difficulty occurs with an electronic application, please use the customer support resources available at the Grants.gov Web site.

First time Grants.gov users should go to the ''Get Started'' tab on the Grants.gov site and carefully read and follow the steps listed. These steps need

to be initiated early in the application process to avoid delays in submitting your application online. Step three, registering with the Central Contractor Registry (CCR), will take some time to complete. Keep that in mind when beginning the application process.

In order to register with the CCR, your organization will need a DUNS Number. A DUNS number is a unique nine-character identification number provided by the commercial company, Dun & Bradstreet (D&B). To investigate if your organization already has a DUNS number or to obtain a DUNS number, contact Dun & Bradstreet at 1–866–705–5711. Be sure to complete the Marketing Partner ID (MPID) and Electronic Business Primary Point of Contact fields during the CCR registration process. These are mandatory fields that are required when submitting grant applications through Grants.gov. Information about registering with CCR was published in a Notice in the **Federal Register** entitled ''HHS Managing Partner Grants.gov E-Government Initiative'' on January 17, 2006, (71 FR 2549) by the Federal Reserve System. Additional application instructions for submitting an electronic application can be found by selecting this funding opportunity on Grants.gov.

The deadline for receipt of an application is 4 p.m. Eastern time September 6, 2007. The application deadline date and time are firm and apply to submission of the original application to the Rural Development State Office where the applicant is located. The Agency will not consider any application received after the deadline. A listing of Rural Development State Offices, their addresses, telephone numbers, and the person to contact is provided elsewhere in this Notice.

D. Funding Restrictions

Meeting expenses. In accordance with 31 U.S.C. 1345, ''Expenses of Meetings,'' appropriations may not be used for travel, transportation, and subsistence expenses for a meeting. RCDI grant funds cannot be used for these meeting-related expenses. Matching funds may be used to pay for these expenses. RCDI funds may be used to pay for a speaker as part of a program, equipment to facilitate the program, and the actual room that will house the meeting. RCDI funds can be used for travel, transportation, or subsistence expenses for training and technical assistance purposes. Any meeting or training not delineated in the application must be approved by the Agency to verify compliance with 31 U.S.C. 1345. Travel and per diem expenses will be similar to those paid to Agency employees. Rates are based upon location. Rate information can be accessed on the Internet at *http://policyworks.gov/perdiem.*

Grantees and recipients will be restricted to traveling coach class on common carrier airlines. Grantees and recipients may exceed the Government rate for lodging by a maximum of 20 percent. Meals and incidental expenses will be reimbursed at the same rate used by Agency employees. Mileage and gas reimbursement will be the same rate used by Agency employees. The current mileage and gas reimbursement rate is 48.5 cents per mile.

Part V—Application Review Information

A. Evaluation Criteria

Applications will be evaluated using the following criteria and weights:

1. Building Capacity—Maximum 60 Points

The applicant must demonstrate how they will improve the recipients' capacity, through a program of financial and technical assistance, as it relates to the RCDI purposes. Capacity-building financial and technical assistance should provide new functions to the recipients or expand existing functions that will enable the recipients to undertake projects in the areas of housing, community facilities, or community and economic development that will benefit the community. The program of financial and technical assistance provided, its delivery, and the measurability of the program's effectiveness will determine the merit of the application. All applications will be competitively ranked with the applications providing the most improvement in capacity development and measurable activities being ranked the highest. Capacity-building financial and technical assistance may include, but is not limited to: Training to conduct community development programs, *e.g.*, homeownership education, or the establishment of minority business entrepreneurs, cooperatives, or micro-enterprises; organizational development, *e.g.*, assistance to develop or improve board operations, management, and financial systems; instruction on how to develop and implement a strategic plan; instruction on how to access alternative funding sources to increase leveraging opportunities; staffing, *e.g.*, hiring a person at intermediary or recipient level to provide technical assistance to recipients; and purchasing technology equipment at the recipient level, *e.g.*, computers, printers, and software.

a. The narrative response must:

1. Describe the nature of financial and technical assistance to be provided to the recipients and the activities that will be conducted to deliver the technical assistance;

2. Explain how financial and technical assistance will develop or increase the recipient's capacity. Indicate whether a new function is being developed or if existing functions are being expanded or performed more effectively;

3. Identify which RCDI purpose areas will be addressed with this assistance: housing, community facilities, or community and economic development; and

4. Describe how the results of the technical assistance will be measured. What benchmarks will be used to measure effectiveness?

b. The maximum 60 points for this criteria will be broken down as follows:

1. Type of financial and technical assistance and implementation activities. 35 points.

2. An explanation of how financial and technical assistance will develop capacity. 10 points.

3. Identification of the RCDI purpose. 5 points.

4. Measurement of outcomes. 10 points.

2. Expertise—Maximum 30 Points

The applicant must demonstrate that it has conducted programs of financial and technical assistance and achieved measurable results in the areas of housing, community facilities, or community and economic development in rural areas. Provide the name, contact information, and the type and amount of the financial and technical assistance the applicant organization has provided to the following for the last 5 years:

a. Nonprofit organizations in rural areas.

b. Low-income communities in rural areas, (also include the type of entity, *e.g.*, city government, town council, or village board).

c. Federally recognized tribes or any other culturally diverse organizations.

3. Population—Maximum 30 Points

Population is based on the average population from the 2000 census data for the communities in which the recipients are located. Community is defined for scoring purposes as a city, town, village, county, parish, borough, or census-designated place where the recipient's office is physically located. The applicant must submit the census data from the following Web site to verify the population figures used for each recipient. The data can be accessed

on the Internet at *http://www.census.gov*; click on ''American FactFinder'' from the left menu; click on ''Fact Sheet'' from the left menu; at the right, fill in one or more fields and click ''Go''; the name and population data for each recipient location must be listed in this section. The average population of the recipient locations will be used and will be scored as follows:

Population	Scoring (points)
5,000 or less	30
5,001 to 10,000	20
10,001 to 20,000	10
20,001 to 50,000	5

4. Income—Maximum 30 Points

The average of the median household income for the communities where the recipients are physically located will determine the points awarded. Applicants may compare the average recipient median household income to the State median household income or the national median household income, whichever yields the most points. The national median household income to be used is $41,994. The applicant must submit the income data from the following Web site to verify the income for each recipient. The data being used is from the 2000 census. The data can be accessed on the Internet at *http://www.census.gov*; click on ''American FactFinder'' from the left menu; click on ''Fact Sheet'' from the left menu; at the right, fill in one or more fields and click ''Go''; the name and income data for each recipient location must be listed in this section. Points will be awarded as follows:

Average Recipient Median Income Is: Scoring.

Less than 60 percent of the State or national median household income. 30 points.

Between 60 and 70 percent of the State or national median household income. 20 points.

Greater than 70 percent of the State or national median household income. 10 points.

5. Soundness of Approach—Maximum 50 Points

The applicant can receive up to 50 points for soundness of approach. The overall proposal will be considered under this criterion. Applicants must list the page numbers in the application that address these factors.

a. The ability to provide the proposed financial and technical assistance based on prior accomplishments has been demonstrated.

b. The proposed financial and technical assistance program is clearly stated and the applicant has defined how this proposal will be implemented. The plan for implementation is viable.

c. Cost effectiveness will be evaluated based on the budget in the application. The proposed grant amount and matching funds should be utilized to maximize capacity building at the recipient level.

d. The proposal fits the objectives for which applications were invited.

6. Technical assistance for the development of Renewable Energy Systems and Energy Efficiency Improvements—20 Points

The applicant must demonstrate how they will improve the recipients' capacity to carry out activities related to the development of renewable energy systems and energy efficiency improvements for housing, community facilities, or community and economic development.

7. State Director's Points Based on Project Merit—20 Points

An additional 20 points may be awarded by the Rural Development State Director for the state's first priority project. Only one project per state will be awarded these points.

Points may be awarded based on the Rural Development State Office's strategic plan. Assignment of points will include a written justification.

8. Proportional Distribution Points—20 Points

This criteria does not have to be addressed by the applicant. After applications have been evaluated and awarded points under the first 7 criteria, the Agency may award 20 points per application to promote an even distribution of grant awards between the ranges of $50,000 to $300,000. Proportional distribution may also include applicants in states that have not had a nonprofit organization as a recipient in the previous two years.

B. Review and Selection Process

Rating and ranking. Applications will be rated and ranked on a national basis by a review panel based on the ''Evaluation Criteria'' contained in this Notice. If there is a tied score after the applications have been rated and ranked, the tie will be resolved by reviewing the scores for ''Building Capacity'' and the applicant with the highest score in that category will receive a higher ranking. If the scores for ''Building Capacity'' are the same, the scores will be compared for the next criterion, in sequential order, until one highest score can be determined.

Initial screening. The Agency will screen each application to determine eligibility during the period immediately following the application deadline. Listed below are many of the reasons for rejection from previous funding rounds to help the applicant prepare a better application. The following reasons for rejection are not all inclusive; however, they represent the majority of the applications previously rejected.

1. Recipients were not located in eligible rural areas based on the definition in this Notice.

2. Applicants failed to provide evidence of recipient's status, *i.e.*, documentation supporting nonprofit evidence of organization.

3. Application did not follow the RCDI structure with an intermediary and recipients.

4. Recipients were not identified in the application.

5. Intermediary did not provide evidence it had been incorporated for at least 3 years as the applicant entity.

6. Applicants failed to address the ''Evaluation Criteria.''

7. The purpose of the proposal did not qualify as an eligible RCDI purpose.

8. Inappropriate use of funds (*e.g.*, construction or renovations).

9. Providing financial and technical assistance directly to individuals.

Part VI—Award Administration Information

A. General Information

Within the limit of funds available for such purpose, the awarding official of the Agency shall make grants to those responsible, eligible applicants whose applications are judged meritorious under the procedures set forth in this Notice.

B. Award Notice

Applicant will be notified of selection by letter. In addition, applicant will be requested to verify that components of the application have not changed. The award is not approved until all information has been verified, and the awarding official of the Agency has signed Form RD 1940–1, ''Request for Obligation of Funds.''

C. Administrative and National Policy Requirements

Grantees will be required to do the following:

1. Execute a Rural Community Development Initiative Grant Agreement, which is published at the end of this NOFA.

2. Execute Form RD 1940–1, ''Request for Obligation of Funds.''

3. Use Form SF 270, ''Request for Advance or Reimbursement,'' to request reimbursements. Provide receipts for expenditures, timesheets and any other documentation to support the request for reimbursement.

4. Provide financial status and project performance reports on a quarterly basis starting with the first full quarter after the grant award.

5. Maintain a financial management system that is acceptable to the Agency.

6. Ensure that records are maintained to document all activities and expenditures utilizing RCDI grant funds and matching funds. Receipts for expenditures will be included in this documentation.

7. Provide annual audits or management reports on Form RD 442–2, ''Statement of Budget, Income and Equity,'' and Form RD 442–3, ''Balance Sheet,'' depending on the amount of Federal funds expended and the outstanding balance.

8. Collect and maintain data provided by recipients on race, sex, and national origin and ensure recipients collect and maintain the same data on beneficiaries. Race and ethnicity data will be collected in accordance with OMB **Federal Register** notice, ''Revisions to the Standards for the Classification of Federal Data on Race and Ethnicity,'' (62 FR 58782), October 30, 1997. Sex data will be collected in accordance with Title IX of the Education Amendments of 1972. These items should not be submitted with the application but should be available upon request by the Agency.

9. Provide a final project performance report.

10. Identify and report any association or relationship with Rural Development employees on a format provided by the Agency.

11. The intermediary and recipient must comply with Title VI of the Civil Rights Act of 1964, Title IX of the Education Amendments of 1972, Section 504 of the Rehabilitation Act of 1973, and Executive Order 12250.

12. The grantee must comply with policies, guidance, and requirements as described in the following applicable OMB Circulars and Code of Federal Regulations:

a. OMB Circular A–87 (Cost Principles for State, Local, and Indian Tribal Government);

b. OMB Circular A–122 (Cost Principles for Nonprofit Organizations);

c. OMB Circular A–133 (Audits of States, Local Governments, and Non-Profit Organizations);

d. 7 CFR part 3015 (Uniform Federal Assistance Regulations);

e. 7 CFR part 3016 (Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments);

f. 7 CFR part 3017 (Governmentwide Debarment and Suspension (Nonprocurement));

g. 7 CFR part 3019 (Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Non-profit Organizations); and

h. 7 CFR part 3052 (Audits of States, Local Governments, and Non-Profit Organizations).

D. Reporting

Reporting requirements can be found in the Grant Agreement included in this Notice.

Part VII—Agency Contact

Contact the Rural Development office in the State where the applicant is located. A list of Rural Development offices is included in this Notice.

Grant Amount Determination

In the event the applicant is awarded a grant that is less than the amount requested, the applicant will be required to modify its application to conform to the reduced amount before execution of the grant agreement. The Agency reserves the right to reduce or withdraw the award if acceptable modifications are not submitted by the awardee within 15 working days from the date the request for modification is made. Any modifications must be within the scope of the original application.

Rural Development State Office Contacts

Note: Telephone numbers listed are not toll-free.

Alabama State Office
Suite 601, Sterling Centre, 4121 Carmichael Road, Montgomery, AL 36106–3683, (334) 279–3400, TDD (334) 279–3495, Chris Harmon

Alaska State Office
800 West Evergreen, Suite 201, Palmer, AK 99645, (907) 761–7705, TDD (907) 761–8905, Merlaine Kruse

Arizona State Office
230 North 1st Avenue, Suite 206, Phoenix, AZ 85003, (602) 280–8747, TDD (602) 280–8705, Leonard Gradillas

Arkansas State Office
700 W. Capitol Ave., Rm. 3416, Little Rock, AR 72201–3225, (501) 301–3250, TDD (501) 301–3200, Jerry Virden

California State Office
430 G Street, Agency 4169, Davis, CA 95616–4169, (530) 792–5810, TDD (530) 792–5848, Janice Waddell

Colorado State Office
655 Parfet Street, Room E–100, Lakewood, CO 80215, 720–544–2927, TDD 720–544–2976, Delores Sanchez-Maez

Connecticut Served by Massachusetts State Office

Delaware and Maryland State Office
1221 College Park Dr., Suite 200, Dover, DE 19904–8713, (302) 857–3580, TDD (302) 697–4303, James E. Waters

Florida & Virgin Islands State Office
4440 NW. 25th Place, P.O. Box 147010, Gainesville, FL 32614–7010, (352) 338–3485, TDD (352) 338–3499, Michael Langston

Georgia State Office
Stephens Federal Building, 355 E. Hancock Avenue, Athens, GA 30601–2768, (706) 546–2171, TDD (706) 546–2034, Jerry M. Thomas

Guam Served by Hawaii State Office

Hawaii, Guam, & Western Pacific Territories State Office
Room 311, Federal Building, 154 Waianuenue Avenue, Hilo, HI 96720, (808) 933–8310, TDD (808) 933–8321, Ted Matsuo

Idaho State Office
9173 West Barnes Dr., Suite A1, Boise, ID 83709, (208) 378–5617, TDD (208) 378–5600, Daniel H. Fraser

Illinois State Office
2118 West Park Court, Suite A, Champaign, IL 61821, (217) 403–6211, TDD (217) 403–6240, Patrick Lydic

Indiana State Office
5975 Lakeside Boulevard, Indianapolis, IN 46278–1996, (317) 290–3100 (ext. 431), TDD (317) 290–3343, Gregg Delp

Iowa State Office
873 Federal Building, 210 Walnut Street, Des Moines, IA 50309, (515) 284–4663, TDD (515) 284–4858, Karla Peiffer

Kansas State Office
1303 SW. First American Place, Suite 100, Topeka, KS 66604–4040, (785) 271–2730, TDD (785) 271–2767, Gary L. Smith

Kentucky State Office
771 Corporate Drive, Suite 200, Lexington, KY 40503, (859) 224–7336, TDD (859) 224–7300, Vernon Brown

Louisiana State Office
3727 Government Street, Alexandria, LA 71302, (318) 473–7962, TDD (318) 473–7920, Richard Hoffpauir

Maine State Office
967 Illinois Ave., Suite 4, P.O. Box 405, Bangor, ME 04402–0405, (207) 990–9124, TDD (207) 942–7331, Ron Lambert

Maryland Served by Delaware State Office

Massachusetts, Connecticut, & Rhode Island State Office
451 West Street, Suite 2, Amherst, MA 01002–2999, (413) 253–4300, TDD (413) 253–7068, Daniel R. Beaudette

Michigan State Office
3001 Coolidge Road, Suite 200, East Lansing, MI 48823, (517) 324–5208, TDD (517) 337–6795, Frank J. Tuma

Minnesota State Office
410 Farm Credit Service Building, 375 Jackson Street, St. Paul, MN 55101–1853, (651) 602–7800, TDD (651) 602–3799, William Slininger

Mississippi State Office
Federal Building, Suite 831, 100 W. Capitol Street, Jackson, MS 39269, (601) 965–4316, TDD (601) 965–5850, Bettye Oliver

Missouri State Office
601 Business Loop 70 West, Parkade Center, Suite 235, Columbia, MO 65203, (573) 876–0976, TDD (573) 876–9480, Clark Thomas
Montana State Office
900 Technology Blvd., Suite B, Bozeman, MT 59771, (406) 585–2530, TDD (406) 585–2562, John Guthmiller
Nebraska State Office
Federal Building, Room 152, 100 Centennial Mall N., Lincoln, NE 68508, (402) 437–5559, TDD (402) 437–5551, Denise Brosius-Meeks
Nevada State Office
1390 South Curry Street, Carson City, NV 89703–9910, (775) 887–1222 (ext. 19), TDD (775) 885–0633, Kay Vernatter
New Hampshire State Office
Concord Center, Suite 218, Box 317, 10 Ferry Street, Concord, NH 03301–5004, (603) 223–6055, TDD (603) 223–6083, William Konrad
New Jersey State Office
8000 Midlantic Drive, 5th Floor North, Suite 500, Mt. Laurel, NJ 08054, (856) 787–7750, Kenneth Drewes (Acting Director)
New Mexico State Office
6200 Jefferson St. NE., Room 255, Albuquerque, NM 87109, (505) 761–4950, TDD (505) 761–4938, Martha Torrez
New York State Office
The Galleries of Syracuse
441 S. Salina Street, Suite 357, Syracuse, NY 13202–2541, (315) 477–6400, TDD (315) 477–6447, Gail Giannotta
North Carolina State Office
4405 Bland Road, Suite 260, Raleigh, NC 27609, (919) 873–2000, TDD (919) 873–2003, Roger Davis
North Dakota State Office
Federal Building, Room 208, 220 East Rosser Ave., P.O. Box 1737, Bismarck, ND 58502–1737, (701) 530–2037, TDD (701) 530–2113, Dale VanEchout
Ohio State Office
Federal Building, Room 507, 200 North High Street, Columbus, OH 43215–2418, (614) 255–2400, TDD (614) 255–2554, David M. Douglas
Oklahoma State Office
100 USDA, Suite 108, Stillwater, OK 74074–2654, (405) 742–1000, TDD (405) 742–1007, Michael W. Schrammel
Oregon State Office
1201 NE Lloyd Blvd, Suite 801, Portland, OR 97232, (503) 414–3300, TDD (503) 414–3387, John J. Brugger
Pennsylvania State Office
One Credit Union Place, Suite 330, Harrisburg, PA 17110–2996, (717) 237–2299, TDD (717) 237–2261, Gary Rothrock
Puerto Rico State Office
IBM Building—Suite 601, 654 Munos Rivera Avenue, San Juan, PR 00918–6106, (787) 766–5095, TDD (787) 766–5332, Ramon Melendez
Rhode Island Served by Massachusetts State Office
South Carolina State Office
Strom Thurmond Federal Building, 1835 Assembly Street, Room 1007, Columbia, SC 29201, (803) 253–3656, TDD (803) 765–5697, Ken King
South Dakota State Office
Federal Building, Room 210, 200 Fourth Street, SW., Huron, SD 57350, (605) 352–1100, TDD (605) 352–1147, Doug Roehl
Tennessee State Office
Suite 300, 3322 West End Avenue, Nashville, TN 37203–1084, (615) 783–1300, TDD (615) 783–1397, Keith Head
Texas State Office
Federal Building, Suite 102, 101 South Main, Temple, TX 76501, (254) 742–9700, TDD (254) 742–9712, Francesco Valentin
Utah State Office
Wallace F. Bennett Federal Building, 125 South State Street, Room 4311, P.O. Box 11350, Salt Lake City, UT 84138, (801) 524–4326, TDD (801) 524–3309, Bonnie Carrig
Vermont State Office Served by New Hampshire
Virgin Islands Served by Florida State Office
Virginia State Office
Culpeper Building, Suite 238, 1606 Santa Rosa Road, Richmond, VA 23229, (804) 287–1550, TDD (804) 287–1753, Carrie Schmidt
Washington State Office
1835 Black Lake Boulevard, SW., Suite B, Olympia, WA 98501–5715, (509) 664–0203, Sandi Boughton
Western Pacific Territories Served by Hawaii State Office
West Virginia State Office
Federal Building, 75 High Street, Room 320, Morgantown, WV 26505–7500, (304) 284–4860, TDD (304) 284–4836, Randy Plum
Wisconsin State Office
4949 Kirschling Court, Stevens Point, WI 54481, (715) 345–7614, TDD (715) 345–7610, Mark Brodziski
Wyoming State Office
Federal Building, Room 1005, 100 East B Street, P.O. Box 11005, Casper, WY 82602–5006, (307) 261–6300, TDD (307) 261–6333, Alana Cannon

Dated: June 4, 2007.

David J. Villano,

Acting Administrator, Rural Housing Service.

OMB No. 0575–0180

United States Department of Agriculture
Rural Housing Service

Rural Community Development Initiative Grant Agreement

THIS GRANT AGREEMENT (Agreement), effective the date the Agency official signs the document, is a contract for receipt of grant funds under the Rural Community Development Initiative (RCDI).

BETWEEN-a private or public or tribal organization, (Grantee or Intermediary) and the United States of America acting through the Rural Housing Service, Department of Agriculture, (Agency or Grantor), for the benefit of recipients listed in Grantee's application for the grant.

WITNESSETH:

The principal amount of the grant is $_____ (Grant Funds). Matching funds, in an amount equal to the grant funds, will be provided by Grantee. The Grantee and Grantor will execute Form RD 1940–1, ''Request for Obligation of Funds.''

WHEREAS,

Grantee will provide a program of financial and technical assistance to develop the capacity and ability of nonprofit organizations, low-income rural communities, or federally recognized tribes to undertake projects related to housing, community facilities, or community and economic development in rural areas;

According to the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number. The valid OMB control number for this information collection is 0575–0180. The time required to complete this information collection is estimated to average 30 minutes per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and reviewing the collection of information.

NOW, THEREFORE, in consideration of the grant;

Grantee agrees that Grantee will:

A. Provide a program of financial and technical assistance in accordance with the proposal outlined in the application, (see Attachment A), the terms of which are incorporated with this Agreement and must be adhered to. Any changes to the approved program of financial and technical assistance must be approved in writing by the Grantor;

B. Use Grant Funds only for the purposes and activities specified in the application package approved by the Agency including the approved budget. Any uses not provided for in the approved budget must be approved in writing by the Agency in advance;

C. Charge expenses for travel and per diem that will not exceed the rates paid Agency employees for similar expenses. Grantees and recipients will be restricted to traveling coach class on common carrier airlines. Lodging rates may exceed the Government rate by a maximum of 20 percent. Meals and incidental expenses will be reimbursed at the same rate used by Agency employees, which is based upon location. Mileage and gas will be reimbursed at the existing Government rate. Rates can be accessed on the Internet at *http://policyworks.gov/perdiem*;

D. Charge meeting expenses in accordance with 31 U.S.C. 1345. Grant funds may not be used for travel, transportation, and subsistence expenses for a meeting. Matching funds may be used to pay these expenses. Any meeting or training not delineated in the application must be approved by the Agency to verify compliance with 31 U.S.C. 1345;

E. Request for advances or reimbursement for grant activities. If payment is to be made by advance, the Grantee shall request advance payment, but not more frequently than once every 30 days, of grant funds by using Standard Form 270, ''Request for Advance or Reimbursement.'' Receipts, invoices, hourly wage rate, personnel payroll records, or other documentation must be provided by intermediary upon request from the Agency. This information must be maintained in the intermediary's files.

If payment is to be made by reimbursement, the Grantee shall request reimbursement of grant funds, but not more

frequently than once every 30 days, by using Standard Form 270, ''Request for Advance or Reimbursement.'' Receipts, invoices, hourly wage rate, personnel payroll records, or other documentation, as determined by the Agency, must be provided by the intermediary upon request to justify the amount. This information must be maintained in the intermediary's files.

Grant funds will be disbursed in accordance with the above through 90 percent of grant disbursement. The final 10 percent of grant funds will be held by the grantor until the project is completed, and the final project performance report and financial report are received.

All requests for advances or reimbursements must include matching fund usage. Matching funds must be at least equal to the grant amount requested.

F. Provide periodic reports as required by the Grantor. A financial status report and a project performance report will be required on a quarterly basis (due 30 working days after each calendar quarter). The financial status report must show how grant funds and matching funds have been used to date. A final report may serve as the last quarterly report. Grantees shall constantly monitor performance to ensure that time schedules are being met and projected goals by time periods are being accomplished. The project performance reports shall include, but are not limited to, the following:

1. Describe the activities that the funds reflected in the financial status report were used for;

2. A comparison of actual accomplishments to the objectives for that period;

3. Reasons why established objectives were not met, if applicable;

4. Problems, delays, or adverse conditions which will affect attainment of overall program objectives, prevent meeting time schedules or objectives, or preclude the attainment of particular objectives during established time periods. This disclosure shall be accomplished by a statement of the action taken or planned to resolve the situation;

5. Objectives and timetables established for the next reporting period;

6. If available, a summary of the race, sex, and national origin of the recipients and a summary from the recipients of the race, sex, and national origin of the beneficiaries; and

7. The final report will also address the following:

a. What have been the most challenging or unexpected aspects of this program?

b. What advice would you give to other organizations planning a similar program? Please include strengths and limitations of the program. If you had the opportunity, what would you have done differently?

c. Are there any post-grant plans for this project? If yes, how will they be financed?

G. Consider potential recipients without discrimination as to race, color, religion, sex, national origin, age, marital status, sexual orientation, or physical or mental disability;

H. Ensure that any services or training offered by the recipient, as a result of the financial and technical assistance received, must be made available to all persons in the recipient's service area without discrimination as to race, color, religion, sex, national origin, age, marital status, sexual orientation, or physical or mental disability, genetic information (not all protected bases apply to all programs) at reasonable rates, including assessments, taxes, or fees. Programs and activities must be delivered from accessible locations. The recipient must ensure that, where there are non-English speaking populations, materials are provided in the language that is spoken;

I. Ensure recipients are required to place nondiscrimination statements in advertisements, notices, pamphlets and brochures making the public aware of their services. The Grantee and recipient are required to provide widespread outreach and public notification in promoting any type of training or services that are available through grant funds;

J. The Grantee must collect and maintain data on recipients by race, sex, and national origin. The grantee must ensure that their recipients also collect and maintain data on beneficiaries by race, sex, and national origin as required by Title VI of the Civil Rights Act of 1964 and must be provided to the Agency for compliance review purposes;

K. Upon any default under its representations or agreements contained in this instrument, Grantee, at the option and demand of Grantor, will immediately repay to Grantor any legally permitted damages together with any legally permitted interest from the date of the default. At Grantor's election, any default by the Grantee will constitute termination of the grant thereby causing cancellation of Federal assistance under the grant. The provisions of this Agreement may be enforced by Grantor, without regard to prior waivers of this Agreement, by proceedings in law or equity, in either Federal or State courts as may be deemed necessary by Grantor to ensure compliance with the provisions of this Agreement and the laws and regulations under which this grant is made;

L. Provide Financial Management Systems that will include:

1. Accurate, current, and complete disclosure of the financial results of each grant. Financial reporting will be on an accrual basis;

2. Records that identify adequately the source and application of funds for grant-supported activities. Those records shall contain information pertaining to grant awards and authorizations, obligations, unobligated balances, assets, liabilities, outlays, and income related to Grant Funds and matching funds;

3. Effective control over and accountability for all funds, property, and other assets. Grantees shall adequately safeguard all such assets and shall ensure that they are used solely for authorized purposes;

4. Accounting records supported by source documentation; and

5. Grantee tracking of fund usage and records that show matching funds and grant funds are used in equal proportions. The grantee will provide verifiable documentation regarding matching fund usage, i.e., bank statements or copies of funding obligations from the matching source.

M. Retain financial records, supporting documents, statistical records, and all other records pertinent to the grant for a period of at least three years after grant closing except that the records shall be retained beyond the three-year period if audit findings have not been resolved. Microfilm or photocopies or similar methods may be substituted in lieu of original records. The Grantor and the Comptroller General of the United States, or any of their duly authorized representatives, shall have access to any books, documents, papers, and records of the Grantee's which are pertinent to the specific grant program for the purpose of making audits, examinations, excerpts, and transcripts;

N. Provide an A–133 audit report if $500,000 or more of Federal funds are expended in a 1-year period. If Federal funds expended during a 1 year period are less than $500,000 and there is an outstanding loan balance of $500,000 or more, an audit in accordance with generally accepted government auditing standards is required. If Federal funds expended during a 1-year period are less than $500,000 and there is an outstanding loan balance of less than $500,000, a management report may be submitted on Forms RD 442–2, ''Statement of Budget, Income and Equity,'' and 442–3, ''Balance Sheet'';

O. Not encumber, transfer, or dispose of the equipment or any part thereof, acquired wholly or in part with Grantor funds without the written consent of the Grantor; and

P. Not duplicate other program activities for which monies have been received, are committed, or are applied to from other sources (public or private).

Grantor agrees that:

A. It will make available to Grantee for the purpose of this Agreement funds in an amount not to exceed the Grant Funds. The funds will be disbursed to Grantee on a pro rata basis with the Grantee's matching funds; and

B. At its sole discretion and at any time may give any consent, deferment, subordination, release, satisfaction, or termination of any or all of Grantee's grant obligations, with or without valuable consideration, upon such terms and conditions as Grantor may determine to be:

1. Advisable to further the purpose of the grant or to protect Grantor's financial interest therein; and

2. Consistent with both the statutory purposes of the grant and the limitations of the statutory authority under which it is made.

Both Parties Agree:

A. Extensions of this grant agreement may be approved by the Agency, in writing, provided in the Agency's sole discretion the extension is justified and there is a likelihood that the grantee can accomplish the goals set out and approved in the application package during the extension period;

B. The Grantor must approve any changes in recipient or recipient composition;

C. The Grantor has agreed to give the Grantee the Grant Funds, subject to the terms and conditions established by the Grantor: PROVIDED, HOWEVER, That any Grant Funds actually disbursed and not needed for grant purposes be returned immediately to

the Grantor. This agreement shall terminate 3 years from this date unless extended or unless terminated beforehand due to default on the part of the Grantee or for convenience of the Grantor and Grantee. The Grantor may terminate the grant in whole, or in part, at any time before the date of completion, whenever it is determined that the Grantee has failed to comply with the conditions of this Agreement or the applicable regulations; Termination for convenience will occur when both the Grantee and Grantor agree that the continuation of the program will not produce beneficial results commensurate with the further expenditure of funds.

D. As a condition of the Agreement, the Grantee certifies that it is in compliance with, and will comply in the course of the Agreement with, all applicable laws, regulations, Executive Orders, and other generally applicable requirements, which are incorporated into this agreement by reference, and such other statutory provisions as are specifically contained herein.

E. The Grantee will ensure that the recipients comply with title VI of the Civil Rights Act of 1964, section 504 of the Rehabilitation Act of 1973 and Executive Order 12250. Each recipient must sign Form RD 400–4, ''Assurance Agreement'';

F. The provisions of 7 CFR part 3015, ''Uniform Federal Assistance Regulations,'' part 3016, ''Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments,'' or part 3019, ''Uniform Administrative Requirements for Grants and Agreements with Institutions of Higher Education, Hospitals, and Other Nonprofit Organizations,'' and the fiscal year 2007 ''Notice of Funds Availability (NOFA) Inviting Applications for the Rural Community Development Initiative (RCDI)'' are incorporated herein and made a part hereof by reference;

IN WITNESS WHEREOF, Grantee has this day authorized and caused this Agreement to be executed by

_____

Attest _____

By

(Grantee)

(Title) _____

Date _____

UNITED STATES OF AMERICA

RURAL HOUSING SERVICE

By _____

(Grantor) (Name) (Title)

Date _____

ATTACHMENT A

[Application proposal submitted by grantee.]

[FR Doc. E7–11081 Filed 6–7–07; 8:45 am]

BILLING CODE 3410–XV–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List; Additions and Deletion

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Additions to and deletion from Procurement List.

SUMMARY: This action adds to the Procurement List products and services to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and deletes from the Procurement List products previously furnished by such agencies.

DATES: *Effective Date:* July 8, 2007.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, VA 22202–3259.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Kimberly M. Zeich, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *CMTEFedReg@jwod.gov*.

Additions

On April 6, and April 13, 2007, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (72 FR17094, 18626) of proposed additions to the Procurement List.

After consideration of the material presented to it concerning capability of qualified nonprofit agencies to provide the products and services and impact of the additions on the current or most recent contractors, the Committee has determined that the products and services listed below are suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products and services to the Government.

2. The action will result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and services proposed for addition to the Procurement List.

End of Certification

Accordingly, the following products and services are added to the Procurement List:

Product

Trunk Locker, Barracks
NSN: 8460–00–243–3234—Trunk Locker, Barracks, Wooden.
NPA: BSW, Inc., Butte, MT.
Contracting Activity: Defense Supply Center Philadelphia, Philadelphia, PA.
Coverage: C-List—Additional 25% of the government requirement for Defense Supply Center Philadelphia, Philadelphia, PA.

Services

Service Type/Location: Catering Service, Seattle Military Entrance Processing Station (MEPS), 4735 E. Marginal Way South, Seattle, WA.
NPA: Northwest Center, Seattle, WA.
Contracting Activity: ARMY-KNOX, U.S. Army Armor Center and Ft. Knox, Fort Knox, KY.
Service Type/Location: Custodial Services, Juneau SSC—Building #302, 9341 Glacier Highway, Juneau, AK.
NPA: REACH, Inc., Juneau, AK.
Contracting Activity: Department of Transportation, Federal Aviation Administration—ALASKA, Anchorage, AK.
Service Type/Location: Custodial Services, USDA, Farm Service Agency (Delaware County Office), 557 Sunbury Road, Suite C, Delaware, OH.
NPA: Alpha Group of Delaware, Inc., Delaware, OH.
Contracting Activity: U.S. Department of Agriculture, Farm Service Agency Acquisition Management Division, Kansas City, MO.

Deletion

On April 13, 2007, the Committee for Purchase From People Who Are Blind or Severely Disabled published notice (72 FR18627) of proposed deletions to the Procurement List.

After consideration of the relevant matter presented, the Committee has determined that the products listed below are no longer suitable for procurement by the Federal Government under 41 U.S.C. 46–48c and 41 CFR 51–2.4.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. The action may result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. The action may result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products deleted from the Procurement List.

End of Certification

Accordingly, the following product is deleted from the Procurement List:

Products

Inkjet Cartridge
NSN: 7510–01–544–0834—Use in Canon printers BJC–30/50/55/70/80/85/85W.
NPA: Alabama Industries for the Blind, Talladega, AL.
Contracting Activity: General Service Administration, Office Supplies & Paper Products Acquisition Ctr, New York, NY.

Kimberly M. Zeich,

Director, Program Operations.

[FR Doc. E7–11136 Filed 6–7–07; 8:45 am]

BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Procurement List Proposed Additions and Deletions

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Proposed additions to and deletions from the Procurement List.

SUMMARY: The Committee is proposing to add to the Procurement List products to be furnished by nonprofit agencies employing persons who are blind or have other severe disabilities, and to delete products and services previously furnished by such agencies.

Comments Must Be Received on or Before: July 8, 2007.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, VA 22202–3259.

FOR FURTHER INFORMATION OR TO SUBMIT COMMENTS CONTACT: Kimberly M. Zeich, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *CMTEFedReg@jwod.gov*.

Additions

If the Committee approves the proposed additions, the entities of the Federal Government identified in this notice for each product or service will be required to procure the products listed below from nonprofit agencies employing persons who are blind or have other severe disabilities.

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action will not result in any additional reporting, recordkeeping or other compliance requirements for small entities other than the small organizations that will furnish the products to the Government.

2. If approved, the action will result in authorizing small entities to furnish the products to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products proposed for addition to the Procurement List.

Comments on this certification are invited. Commenters should identify the statement(s) underlying the certification on which they are providing additional information.

End of Certification

The following products are proposed for addition to Procurement List for production by the nonprofit agencies listed:

Products

File, Folder, Classification
NSN: 7530–00–NIB–0816—Dark Green, Letter Size
NSN: 7530–00–NIB–0817—Light Blue, Letter Size
NSN: 7530–00–NIB–0818—Dark Blue, Letter Size
NSN: 7530–00–NIB–0819—Yellow, Letter Size
NSN: 7530–00–NIB–0820—Dark Red, Letter Size
NSN: 7530–00–NIB–0821—Earth Red, Letter Size
NPA: Georgia Industries for the Blind, Bainbridge, GA.
Coverage: 100%—A-List for the total Government requirement as specified by the General Services Administration.

Retractable Markers
NSN: 7520–00–NIB–1653—chisel tip, yellow 4/PK
NSN: 7520–00–NIB–1654—chisel tip, yellow 12/PK
NSN: 7520–00–NIB–1663—permanent ink, chisel tip, black, 4/PK
NSN: 7520–00–NIB–1665—permanent ink, bullet tip, 4/PK (black, red, blue, green)
NSN: 7520–00–NIB–1666—permanent ink, chisel tip, 4/PK (black, blue, red, green)
NSN: 7520–00–NIB–1773—chisel tip, 10 color set (3 yellow, 2 pink, 1 orange, 2 green, 2 blue)
NSN: 7520–00–NIB–1788—chisel tip, 5 color set (yellow, blue, pink, green, orange)
NSN: 7520–00–NIB–1789—permanent ink, bullet tip, black, 4/PK
NSN: 7520–01–519–5769—dry erase, chisel tip, 4/PK assorted colors (black, blue, red, green)
NPA: Dallas Lighthouse for the Blind, Inc., Dallas, TX.
Coverage: 100%—A-List for the total Government requirement as specified by the General Services Administration.
Contracting Activity: General Services Administration, Region 2, Office Supplies & Paper Products Acquisition Ctr, New York, NY.

Notebook Security Cable
NSN: 5340–01–384–2016—Notebook Security Cable.
NPA: Alphapointe Association for the Blind, Kansas City, MO.
Coverage: 100%—A-List for the total Government requirement as specified by the General Services Administration.

Power Duster (Dust Remover, Compressed Gas)
NSN: 7930–01–398–2473—10 oz. pressurized air duster removes dust, dirt and other contaminants from computers, keyboards, printers, electronic and photo equipment.
NPA: Lighthouse for the Blind, St. Louis, MO.
Coverage: 100%—A-List for the total Government requirement as specified by the General Services Administration.
Contracting Activity: GSA, Southwest Supply Center, Fort Worth, TX.

Deletions

Regulatory Flexibility Act Certification

I certify that the following action will not have a significant impact on a substantial number of small entities. The major factors considered for this certification were:

1. If approved, the action may result in additional reporting, recordkeeping or other compliance requirements for small entities.

2. If approved, the action may result in authorizing small entities to furnish the products and services to the Government.

3. There are no known regulatory alternatives which would accomplish the objectives of the Javits-Wagner-O'Day Act (41 U.S.C. 46–48c) in connection with the products and services proposed for deletion from the Procurement List.

End of Certification

The following products and services are proposed for deletion from the Procurement List:

Products

Cotton, Purified
NSN: 6510–00–201–3000—Cotton, Purified.
NPA: Elwyn, Inc., Aston, PA.
Contracting Activity: Defense Supply Center Philadelphia, Philadelphia, PA.

Film, Copying, Transparent, Ink Jet Process
NSN: 7530–01–325–0618—Film, Copying, Transparent, Ink Jet Process.

Transparency Film, Xerographic
NSN: 7530–01–386–2356—Transparency Film, Xerographic w/o Strip.
NPA: Industries of the Blind, Inc., Greensboro, NC.
Contracting Activity: General Services Administration, Region 2, Office Supplies & Paper Products Acquisition Ctr, New York, NY.

Services

Service Type/Location: Completion of DD Form 1574 & 1574–1, Robins Air Force Base, Robins AFB, GA.
NPA: Good Vocations, Inc., Macon, GA.
Contracting Activity: Department of the Air Force, Robins AFB, GA.

Service Type/Location: Hearing/Grievance Examiner Services (IB), The Corporation for National & Community Service, 1201 New York Avenue, NW., Washington, DC.
NPA: Federal Dispute Resolution Center, Alexandria, VA.
Contracting Activity: The Corporation for National & Community Service, Washington, DC.

Service Type/Location: ADA Compliance Investigator, Department of Transportation, Maritime Administration Headquarters, Washington, DC.
NPA: Federal Dispute Resolution Center, Alexandria, VA.
Contracting Activity: Department of Transportation, Maritime Administration.

Service Type/Location: Janitorial/Custodial, Marine Corps Reserve Training Center, 3506 South Memorial Parkway, Huntsville, AL.
NPA: Huntsville Rehabilitation Foundation, Huntsville, AL.
Contracting Activity: Department of the Navy, Marine Corps Reserve Training Center, Huntsville, AL.

Service Type/Location: Litigation Support Services, U.S. Department of Agriculture, The Animal and Plant Health Inspection Services, Agriculture Marketing Service, Minneapolis, MN.
NPA: Federal Dispute Resolution Center, Alexandria, VA.
Contracting Activity: U.S. Department of Agriculture, Animal & Plant Health Inspection Service, Minneapolis, MN.

Service Type/Location: Litigation Support Services, U.S. Department of Agriculture, Food and Nutrition Service, 3101 Park Center Drive, Alexandria, VA.
NPA: Federal Dispute Resolution Center, Alexandria, VA.
Contracting Activity: U.S. Department of Agriculture, Food and Nutrition Services, Alexandria, VA.

Kimberly M. Zeich,
Director, Program Operations.

[FR Doc. E7–11137 Filed 6–7–07; 8:45 am]
BILLING CODE 6353–01–P

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

Clarification of Scope of Procurement List Additions; 2007 Commodities Procurement List; Quarterly Update of the A-List and Movement of Products Between the A-List, B-List and C-List

AGENCY: Committee for Purchase From People Who Are Blind or Severely Disabled.

ACTION: Publication of the quarterly update of the A-list and movement of products between the A-list, B-list and C-list as of July 1, 2007.

SUMMARY: The Committee for Purchase From People Who Are Blind or Severely Disabled, in accordance with the procedures published on December 1, 2006 (71 FR 69535–69538), has updated the scope of the Program's procurement preference requirements for the products listed below between and among the Committee's A-list, B-list and C-list. A-list products are suitable for the Total Government Requirement as aggregated by the General Services Administration, the B-list are those products suitable for the Broad Government Requirement as aggregated by the General Services Administration, and C-list products are suitable for the requirements of one or more specified agency(ies). The lists below track changes to A-, B-, C-designations that occurred between March 2, 2007 and June 1, 2007. If not currently available, the products listed below as being included on the A-list will be available for purchase through the GSA Global Supply system and JWOD-authorized commercial distributors on or about July 1, 2007.

DATES: The effective date for the quarterly update of the A-list and movement of products between and among the A-list, B-list and C-list is July 1, 2007.

ADDRESSES: Committee for Purchase From People Who Are Blind or Severely Disabled, Jefferson Plaza 2, Suite 10800, 1421 Jefferson Davis Highway, Arlington, Virginia 22202–3259.

FOR FURTHER INFORMATION CONTACT: Emily A. Covey, Telephone: (703) 603–7740, Fax: (703) 603–0655, or e-mail *cmtefedreg@jwod.gov*.

Products moved from B-list to A-list:
7510–01–431–6236 Binder, Loose-leaf.
7510–01–431–6244 Binder, Loose-leaf.
7510–01–431–6521 Inking Pad, Rubber Stamp.
7510–01–435–9775 Inking Pad.
7510–01–435–9776 Inking Pad.
7510–01–467–6738 Clip, Paper.
7520–01–431–6240 Perforator, Paper, Desk, 3-Hole, Heavy-Duty, Black.
7520–01–457–0719 File, Horizontal Desk.
7520–01–457–0721 File, Horizontal Desk.
7520–01–457–0723 File, Horizontal Desk.
7520–01–457–0724 File, Horizontal Desk.
7520–01–457–0725 File, Horizontal Desk.
7520–01–457–0726 File, Horizontal Desk.
7530–01–463–3908 Envelope, Inter-Departmental.
7530–01–463–3910 Envelope, Inter-Departmental.
8455–01–545–3657 Retractable I. D. Card Reel.

Products moved from C-list to A-list:
7510–00–161–4240 Stamp Pad Ink—Red Applicator Bottle.
7510–01–207–3959 Refill Ink—Blue 10 ml.
7510–01–207–3960 Refill Ink—Red 10 ml.
7510–01–207–3961 Refill Ink—Black 10 ml.
7520–01–207–4108 Stock Title Stamp COPY—Red.
7520–01–207–4202 Stock Title Stamp ENTERED—Blue.
7520–01–207–4222 Stock Title Stamp ORIGINAL—Blue.
7520–01–207–4231 Stock Title Stamp RECEIVED—Red.
7520–01–352–3019 2000 Plus Small Line Dater—Black.
7520–01–419–5949 Stock Title Stamp CONFIDENTIAL—Red.

Products moved from A-list to B-list:
None.

Products moved from A-list to C-list:
None.

Products moved from B-list to C-list:
None.

Products moved from C-list to B-list:
4235–01–441–0246 Sorbents, Chemical and Oil.
4235–01–441–0248 Sorbents, Chemical and Oil.

4235–01–451–8744 Sorbents, Chemical and Oil.
4235–01–453–5159 Sorbents, Chemical and Oil.
4235–01–456–8571 Sorbents, Chemical and Oil.
4235–01–456–8575 Sorbents, Chemical and Oil.
4235–01–456–8858 Sorbents, Chemical and Oil.
4235–01–456–8862 Sorbents, Chemical and Oil.
4235–01–456–9893 Sorbents, Chemical and Oil.
4235–01–456–9899 Sorbents, Chemical and Oil.
4235–01–457–0031 Sorbents, Chemical and Oil.
4235–01–457–0421 Sorbents, Chemical and Oil.
4235–01–457–0431 Sorbents, Chemical and Oil.
4235–01–457–0518 Sorbents, Chemical and Oil.
4235–01–457–0658 Sorbents, Chemical and Oil.
4235–01–457–0663 Sorbents, Chemical and Oil.
4235–01–457–0677 Sorbents, Chemical and Oil.
4235–01–457–0678 Sorbents, Chemical and Oil.
7350–01–411–5265 Cups, Disposable.
7520–00–264–3718 Rubber Stamp Printing Set.
7520–01–207–4111 Stock Title Stamp COMPLETED—Red.
7520–01–207–4116 Stock Title Stamp DRAFT—Red.
7520–01–207–4118 Stock Title Stamp TOP SECRET—Red.
7520–01–207–4119 Stock Title Stamp SECRET—Red.
7520–01–207–4150 Stock Title Stamp C.O.D.—Red.
7520–01–207–4151 6 S–226 Band Numberer.
7520–01–207–4188 R40 Time Stamp 12-Hour.
7520–01–207–4190 Stamp Tray-Small.
7520–01–207–4194 Stock Title Stamp COPY—Blue.
7520–01–207–4196 Stock Title Stamp APPROVED—Blue.
7520–01–207–4204 Stock Title Stamp PRIORITY—Red.
7520–01–207–4205 Stock Title Stamp EXPEDITE—Red.
7520–01–207–4206 Stock Title Stamp SPECIAL—Red.
7520–01–207–4207 Stock Title Stamp POSTED—Red.
7520–01–207–4209 Stock Title Stamp FILE—Red.
7520–01–207–4211 Stock Title Stamp DRAFT—Black.
7520–01–207–4212 Stock Title Stamp COPY FOR YOUR INFORMATION—Red.
7520–01–207–4216 Stock Title Stamp URGENT—Red.
7520–01–207–4226 Stock Title Stamp RECEIVED—Blue.
7520–01–207–4228 Stock Title Stamp CANCELLED—Blue.
7520–01–207–4242 Stock Title Stamp UNCLASSIFIED—Red.
7520–01–324–6955 Stock Title Stamp COMPLETED—Blue.
7520–01–352–3018 2000 Plus Line Dater—Red.
7520–01–386–2444 Stamp, Custom Order Kit (Coupon).
7930–00-NIB–0214 3M Twist N Fill Dispensing System—Floor Stripper, Low Odor.
7930–00-NIB–0216 3M Twist N Fill Dispensing System—3 in 1 Floor Cleaner.
7930–00-NIB–0267 3M Twist N Fill Dispensing System—HB Quat Disinfectant Cleaner.
7930–01–381–5794 3M Twist N Fill Dispensing System—Heavy Duty Aircraft Cleaner.
7930–01–381–5820 3M Twist N Fill Dispensing System—Bathroom Cleaner.
7930–01–381–5826 3M Twist N Fill Dispensing System—Glass Cleaner.
7930–01–381–5834 3M Twist N Fill Dispensing System—General Purpose Cleaner.
7930–01–381–5897 3M Twist N Fill Dispensing System—Neutral Cleaner.
7930–01–381–5936 3M Twist N Fill Dispensing System—Food Service Degreaser.
7930–01–381–5997 3M Twist N Fill Dispensing System—Heavy Duty Multi Surface Cleaner.
7930–01–412–1033 3M Twist N Fill Dispensing System—Fresh Scent Deodorizer.
7930–01–412–1034 3M Twist N Fill Dispensing System—Mountain Spice Deodorizer.
7930–01–412–1036 3M Twist N Fill Dispensing System—Sanitizer Cleaner.
7930–01–436–7950 3M Twist N Fill Dispensing System—Phenolic Disinfectant.
7930–01–436–8083 3M Twist N Fill Dispensing System—Non Acid Bathroom Cleaner.

The complete A-list is available at *http://www.jwod.gov/jwod/p_and_s/alist2007.htm.*

Patrick Rowe,

Deputy Executive Director.

[FR Doc. E7–11171 Filed 6–7–07; 8:45 am]

BILLING CODE 6353–01–P

BROADCASTING BOARD OF GOVERNORS

Notice of Sunshine Act Meeting

DATE AND TIME: Tuesday, June 12, 2007 1:45–2:45 p.m.

PLACE: RFE/RL Broadcast Center, Room 546, Prague, Czech Republic.

CLOSED MEETING: The members of the Broadcasting Board of Governors (BBG) will meet in closed session to review and discuss a number of issues relating to U.S. Government-funded non-military international broadcasting. They will address internal procedural, budgetary, and personnel issues, as well as sensitive foreign policy issues relating to potential options in the U.S. international broadcasting field. This meeting is closed because if open it likely would either disclose matters that would be properly classified to be kept secret in the interest of foreign policy under the appropriate executive order (5 U.S.C. 552b.(c)(1)) or would disclose information the premature disclosure of which would be likely to significantly frustrate implementation of a proposed agency action. (5 U.S.C. 552b.(c)(9)(B)) In addition, part of the discussion will relate solely to the internal personnel and organizational issues of the BBG or the International Broadcasting Bureau. (5 U.S.C. 552b.(c)(2) and (6))

CONTACT PERSON FOR MORE INFORMATION: Persons interested in obtaining more information should contact Carol Booker at (202) 203–4545.

Dated: June 5, 2007.

Carol Booker,

Legal Counsel.

[FR Doc. 07–2882 Filed 6–6–07; 12:42 pm]

BILLING CODE 8230–01–M

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency: U.S. Census Bureau.

Title: Quarterly Financial Report.

Form Number(s): QFR–200(MT), QFR–201(MG).

Agency Approval Number: 0607–0432.

Type of Request: Extension of a currently approved collection.

Burden Hours: 71,568.

Number of Respondents: 8,651.

Average Hours per Response: QFR–200 (MT)—3 hours and 2 minutes; and QFR–201(MG)—1 hour and 12 minutes.

Needs and Uses: The Quarterly Financial Report (QFR) Program has published up-to-date aggregate statistics on the financial results and position of U.S. corporations since 1947. It is a principal economic indicator that also provides financial data essential to calculation of key U.S. Government measures of national economic performance. The forms used in conducting the QFR Program are Form QFR–200 (MT)—Long Form and Form QFR–201 (MG) Short Form.

Filing of the long form, basically an income statement and balance sheet, is

required quarterly of Manufacturing, Mining, Wholesale Trade and Retail Trade corporations generally with $50 million or more in assets at the time of sampling. The short form is a simplified version of the long form and is required to be filed quarterly by Manufacturing corporations generally with less than $50 million in assets at the time of sampling.

The importance of this data collection is reflected by the granting of specific authority to conduct the program in Title 13 of the United States Code, Section 91, which requires that financial statistics of business operations be collected and published quarterly. Public Law 109–79, Section 91 extended the authority of the Secretary of Commerce to conduct the QFR Program through September 30, 2015.

The main purpose of the QFR is to provide timely, accurate data on business financial conditions for use by Government and private-sector organizations and individuals. The primary public users are U.S. Governmental organizations with economic policymaking responsibilities. In turn, these organizations play a major role in providing guidance, advice, and support to the QFR Program. The primary private-sector data users are a diverse group including universities, financial analysts, unions, trade associations, public libraries, banking institutions, and U.S. and foreign corporations.

Affected Public: Business or other for-profit organizations.

Frequency: Quarterly.

Respondent's Obligation: Mandatory.

Legal Authority: 13 U.S.C., Section 91; Pub. L. 109–79, Section 91.

OMB Desk Officer: Brian Harris-Kojetin, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dhynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Brian Harris-Kojetin, OMB Desk Officer either by fax (202–395–7245) or e-mail (*bharrisk@omb.eop.gov*).

Dated: June 4, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–11068 Filed 6–7–07; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Conflict of Interest Disclosure for Nonfederal Government Individuals Who Are Candidates to Conduct Peer Reviews Required by the OMB Peer Review Bulletin.

Form Number(s): None.

OMB Approval Number: None.

Type of Request: Regular submission.

Burden Hours: 150.

Number of Respondents: 300.

Average Hours Per Response: 30 minutes.

Needs and Uses: The Office of Management and Budget (OMB) has issued the Final Information Quality Bulletin for Peer Review (''Peer Review Bulletin'' or PRB), directing federal agencies to adopt or adapt the National Academy of Sciences (NAS) policy for evaluating conflicts of interest when selecting peer reviewers who are not federal government employees. NOAA has adapted the NAS policy and developed two conflict disclosure forms which the agency will use to examine prospective reviewers' potential financial conflicts and other interests that could impair objectivity or create an unfair advantage. One form is for peer reviewers of studies related to government regulation and the other form is for peer reviewers of any other influential scientific information subject to the Peer Review Bulletin. The forms include questions about employment as well as investment and property interests and research funding. The information collected in the conflict of interest disclosure is essential to NOAA's compliance with the OMB PRB, and helps to ensure that government studies are reviewed by independent, impartial peer reviewers.

Affected Public: Individuals or households.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395–7285, or *David_Rostker@omb.eop.gov*.

Dated: June 4, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–11073 Filed 6–7–07; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. chapter 35).

Agency U.S. Census Bureau.

Title: Generic Clearance for Questionnaire Pretesting Research.

Form Number(s): Various.

Agency Approval Number: 0607–0725.

Type of Request: Extension of a currently approved collection.

Burden Hours: 5,500.

Number of Respondents: 5,500.

Average Hours Per Response: 1 hour.

Needs and Uses: In recent years, there has been an increased interest among Federal agencies and others in the importance of testing questionnaires. In response to this recognition, new methods have come into popular use, which are useful for identifying questionnaire and procedural problems, suggesting solutions, and measuring the relative effectiveness of alternative solutions.

The Census Bureau received a generic clearance which enables it to quickly begin conducting extended cognitive and questionnaire design research as part of testing for its censuses and surveys. At this time, the Census Bureau is seeking another three-year renewal of the generic clearance for pretesting. This will enable the Census Bureau to continue providing support for pretesting activities, which is important given the length of time required to plan the activities.

The methods proposed for use in questionnaire development are as follows: Field test, Respondent debriefing questionnaire, Split sample

experiments, Cognitive interviews, and Focus groups.

Since the types of surveys included under the umbrella of the clearance are so varied, it is impossible to specify at this point what kinds of activities would be involved in any particular test. But at a minimum, one of the types of testing described above or some other form of cognitive pretesting would be incorporated into the testing program for each survey.

We will provide OMB with a copy of questionnaires and debriefing materials in advance of any testing activity. Depending on the stage of questionnaire development, this may be the printed questionnaire from the last round of a survey or a revised draft based on analysis of other evaluation data. When the time schedule for a single survey permits multiple rounds of testing, the questionnaire(s) for each round will be provided separately. When split sample experiments are conducted, either in small group sessions or as part of a field test, all the questionnaires to be used will be provided. For a test of alternative procedures, the description and rationale for the procedures would be submitted. A brief description of the planned field activity will also be provided. Requests for information or comments on substantive issues may be raised by OMB within 10 working days of receipt.

The Census Bureau will send OMB an annual report at the end of each year summarizing the number of hours used, as well as the nature and results of the activities completed under this clearance.

The information collected in this program of developing and testing questionnaires will be used by staff from the Census Bureau and sponsoring agencies to evaluate and improve the quality of the data in the surveys and censuses that are ultimately conducted. None of the data collected under this clearance will be published for its own sake.

Because the questionnaires being tested under this clearance are still in the process of development, the data that result from these collections are not considered official statistics of the Census Bureau or other Federal agencies. Data will be included in research reports prepared for sponsors inside and outside of the Census Bureau. The results may also be prepared for presentations related to survey methodology at professional meetings or publications in professional journals.

Affected Public: Individuals or households, businesses or other for-profit organizations, farms.

Frequency: On occasion.

Respondent's Obligation: Voluntary.

Legal Authority: Authorizing legislation is based on the questionnaire being tested—Title 13, Sections 131, 141, 161, 181, 182, 193, and 301, for Census-Bureau sponsored surveys; and Title 13 and 15 for surveys sponsored by other Federal agencies.

OMB Desk Officer: Brian Harris-Kojetin, (202) 395–7314.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dhynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to Brian Harris-Kojetin, OMB Desk Officer either by fax (202–395–7245) or e-mail (*bharrisk@omb.eop.gov*).

Dated: June 4, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–11074 Filed 6–7–07; 8:45 am]

BILLING CODE 3510–07–P

DEPARTMENT OF COMMERCE

Submission for OMB Review; Comment Request

The Department of Commerce will submit to the Office of Management and Budget (OMB) for clearance the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Agency: National Oceanic and Atmospheric Administration (NOAA).

Title: Regional Economic Data Collection Program for Gulf Coast Alaska.

Form Number(s): None.

OMB Approval Number: 0648–xxxx.

Type of Request: Regular submission.

Burden Hours: 171.

Number of Respondents: 500.

Average Hours Per Response: Vessel surveys, 20 minutes; small business surveys, 15 minutes; fish processor surveys, 40 minutes.

Needs and Uses: The data to be collected via this project will be used for developing regional economic models for Gulf Coast Alaska fisheries. Much of the data required for regional economic analysis associated with Gulf Coast Alaska fisheries are either unavailable or unreliable. Accurate fishery-level data on employment, labor income, and expenditures in the Gulf Coast Alaska fishery and related industries are not currently available but are needed to estimate the effects of fisheries on the economy of Gulf Coast region Alaska. In this survey effort, data on these important regional economic variables will be collected and used to develop models that will provide more reliable estimates and significantly improve policy-makers' ability to assess policy effects on fishery-dependent communities in Gulf Coast region Alaska. The respondents in this survey will be the owners of the vessels landing fish at ports in Gulf Coast region Alaska.

Affected Public: Business or other for-profit.

Frequency: One time only.

Respondent's Obligation: Voluntary.

OMB Desk Officer: David Rostker, (202) 395–3897.

Copies of the above information collection proposal can be obtained by calling or writing Diana Hynek, Departmental Paperwork Clearance Officer, (202) 482–0266, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

Written comments and recommendations for the proposed information collection should be sent within 30 days of publication of this notice to David Rostker, OMB Desk Officer, FAX number (202) 395–7285, or *David_Rostker@omb.eop.gov*.

Dated: June 4, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–11075 Filed 6–7–07; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

International Trade Administration

North American Free-Trade Agreement (NAFTA), Article 1904 Binational Panel Reviews

AGENCY: NAFTA Secretariat, United States Section, International Trade Administration, Department of Commerce.

ACTION: Notice of decision of panel.

SUMMARY: On June 1, 2007, the binational panel issued its decision in the review of the final determination made by the International Trade Administration, respecting Oil Country Tubular Goods from Mexico Final Results of Sunset Review of Antidumping Duty Order, Secretariat

File No. USA–MEX–2001–1904–03. The binational panel remanded the redetermination on remand to the International Trade Administration. Copies of the panel decision are available from the U.S. Section of the NAFTA Secretariat.

FOR FURTHER INFORMATION CONTACT: Caratina L. Alston, United States Secretary, NAFTA Secretariat, Suite 2061, 14th and Constitution Avenue, Washington, DC 20230, (202) 482–5438.

SUPPLEMENTARY INFORMATION: Chapter 19 of the North American Free-Trade Agreement (''Agreement'') establishes a mechanism to replace domestic judicial review of the final determinations in antidumping and countervailing duty cases involving imports from a NAFTA country with review by independent binational panels. When a Request for Panel Review is filed, a panel is established to act in place of national courts to review expeditiously the final determination to determine whether it conforms with the antidumping or countervailing duty law of the country that made the determination.

Under Article 1904 of the Agreement, which came into force on January 1, 1994, the Government of the United States, the Government of Canada and the Government of Mexico established *Rules of Procedure for Article 1904 Binational Panel Reviews* (''Rules''). These Rules were published in the **Federal Register** on February 23, 1994 (59 FR 8686). The panel review in this matter has been conducted in accordance with these Rules.

Panel Decision: The Panel ordered the Department as follows:

That this case be remanded to the Department for the Department to make a determination consistent with the decision of this Panel to the effect that the evidence on the record does not support a finding of likelihood of recurrence or continuation of dumping upon revocation of the antidumping duty order, and to make that determination within ten (10) days from the date of this Fifth Panel Decision, or not later than June 11, 2007.

Dated: June 4, 2007.

Caratina L. Alston,

United States Secretary, NAFTA Secretariat.

[FR Doc. E7–11076 Filed 6–7–07; 8:45 am]

BILLING CODE 3510–GT–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Vessel Monitoring System Requirements in the Western Pacific Pelagic Longline Fishery

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before August 7, 2007.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625, 14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Walter Ikehara, 808–944–2275 or *Walter.Ikehara@noaa.gov*.

SUPPLEMENTARY INFORMATION:

I. Abstract

The commercial fishing vessels active in the Hawaii-based pelagic longline fishery must allow the National Marine Fisheries Service (NMFS) to install vessel monitoring system (VMS) units on their vessel when directed to do so by NMFS enforcement personnel. VMS units automatically send periodic reports on the position of the vessel. NMFS uses the reports to monitor the vessel's location and activities while enforcing longline fishing area closures. NMFS pays for the units and messaging.

II. Method of Collection

The only information collected is vessel position reports, which are automatically transmitted via the VMS.

III. Data

OMB Number: 0648–0441.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Business or other for-profit organizations.

Estimated Number of Respondents: 164.

Estimated Time Per Response: 4 hours to install a VMS unit; 2 hours per year to repair and maintain a VMS unit; and 24 seconds a day to transmit hourly automated position reports from a vessel.

Estimated Total Annual Burden Hours: 399.

Estimated Total Annual Cost to Public: $0.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 4, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–11070 Filed 6–7–07; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

Proposed Information Collection; Comment Request; Northeast Region Gear Identification Requirements

AGENCY: National Oceanic and Atmospheric Administration (NOAA).

ACTION: Notice.

SUMMARY: The Department of Commerce, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to take this opportunity to comment on proposed and/or continuing information collections, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments must be submitted on or before August 7, 2007.

ADDRESSES: Direct all written comments to Diana Hynek, Departmental Paperwork Clearance Officer, Department of Commerce, Room 6625,

14th and Constitution Avenue, NW., Washington, DC 20230 (or via the Internet at *dHynek@doc.gov*).

FOR FURTHER INFORMATION CONTACT: Requests for additional information or copies of the information collection instrument and instructions should be directed to Moira Kelly, 978–281–9300 or *Moira.Kelly@noaa.gov.*

SUPPLEMENTARY INFORMATION:

I. Abstract

Regulations at 50 CFR 648.84(a), (b), and (d), § 648.123(b)(3), § 648.144(b)(1), § 648.264(a)(5), and § 697.21(a) and (b) require that Federal fishing permit holders using specified fishing gear, mark that gear with specified information for the purposes of identification (*e.g.*, official vessel number, permit number, or other methods identified in the regulations). The regulations also specify how the gear is to be marked for the purposes of visibility (*e.g.*, buoys, radar reflectors, or other methods identified in the regulations). The display of the identifying characters on fishing gear aids in fishery law enforcement. The marking of gear for visibility increases safety at sea.

II. Method of Collection

No information is submitted to the National Marine Fisheries Service (NMFS) as a result of this collection. The vessel official number or other means of identification specified in the regulations must be affixed to the buoy or other marker specified in the regulations.

III. Data

OMB Number: 0648–0351.

Form Number: None.

Type of Review: Regular submission.

Affected Public: Individuals and households, business or other for-profit organizations.

Estimated Number of Respondents: 6,845.

Estimated Time Per Response: 8 hours and 50 minutes.

Estimated Total Annual Burden Hours: 23,438.

Estimated Total Annual Cost to Public: $68,450 in reporting/recordkeeping costs.

IV. Request for Comments

Comments are invited on: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden (including hours and cost) of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection; they also will become a matter of public record.

Dated: June 4, 2007.

Gwellnar Banks,

Management Analyst, Office of the Chief Information Officer.

[FR Doc. E7–11072 Filed 6–7–07; 8:45 am]

BILLING CODE 3510–22–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA67

Marine Mammals; File No. 42–1908

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

ACTION: Notice; receipt of application.

SUMMARY: Notice is hereby given that Mystic Aquarium, 55 Coogan Boulevard, Mystic, CT 06355 (Dr. Lisa Mazzaro, Principal Investigator), has applied in due form for a permit to conduct research on Steller sea lions (*Eumetopias jubatus*) being held in captivity and to import and export parts from all cetaceans and pinniped species (excluding walrus) for purposes of scientific research.

DATES: Written, telefaxed, or e-mail comments must be received on or before July 9, 2007.

ADDRESSES: The application and related documents are available for review upon written request or by appointment in the following office(s):

Permits, Conservation and Education Division, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910; phone (301)713–2289; fax (301)427–2521; and

Northeast Region, NMFS, One Blackburn Drive, Gloucester, MA 01930–2298; phone (978)281–9300; fax (978)281–9394.

Written comments or requests for a public hearing on this application should be mailed to the Chief, Permits, Conservation and Education Division, F/PR1, Office of Protected Resources, NMFS, 1315 East-West Highway, Room 13705, Silver Spring, MD 20910. Those individuals requesting a hearing should set forth the specific reasons why a hearing on this particular request would be appropriate.

Comments may also be submitted by facsimile at (301)427–2521, provided the facsimile is confirmed by hard copy submitted by mail and postmarked no later than the closing date of the comment period.

Comments may also be submitted by e-mail. The mailbox address for providing e-mail comments is *NMFS.Pr1Comments@noaa.gov*. Include in the subject line of the e-mail comment the following document identifier: File No. 42–1908.

FOR FURTHER INFORMATION CONTACT: Jennifer Skidmore or Amy Sloan, (301)713–2289.

SUPPLEMENTARY INFORMATION: The subject permit is requested under the authority of the Marine Mammal Protection Act of 1972, as amended (MMPA; 16 U.S.C. 1361 *et seq.*), the regulations governing the taking and importing of marine mammals (50 CFR part 216), the Endangered Species Act of 1973, as amended (ESA; 16 U.S.C. 1531 *et seq.*), the regulations governing the taking, importing, and exporting of endangered and threatened species (50 CFR 222–226), and the Fur Seal Act of 1966, as amended (16 U.S.C. 1151 *et seq.*).

The applicant is requesting a scientific research and enhancement permit to continue activities authorized under Permit No. 42–1642–03 for the following two projects: Project 1: Mystic Aquarium's current Steller sea lion (SSL) collection consists of one intact adult male and three geriatric females. They are requesting authorization to (1) import or receive a second intact adult male SSL and subsequently return this animal to its facility of origin, if necessary; and (2) to import up to nine female SSL from the Vancouver Aquarium, and to receive a ''non-releasable'' one year old male SSL from The Marine Mammal Center in Sausalito, California. All of these animals will be incorporated into Mystic Aquarium's research program, which includes hormone monitoring and immune function, and vitamin and iron studies. Incidental to scientific research and enhancement activities, all of these animals will be on public display. At any one time the maximum number of adult male SSL maintained at Mystic Aquarium will be two and the number of females and pups will not exceed nine.

Project 2: The applicant requests authority to annually receive, import and export tissues from a maximum of 10,000 animals, up to 30 samples per animal per year (i.e., 5000 pinniped and 5000 cetaceans) under NMFS jurisdiction in the U.S. and abroad (i.e. worldwide). Sources of samples are from (1) captive animals (from routine husbandry sampling); (2) stranded animals abroad; (3) subsistence-hunted animals; (4) already permitted research projects; (5) animals that died incidental to commercial fishing in foreign countries where such taking is legal and specimens from animals that died incidental to U.S. commercial fishing operations; and (6) Navy dolphins. Mystic Aquarium also requests permission to export samples from stranded animals in the U.S. for research purposes. Samples will be analyzed for purposes of research on marine mammal health (e.g., nutrition, disease, immune function, environmental stressors).

Concurrent with the publication of this notice in the **Federal Register**, NMFS is forwarding copies of this application to the Marine Mammal Commission and its Committee of Scientific Advisors.

Dated: June 4, 2007.

P. Michael Payne,

Chief, Permits, Conservation and Education Division, Office of Protected Resources, National Marine Fisheries Service.

[FR Doc. E7–11056 Filed 6–7–07; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

RIN 0648–XA61

Atlantic Highly Migratory Species (HMS); Atlantic Tuna Fisheries

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

ACTION: Notice of public information meetings.

SUMMARY: NMFS announces public information meetings regarding the use of green-stick fishing gear in Atlantic tuna fisheries including bluefin tuna. The purpose of these meetings is to communicate details and issues related to gear authorization including gear configuration and definitions, quota management, catch reporting, and other related topics.

DATES: The meeting dates are:

1. June 19, 2007, 7 p.m. – 10 p.m., Manteo, NC.
2. June 20, 2007, 2 p.m. – 5 p.m., Silver Spring, MD.
3. June 21, 2007, 7 p.m. – 10 p.m., Foxboro, MA.
4. June 25, 2007, 7 p.m. – 10 p.m., Saint Petersburg, FL.

ADDRESSES: The meeting locations are:

1. Manteo – Roanoke Island Festival Park, 1 Festival Park, Manteo, NC 27954.
2. Silver Spring – NOAA/NMFS Headquarters (Building 3 Room 1311–B), 1315 East-West Highway, Silver Spring, MD 20910.
3. Foxboro – Boyden Library, 10 Bird Street, Foxboro, MA 02035.
4. Saint Petersburg – NOAA/NMFS Southeast Regional Office, 263 13th Avenue South, Saint Petersburg, FL 33701.

For copies of current regulations regarding green-stick gear use outlined in the Consolidated HMS Fishery Management Plan (FMP) and the Guide for Complying with the Atlantic Tunas, Swordfish, Sharks, and Billfish Regulations, contact Margo Schulze-Haugen, Chief, HMS Management Division, 1315 East-West Highway, Silver Spring, MD 20910 or at (301) 713–1917 (fax). These documents are also available on the internet at *http://www.nmfs.noaa.gov/sfa/hms*.

FOR FURTHER INFORMATION CONTACT: Randy Blankinship at 727–824–5399 or 727–824–5398 (fax).

SUPPLEMENTARY INFORMATION: NMFS will hold public information meetings to discuss details related to the use of green-stick fishing gear for Atlantic tunas including bluefin tuna. The purpose of these meetings is to communicate details and issues related to gear authorization including gear configuration and definitions, quota management, catch reporting and other related topics.

In the Draft Consolidated HMS FMP, NMFS preferred an alternative to authorize green-stick fishing gear for the commercial harvest of Atlantic bigeye, albacore, yellowfin, and skipjack (BAYS) tunas; however, NMFS did not select this alternative as preferred in the Final Consolidated HMS FMP (October 2, 2006; 71 FR 58058). The intent of the draft preferred alternative was to allow commercial tuna handgear fishermen targeting BAYS tunas with green-stick fishing gear to increase the number of hooks on their gear from two hooks to no more than 10 hooks. The draft preferred alternative would have also prohibited commercial vessels using or possessing green-sticks from retaining or possessing BFT on board.

During public comment on the Draft Consolidated HMS FMP (71 FR 58058, October 2, 2006), NMFS received comments ranging from opposition to the draft alternative to support for it. The comments that NMFS received included those that expressed confusion over the current regulatory regime; concern over the need for better reporting, monitoring, and overall data collection for this gear-type; a desire to land bluefin tuna with the gear; and the need for further understanding of the technical nature of the gear itself. Based on these comments, NMFS decided to clarify the currently allowed use of the gear in the Final Consolidated HMS FMP rather than authorize and define the gear in a manner that may cause further confusion and have unintended negative consequences to the fishery and the resource.

Currently, green-stick fishing gear meets the definitions for longline or handgear depending on the configuration and may only be used aboard vessels possessing the permits necessary to use longline or handgear. Authorization of green-stick fishing gear for Atlantic tunas could provide for less restrictive use of green-sticks when and where appropriate.

Special Accommodations

These meetings are physically accessible to people with disabilities. Requests for sign language interpretations or other auxiliary aids should be directed to Randy Blankinship at 727–824–5399 at least 7 days prior to the meeting.

Dated: May 30, 2007.

Alan D. Risenhoover,

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

[FR Doc. E7–11051 Filed 6–7–07; 8:45 am]

BILLING CODE 3510–22–S

COMMITTEE FOR THE IMPLEMENTATION OF TEXTILE AGREEMENTS

Determination under the Textile and Apparel Commercial Availability Provision of the Dominican Republic-Central America-United States Free Trade Agreement (CAFTA-DR Agreement)

June 5, 2007.

AGENCY: The Committee for the Implementation of Textile Agreements (CITA).

ACTION: Determination to add a product in unrestricted quantities to Annex 3.25 of the CAFTA-DR Agreement

EFFECTIVE DATE: June 8, 2007.

SUMMARY: The Committee for the Implementation of Textile Agreements (CITA) has determined that certain synthetic staple fibers, as specified below, are not available in commercial quantities in a timely manner in the CAFTA-DR region. The product will be added to the list in Annex 3.25 of the CAFTA-DR Agreement in unrestricted quantities.

FOR FURTHER INFORMATION CONTACT: Richard Stetson, Office of Textiles and Apparel, U.S. Department of Commerce, (202) 482 2582.

FOR FURTHER INFORMATION ON-LINE: http://web.ita.doc.gov/tacgi/CaftaReqTrack.nsf.Reference number: 22.2007.05.02.Fiber.TextilesCapuano, SA

SUPPLEMENTARYINFORMATION:

Authority: Section 203(o)(4) of the Dominican Republic-Central America-United States Free Trade Agreement Implementation Act (CAFTA-DR Act); the Statement of Administrative Action (SAA), accompanying the CAFTA-DR Act; Presidential Proclamations 7987 (February 28, 2006) and 7996 (March 31, 2006).

BACKGROUND:

The CAFTA-DR Agreement provides a list in Annex 3.25 for fabrics, yarns, and fibers that the Parties to the CAFTA-DR Agreement have determined are not available in commercial quantities in a timely manner in the territory of any Party. Articles that otherwise meet the rule of origin to qualify for preferential treatment are not disqualified because they contain one of the products on the Annex 3.25 list.

The CAFTA-DR Agreement provides that this list may be modified pursuant to Article 3.25(4)-(5), when the President of the United States determines that a fabric, yarn, or fiber is not available in commercial quantities in a timely manner in the territory of any Party. The CAFTA-DR Act states that the President will make a determination on whether additional fabrics, yarns, and fibers are available in commercial quantities in a timely manner in the territory of any Party.

The CAFTA-DR Act requires the President to establish procedures governing the submission of a request and providing opportunity for interested entities to submit comments and supporting evidence before a commercial availability determination is made. In Presidential Proclamations 7987 and 7996, the President delegated to CITA the authority under section 203(o)(4) of the CAFTA-DR Act for modifying the Annex 3.25 list. On March 21, 2007, CITA published final procedures it would follow in considering requests to modify the Annex 3.25 list (72 FR 13256).

On May 2, 2007, the Chairman of CITA received a request from Textiles Capuano, S.A. for certain synthetic staple fibers of the specifications detailed below. On May 4, 2007, CITA notified interested parties of, and posted on its website, the accepted request and requested that any interested entity provide, by May 16, 2007, a response advising of its objection to the request or its ability to supply the subject product, and rebuttals to responses by May 22, 2007.

No interested entity filed a response advising of its objection to the request or its ability to supply the subject product.

In accordance with Section 203(o)(4)(C)(iii)(II) of the CAFTA-DR Act, and its procedures, as no interested entity submitted a response objecting to the request or expressing an ability to supply the subject product, CITA has determined to add the specified fibers to the list in Annex 3.25 of the CAFTA-DR Agreement.

The subject fibers are added to the list in Annex 3.25 of the CAFTA-DR Agreement in unrestricted quantities. A revised list has been published on-line.

Specifications:

Product:	Synthetic staple fiber, not carded, combed or otherwise processed for spinning of acrylic or modacrylic (Raw White Bright or Semi Dull - Acrylic Short Staple Fiber, 1.3 DTEX to 1.5 DTEX Bright 38 - 40mm)
HTS Subheading:	5503.30.00

Philip J. Martello,

Acting Chairman, Committee for the Implementation of Textile Agreements.

[FR Doc. E7–11139 Filed 6–7–07; 8:45 am]

BILLING CODE 3510–DS

DEPARTMENT OF DEFENSE

Office of the Secretary

[No. DoD–2007–HA–0030]

Proposed Collection, Comment Request

AGENCY: Office of the Assistant Secretary of Defense for Health Affairs, DoD.

ACTION: Notice.

In accordance with section 3506(c) of the Paperwork Reduction Act of 1995, the Office of the Assistant Secretary of Defense for Health Affairs announces the proposed extension of a public information collection and seeks public comment on the provisions thereof. Comments are invited on: (a) Whether the proposed extension of collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the information collection; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the information collection on respondents, including through the use of automated collection techniques or other forms of information technology.

DATES: Considerations will be given to all comments received by August 7, 2007.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www/regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request more information on this proposed information collection, please write to the TRICARE Management Activity, Medical Benefits and Reimbursement System, 16401 E. Centretech Pkwy, Attn: Ann Fazzini, Aurora, CO 80011–9066, or call TRICARE Management Activity, Medical Benefits and Reimbursement Systems at (303) 676–3803.

Title and OMB Number: Diagnosis Related Groups (DRG) Reimbursement (Two Parts); OMB Control Number 0720–0017.

Needs and Uses: The TRICARE/CHAMPUS contractors will use the information collected to reimburse hospitals for TRICARE/CHAMPUS share of capital and direct medical education costs. Respondents are institutional providers.

Affected Public: Business or other-for-profit.

Annual Burden Hours: 8,400.

Number of Respondents: 5,600.

Responses per Respondent: 1.

Average Burden per Response: 90 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The Department of Defense Authorization Act, 1984, Pub. L. 98–94 amended Title 10, section 1079(j)(2)(A) of the U.S.C. and provided the Civilian Health and Medical Program of the Uniform Services (CHAMPUS) with the statutory authority to reimburse institutional providers based on diagnosis-related groups (DRGs). Institutional providers in the CHAMPUS DRG-based payment system, except for children's hospitals (whose capital and direct medical education costs are incorporated in the children's hospital differential), who want to be reimbursed for allowed capital and direct medical education costs must submit a request for payment to the TRICARE/CHAMPUS contractor. The request allows TRICARE to collect the information necessary to properly reimburse hospitals for its share of these costs. The information can be submitted in any form, most likely in the form of a letter. The contractor will calculate the TRICARE/CHAMPUS share of capital and direct medical educations costs and make a lump-sum payment to the hospital.

The TRICARE/CHAMPUS DRG-based payment system is modeled on the Medicare Prospective Payment System (PPS) and was implemented on October 1, 1987. Initially, under 42 CFR 412.46 of the Medicare regulations, physicians were required to sign attestation and acknowledgment statements. These requirements were implemented to ensure a means of holding hospitals and physicians accountable for the information they submit on the Medicare claim forms. Being modeled on the Medicare PPS, CHAMPUS also adopted these requirements. The physicians attestation and physician acknowledgment required by Medicare under 42 CFR 412.46 are also required for CHAMPUS as a condition for payment and may be satisfied by the same statements as required for Medicare, with substitution or addition of ''CHAMPUS'' when the word ''Medicare'' is used. Physicians sign a physician acknowledgment, maintained by the institution, at the time the physician is granted admitting privileges. This acknowledgment indicates the physician understands the importance of a correct medical record, and misrepresentation may be subject to penalties.

Dated: June 1, 2007.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 07–2844 Filed 6–7–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

Office of the Secretary

[Docket No. DOD–2007–OS–0061]

Proposed Collection: Comment Request

AGENCY: Department of Defense, Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics/ Defense Technical Information Center (DTIC).

ACTION: Notice.

In compliance with Section 3506(C)(2)(A) of the Paperwork Reduction Act of 1995, the Office of the Under Secretary of Defense for Acquisition, Technology, and Logistics/ Defense Technical Information Center (DTIC) announces the proposed extension of the currently approved collection and seeks public comment on the provisions thereof. Comments are invited on:

(a) Whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility.

(b) The accuracy of the agency's estimate of the burden of the proposed information collection.

(c) Ways to enhance the quality, utility, and clarity of the information to be collected.

(d) Ways to minimize the burden of the information collection on respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Consideration will be given to all comments received by August 7, 2007.

ADDRESSES: You may submit comments, identified by docket number and title, by any of the following methods:

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

• *Mail:* Federal Docket Management System Office, 1160 Defense Pentagon, Washington, DC 20301–1160.

• *Instructions:* All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

FOR FURTHER INFORMATION CONTACT: To request further information about this proposed information collection, or to obtain a copy of the proposal and the associated collection instrument, please write or send an e-mail to the DTIC–BC Registration Team, Defense Technical Information Center, 8725 John J. Kingman Road, Suite 0944, Fort Belvoir, VA 22060–6218, or e-mail Ms. Kerry Christensen: *kchriste@dtic.mil.* Ms. Christensen may be telephoned at: (703) 767–8247.

Title, Form, and OMB Number: Registration for Scientific and Technical Information Services; DD Form 1540; OMB Control Number 0704–0264.

Needs and Uses: The data that the Defense Technical Information Center handles is controlled, because of either distribution limitations or security classification. For this reason, all potential users are required to register for service. DoD Instruction 3200.14, Principles and Operational Parameters of the DoD Scientific and Technical Information Program, mandates the registration procedure. Federal Government agencies and their contractors are required to complete the DD Form 1540, Registration for Scientific and Technical Information Services. The contractor community completes a separate DD Form 1540 for each contract or grant, and registration is valid until the contract expires.

Affected Public: Business or other-for-profit, Federal Government, and State, local, or tribal government.

Annual Burden Hours: 1,667.

Number of Annual Respondents: 10,000.

Annual Responses to Respondent: 10,000.

Average Burden per Response: 10 minutes.

Frequency: On occasion.

SUPPLEMENTARY INFORMATION:

Summary of Information Collection

The DD Form 1540 serves as a registration tool for Federal Government agencies and their contractors to access DTIC services. Potential users registering for services are required to obtain certification from a designated approving official. Collected information is verified by DTIC's Marketing and Registration Division.

Dated: June 1, 2007.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 07–2845 Filed 6–7–07; 8:45 am]

BILLING CODE 5001–06–M

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0138]

Federal Acquisition Regulation; Information Collection; Contract Financing

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and SpaceAdministration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance (9000–0138).

SUMMARY: Under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Federal Acquisition Regulation (FAR) Secretariat will be submitting to the Office of Management and Budget (OMB) a request to review and approve an extension to a currently approved information collection requirement concerning contract financing. The clearance currently expires on October 31, 2007.

Public comments are particularly invited on: Whether this collection of information is necessary for the proper performance of functions of the FAR, and whether it will have practical utility; whether our estimate of the public burden of this collection of information is accurate, and based on valid assumptions and methodology; ways to enhance the quality, utility, and clarity of the information to be collected; and ways in which we can minimize the burden of the collection of information on those who are to respond, through the use of appropriate technological collection techniques or other forms of information technology.

DATES: Submit comments on or before August 7, 2007.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to: FAR Desk Officer, OMB, Room 10102, NEOB, Washington, DC 20503, and a copy to the General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW, Room 4035, Washington, DC 20405. Please cite OMB Control No. 9000–0138, Contract Financing, in all correspondence.

FOR FURTHER INFORMATION CONTACT Mr. Patrick Conley, Contract Policy Division, GSA, (202) 501–4770.

SUPPLEMENTARY INFORMATION:

A. Purpose

The Federal Acquisition Streamlining Act (FASA) of1994, Pub. L. 103–355, provided authorities that streamlined the acquisition process and minimize burdensome Government-unique requirements. Sections 2001 and 2051 of FASA substantially changed the statutory authorities for Government financing of contracts. Sections 2001(f) and 2051(e) provide specific authority for Government financing of purchases of commercial items, and sections 2001(b) and 2051(b) substantially revised the authority for Government financing of purchases of non-commercial items.

Sections 2001(f) and 2051(e) provide specific authority for Government financing of purchases of commercial items. These paragraphs authorize the Government to provide contract financing with certain limitations.

Sections 2001(b) and 2051(b) also amended the authority for Government financing of non-commercial purchases by authorizing financing on the basis of certain classes of measures of performance.

To implement these changes, DOD, NASA, and GSA amended the FAR by revising Subparts 32.0, 32.1, and 32.5; by adding new Subparts 32.2 and 32.10; and by adding new clauses to 52.232.

The coverage enables the Government to provide financing to assist in the performance of contracts for commercial items and provide financing for non-commercial items based on contractor performance.

B. Annual Reporting Burden

Public reporting burden for this collection of information is estimated to average 2 hours per request for commercial financing and 2 hours per request for performance-based financing, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, and completing and reviewing the collection of information.

The annual reporting burden for commercial financing is estimated as follows:

Respondents: 1,000.

Responses Per Respondent: 5.

Total Responses: 5,000.

Hours Per Response: 2.

Total Burden Hours: 10,000.

The annual reporting burden for performance-based financing is estimated as follows:

Respondents: 500.

Responses Per Respondent: 12.

Total Responses: 6,000.

Hours Per Response: 2.

Total Burden Hours: 12,000.

0btaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, Regulatory Secretariat (VIR), 1800 F Street, NW, Room 4035, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0138, Contract Financing, in all correspondence.

Dated: May 23, 2007.

Al Matera,

Acting Director, Contract Policy Division.

[FR Doc. 07–2863 Filed 6–7–07; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF DEFENSE

Department of the Navy

[No. USN–2007–0013]

Submission for OMB Review; Comment Request

ACTION: Notice.

The Department of Defense has submitted to OMB for clearance, the following proposal for collection of information under the provisions of the Paperwork Reduction Act (44 U.S.C. Chapter 35).

Dates: Consideration will be given to all comments received by July 9, 2007.

Title, Form, and OMB Number: Facilities Available for the Construction or Repair of Ships; Standard Form 17; OMB Number 0703–0006.

Type of Request: Extension.

Number of Respondents: 130.

Responses per Respondent: 1.

Annual Responses: 130.

Average Burden per Response: 4 hours.

Annual Burden Hours: 520.

Needs and Uses: This collection of information provides NAVSEASYSCOM and the Maritime Administration with a list of facilities available for the construction or repair of ships. The information is utilized in a database for assessing the production capacity of the individual shipyards. Respondents are businesses involved in shipbuilding and/or repair.

Affected Public: Business or other-for-profit.

Frequency: Annually.

Respondent's Obligation: Voluntary.

OMB Desk Officer: Ms. Hillary Jaffe.

Written comments and recommendations on the proposed information collection should be sent to Ms. Jaffe at the Office of Management and Budget, Desk Officer for DoD, Room 10236, New Executive Office Building, Washington, DC 20503.

You may also submit comments, identified by docket number and title, by the following method:

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

Instructions: All submissions received must include the agency name, docket number and title for this **Federal Register** document. The general policy for comments and other submissions from members of the public is to make these submissions available for public viewing on the Internet at *http://www.regulations.gov* as they are received without change, including any personal identifiers or contact information.

DOD Clearance Officer: Ms. Patricia Toppings

Written requests for copies of the information collection proposal should be sent to Ms. Toppings at WHS/ESD/Information Management Division, 1777 North Kent Street, RPN, Suite 11000, Arlington, VA 22209–2133.

Dated: May 31, 2007.

Patricia L. Toppings,

Alternate OSD Federal Register Liaison Officer, Department of Defense.

[FR Doc. 07–2846 Filed 6–7–07; 8:45am]

BILLING CODE 5001–06–M

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 9, 2007.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, Washington, DC 20503. Commenters are encouraged to submit responses electronically by e-mail to *oira_submission@omb.eop.gov* or via fax to (202) 395–6974. Commenters should include the following subject line in their response ''Comment: [insert OMB number], [insert abbreviated collection name, e.g., ''Upward Bound Evaluation'']. Persons submitting comments electronically should not submit paper copies.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: June 1, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Office of Postsecondary Education

Type of Review: Reinstatement.

Title: Robert C. Byrd Honors Scholarship Program Performance Report.

Frequency: Annually.

Affected Public: State, Local, or Tribal Gov't, SEAs or LEAs.

Reporting and Recordkeeping Hour Burden:

Responses: 57.

Burden Hours: 570.

Abstract: The information collected in the performance report ensures that State Education Agencies (SEAs) are making scholarships available in accordance with the legislation and regulations that govern the Robert C. Byrd Honors Scholarship Program.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3304. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E7–11047 Filed 6–7–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 9, 2007.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, Washington, DC 20503. Commenters are encouraged to submit responses electronically by e-mail to *oira_submission@omb.eop.gov* or via fax to (202) 395–6974. Commenters should include the following subject line in their response ''Comment: [insert OMB number], [insert abbreviated collection name, *e.g.*, ''Upward Bound Evaluation'']. Persons submitting comments electronically should not submit paper copies.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information

collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: June 1, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Federal Student Aid

Type of Review: New Collection.

Title: Federal Direct PLUS Loan Application and Master Promissory Note, and Endorser Addendum.

Frequency: On occasion.

Affected Public: Individuals or household.

Reporting and Recordkeeping Hour Burden:

Responses: 254,375.

Burden Hours: 127,188.

Abstract: The Federal Direct PLUS Loan Master Promissory Note (MPN) is the means by which an individual applies for and agrees to repay a Federal Direct PLUS Loan. If an applicant for a Federal Direct PLUS Loan is determined to have an adverse credit history and obtains an endorser, the Endorser Addendum is the means by which an endorser agrees to repay the loan if the borrower does not repay it.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3374. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov*. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E7–11048 Filed 6–7–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 9, 2007.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, Washington, DC 20503. Commenters are encouraged to submit responses electronically by e-mail to *oira_submission@omb.eop.gov* or via fax to (202) 395–6974. Commenters should include the following subject line in their response ''Comment: [insert OMB number], [insert abbreviated collection name, *e.g.*, ''Upward Bound Evaluation'']. Persons submitting comments electronically should not submit paper copies.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or recordkeeping burden. OMB invites public comment.

Dated: June 1, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Federal Student Aid

Type of Review: Extension.

Title: Federal PLUS Loan Application and Master Promissory Note, Endorser Addendum, and School Certification.

Frequency: On occasion.

Affected Public: Individuals or household.

Reporting and Recordkeeping Hour Burden:

Responses: 1,066,915.

Burden Hours: 1,049,350.

Abstract: The Federal PLUS Loan Application and Master Promissory Note is the means by which an eligible parent borrower applies for and agrees to repay a Federal PLUS Loan. If an applicant for a Federal PLUS Loan is determined to have an adverse credit history and obtains an endorser, the Endorser Addendum is the means by which the endorser agrees to repay the loan if the borrower does not pay it. The School Certification form is the means by which a school certifies a borrower's eligibility for a Federal PLUS Loan if the school does not certify eligibility electronically.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3375. When you access the information collection, click on ''Download Attachments '' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW., Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to

ICDocketMgr@ed.gov. Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E7–11050 Filed 6–7–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 9, 2007.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, Washington, DC 20503. Commenters are encouraged to submit responses electronically by e-mail to *oira_submission@omb.eop.gov* or via fax to (202) 395–6974. Commenters should include the following subject line in their response ''Comment: [insert OMB number], [insert abbreviated collection name, e.g., ''Upward Bound Evaluation'']. Persons submitting comments electronically should not submit paper copies.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, e.g. new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: June 1, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Office of Planning, Evaluation and Policy Development

Type of Review: Revision.

Title: Child Care Survey of Postsecondary Institutions.

Frequency: One time.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 558.

Burden Hours: 517.

Abstract: Low-income students with children have the highest risk for failing to complete a four-year college degree. To increase the students' persistence in and graduation from college, the U.S. Department of Education's (the Department's) Child Care Access Means Parents in School (CCAMPIS) program provides grants to postsecondary institutions so that they can offer child care support tailored to the needs of specific student populations and local communities. The Department contracted with Mathematica Policy Research, Inc. (MPR) to evaluate the CCAMPIS program. The evaluation includes a comprehensive literature review, a survey of postsecondary institutions (''Child Care Survey''), a secondary data analysis, and the design of a student survey.

The Child Care Survey is a web-based survey of approximately 350 CCAMPIS grantee institutions funded in 2001 or 2002 and 350 matched, non grantee institutions. The sample consists of Title IV, degree-granting institutions offering at least $350,000 in Pell Grant support in the 2000 or 2001 fiscal year. All institutions in the sample offer child care services to postsecondary students. The survey is being conducted in two phases. Phase I, a pilot with 10 percent of the sample, was completed in spring 2007. After the instrument is modified, Phase II will be conducted in fall 2007 with the remaining 90 percent of the sample.

The Child Care Survey will provide a comprehensive picture of how grantees assist low-income students with child care. It will indicate whether and the extent to which grantees are better able than non grantees to provide critical child care services to low-income students. It will also examine child care directors' professional views on whether these services improve postsecondary persistence and graduation for low-income students.

The data will be useful in several ways. Policymakers will be able to use the information in deciding how to fund child care services at postsecondary institutions. Postsecondary institutions may be encouraged to offer more child care services for low-income students. The data will also support additional research on child care services by others interested in improving persistence in and graduation from postsecondary institutions among low-income students with young children. Restricted-use data files from the study-submitted to the Department and disseminated accordingly-can be used for independent studies by researchers and the policy community.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov,* by selecting the ''Browse Pending Collections'' link and by clicking on link number 3371. When you access the information collection, click on ''Download Attachments '' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW, Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E7–11063 Filed 6–7–07; 8:45 am]

BILLING CODE 4000–01–P

DEPARTMENT OF EDUCATION

Submission for OMB Review; Comment Request

AGENCY: Department of Education.

SUMMARY: The IC Clearance Official, Regulatory Information Management Services, Office of Management invites comments on the submission for OMB review as required by the Paperwork Reduction Act of 1995.

DATES: Interested persons are invited to submit comments on or before July 9, 2007.

ADDRESSES: Written comments should be addressed to the Office of Information and Regulatory Affairs, Attention: Education Desk Officer, Office of Management and Budget, 725 17th Street, NW., Room 10222, Washington, DC 20503. Commenters are encouraged to submit responses electronically by e-mail to *oira_submission@omb.eop.gov* or via fax to (202) 395–6974. Commenters should include the following subject line in their response ''Comment: [insert OMB number], [insert abbreviated collection name, *e.g.*, ''Upward Bound Evaluation'']. Persons submitting comments electronically should not submit paper copies.

SUPPLEMENTARY INFORMATION: Section 3506 of the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35) requires that the Office of Management and Budget (OMB) provide interested Federal agencies and the public an early opportunity to comment on information collection requests. OMB may amend or waive the requirement for public consultation to the extent that public participation in the approval process would defeat the purpose of the information collection, violate State or Federal law, or substantially interfere with any agency's ability to perform its statutory obligations. The IC Clearance Official, Regulatory Information Management Services, Office of Management, publishes that notice containing proposed information collection requests prior to submission of these requests to OMB. Each proposed information collection, grouped by office, contains the following: (1) Type of review requested, *e.g.* new, revision, extension, existing or reinstatement; (2) Title; (3) Summary of the collection; (4) Description of the need for, and proposed use of, the information; (5) Respondents and frequency of collection; and (6) Reporting and/or Recordkeeping burden. OMB invites public comment.

Dated: June 1, 2007.

Angela C. Arrington,

IC Clearance Official, Regulatory Information Management Services, Office of Management.

Office of Postsecondary Education

Type of Review: New.

Title: Application for Grants under the Business and International Education (BIE) Program.

Frequency: Annually.

Affected Public: Not-for-profit institutions.

Reporting and Recordkeeping Hour Burden:

Responses: 100.

Burden Hours: 10,000.

Abstract: This is an application to participate in the Title VI Business and International Education Program which provides grants to institutions of higher education to internationalize the business curriculum and to conduct outreach activities that will assist the local community in competing in the global arena.

This information collection is being submitted under the Streamlined Clearance Process for Discretionary Grant Information Collections (1890–0001). Therefore, the 30-day public comment period notice will be the only public comment notice published for this information collection.

Requests for copies of the information collection submission for OMB review may be accessed from *http://edicsweb.ed.gov*, by selecting the ''Browse Pending Collections'' link and by clicking on link number 3369. When you access the information collection, click on ''Download Attachments'' to view. Written requests for information should be addressed to U.S. Department of Education, 400 Maryland Avenue, SW, Potomac Center, 9th Floor, Washington, DC 20202–4700. Requests may also be electronically mailed to *ICDocketMgr@ed.gov* or faxed to 202–245–6623. Please specify the complete title of the information collection when making your request.

Comments regarding burden and/or the collection activity requirements should be electronically mailed to *ICDocketMgr@ed.gov.* Individuals who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

[FR Doc. E7–11064 Filed 6–7–07; 8:45 am]

BILLING CODE 4000–01–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8323–7]

EPA Science Advisory Board Staff Office; Request for Nominations of Candidates for the EPA Clean Air Scientific Advisory Committee and the Science Advisory Board

AGENCY: Environmental Protection Agency.

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency's (EPA) Science Advisory Board (SAB) Staff Office is soliciting nominations for consideration of membership on EPA's Clean Air Scientific Advisory Committee (CASAC), and EPA's Science Advisory Board (SAB or Board) and its Subcommittees.

DATES: Nominations should be submitted in time to arrive no later than July 9, 2007.

FOR FURTHER INFORMATION CONTACT: Nominators unable to submit nominations electronically as described below, may submit a paper copy by contacting Ms. Patricia L. Thomas, U.S. EPA SAB Staff Office (Mail Code 1400F), 1200 Pennsylvania Avenue, NW., Washington, DC 20460 (FedEx/Courier address: U.S. EPA SAB, Suite 3600, 1025 F Street, NW., Washington DC 20004), (202) 343–9974 (telephone), (202) 233–0643 (fax), or via e-mail at *thomas.patricial@epa.gov.* General inquiries regarding the work of the CASAC and SAB may be directed to Dr. Anthony F. Maciorowski, Deputy Director, U.S. EPA SAB Staff Office, (202) 343–9983 (telephone), or via e-mail at *maciorowski.anthony@epa.gov.*

Background: Established by statute, the CASAC (42 U.S.C. 7409) and SAB (42 U.S.C. 4365) are chartered Federal Advisory Committees that provide independent scientific and technical peer review, consultation, advice and recommendations directly to the EPA Administrator on a wide variety of EPA science activities. As Federal Advisory Committees, the CASAC and SAB conduct business in accordance with the Federal Advisory Committee Act (FACA) (5 U.S.C. App. C) and related regulations. Generally, CASAC and SAB meetings are announced in the **Federal Register**, conducted in public view, and provide opportunities for public input during deliberations. Additional information about these Federal Advisory Committees may be found on the SAB Web site at: *http://www.epa.gov/sab.*

Members of the CASAC, the SAB, and their Subcommittees constitute a distinguished body of non-EPA scientists, engineers, economists, and social scientists that are nationally and internationally recognized experts in their respective fields. Members are appointed by the EPA Administrator for a period of three years, with the possibility of re-appointment to a second three-year term. This notice specifically requests nominations for the chartered CASAC, the chartered SAB and its Subcommittees.

Expertise Sought: Established in 1977 under the Clean Air Act (CAA) Amendments, the chartered CASAC reviews and offers scientific advice to the EPA Administrator on technical aspects of national ambient air quality standards for criteria pollutants. As required under the CAA section 109(d),

CASAC will be composed of seven members, with at least *one member of the National Academy of Sciences, one physician, and one person representing State air pollution control agencies.* The SAB Staff office is specifically seeking nominations of experts for CASAC that fulfill one or more of the foregoing statutory requirements.

The chartered SAB (or Board) was established in 1978 by the Environmental Research, Development and Demonstration Act to provide independent advice to the Administrator on general scientific and technical matters underlying the Agency' policies and actions. All the work of the SAB is under the direction of the Board. The chartered Board provides strategic advice to the EPA Administrator on a variety of EPA science and research issues and programs, and reviews and approves all SAB Subcommittee and Panel reports. The chartered SAB consists of about thirty members. The SAB Staff Office is seeking nominations of experts for the chartered Board in the following disciplines: *Environmental economics; behavioral and decision sciences; epidemiology and public health; bioengineering and alternative energy sources.*

The SAB Ecological Processes and Effects Committee (EPEC) provides scientific advice and recommendation to protect, sustain and restore the integrity of ecosystems. The SAB Staff office is seeking nominations of experts for the EPEC in the following disciplines: *Landscape ecology; terrestrial ecology; and valuation of ecological systems and services.*

The SAB Environmental Economics Advisory Committee (EEAC) provides advice on methods and analyses related to economics, costs, and benefits of EPA environmental programs. The SAB Staff office is seeking nominations of experts for the EEAC in the following disciplines: *Environmental economics; cost-benefit analysis; uncertainty analysis; climate change mitigation; agricultural economics; marine resource economics; emissions trading; and market mechanisms and incentives.*

The SAB Environmental Engineering Committee (EEC) provides advice on environmental engineering, remediation, and control. The SAB Staff office is seeking nominations of experts for the EEC in *environmental technology and sustainability.*

The SAB Exposure and Human Health Committee (EHHC) provides advice on the development and use of guidelines for human health effects, exposure assessment, and risk assessment. The SAB Staff office is seeking nominations of experts for the EHHC in the following disciplines: *Carcinogenesis; reproductive and developmental effects; neurotoxicology; epidemiology; and public health.*

The Radiation Advisory Committee (RAC) provides advice on radiation protection, radiation science, and radiation risk assessment. The SAB Staff office is seeking nominations of experts for the RAC in the following disciplines: *Dose-response; risk assessment; radiological and biological modeling; medical physics; and risk communication pertinent radiation and public health.*

How to Submit Nominations: Any interested person or organization may nominate qualified persons to be considered for appointment to these chartered advisory committees and subcommittees. Individuals may self-nominate. Qualified nominees will demonstrate appropriate scientific education, training, and experience to evaluate basic and applied science issues addressed by these advisory committees. Successful nominees will have distinguished themselves professionally and be available to invest the time and effort in providing advice and recommendations on the development and application of science at EPA. Nominations should be submitted in electronic format (preferred) following the instructions for ''Nominating Experts to a Chartered Advisory Committee or Standing Committee'' provided on the SAB Web site. The form can be accessed through the SAB Nomination Form link on the blue navigational bar on the SAB Web site at: *http://www.epa.gov/sab.* To be considered, all nominations should include the information requested on that form.

Nominators are asked to identify the specific committee(s) for which nominees would like to be considered. The nominating form requests contact information about: The person making the nomination; contact information about the nominee; the disciplinary and specific areas of expertise of the nominee; the nominee's curriculum vita; and a biographical sketch of the nominee indicating current position, educational background; research activities; and recent service on other national advisory committees or national professional organizations. Persons having questions about the nomination procedures, or who are unable to submit nominations through the SAB Web site, should contact Ms. Patricia L. Thomas as indicated above in this notice. Non-electronic submissions must follow the same format and contain the same information as the electronic form. The SAB Staff Office will acknowledge receipt of nominations.

Candidates invited to serve will be asked to submit the ''Confidential Financial Disclosure Form for Special Government Employees Serving on Federal Advisory Committees at the U.S. Environmental Protection Agency'' (EPA Form 3110–48). This confidential form allows EPA to determine whether there is a statutory conflict between that person's public responsibilities as a Special Government Employee and private interests and activities, or the appearance of a lack of impartiality, as defined by Federal regulation. The form may be viewed and downloaded at the SAB Web site at: *http://www.epa.gov/sab/pdf/epaform3110–48.pdf.* This form should not be submitted as part of a nomination.

The SAB Staff Office seeks candidates who possess the necessary domains of knowledge, and relevant scientific perspectives (which, among other factors, can be influenced by work history and affiliation) to adequately address scientific issues facing the Agency. The primary criteria to be used in evaluating potential nominees will be scientific and/or technical expertise, knowledge, and experience. Additional criteria that will be used to evaluate technically qualified nominees will include: the absence of financial conflicts of interest; scientific credibility and impartiality; availability and willingness to serve; and the ability to work constructively and effectively on committees. The selection of new members will also include consideration of the collective breadth and depth of scientific perspectives; a balance of scientific perspectives; continuity of knowledge and understanding of EPA missions and environmental programs, and diversity factors (*e.g.*, geographical areas and professional affiliations) for each of the chartered committees and subcommittees.

Dated: June 1, 2007.

Vanessa T. Vu,

Director, EPA Science Advisory Board Staff Office.

[FR Doc. E7–11121 Filed 6–7–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6687–8]

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 6, 2007 (72 FR 17156).

Draft EISs

EIS No. 20070085, ERP No. D–USN–K13000–GU, Kilo Wharf Extension (MILCON P–52), To Provide Adequate Berthing Facilities for Multi-Purpose Dry Cargo/Ammunition Ship (the T–AKE), Apra Harbor Naval Complex, Mariana Island, GU

Summary: EPA expressed environmental concerns about impacts to coral reef ecosystems and recommended additional mitigation for sedimentation impacts, evaluation of a less-damaging alternative, and selection of Sella Bay coral reef restoration as compensatory mitigation. Rating EC2.

EIS No. 20070091, ERP No. D–NPS–F65066–MN, Pipestone National Monument General Management Plan, Implementation, Pipestone County, MN

Summary: EPA expressed environmental concerns about habitat, historic preservation, land use, threatened and endangered species, and noise. EPA suggested modifications to existing alternatives, and recommended green architectural features. Rating EC2.

EIS No. 20070109, ERP No. D–NGB–E11062–MS, Camp Shelby Joint Force Training Center, Implementation of Installation Mission Support Activities, Renewal of Special Use Permit, DeSoto National Forest, in portions of Forrest, George and Perry Counties, MS

Summary: EPA expressed environmental concerns about wetland and water quality impacts associated with the proposed action. EPA supports a comprehensive monitoring program to ensure that the ongoing impacts from military training are assessed and appropriately addressed/mitigated once identified. Rating EC2.

EIS No. 20070115, ERP No. D–FAA–E51052–FL, Fort Lauderdale-Hollywood International Airport, Proposed Development and Extension of Runway 9R/27L and other Associated Airport Projects, Funding, U.S. Army COE Section 404 Permit and NPDES Permit, Fort Lauderdale, Broward County, FL

Summary: EPA expressed concern about aircraft noise impacts and air quality impacts related to PM2.5. EPA recommends that the final EIS discuss approaches to minimize and mitigate noise and air quality impacts. Rating EC2.

EIS No. 20070123, ERP No. D–IBR–K31019–CA, North Sonoma County Agricultural Reuse Project, Construct and Operate a Recycled Water to Agricultural Lands, Sonona County, CA

Summary: EPA expressed concern about air and water quality impacts. Rating EC2.

EIS No. 20070072, ERP No. DA–FHW–E40339–NC, NC 12 Replacement of Herbert C. Bonner Bridge (Bridge No. 11) Revisions and Additions, over Oregon Inlet Construction, Funding, U.S. Coast Guard Permit, Special-Use-Permit, Right-of-Way Permit, U.S. Army COE Section 10 and 404 Permit, Dare County, NC

Summary: EPA expressed concern about impacts to a national wildlife refuge and national seashore and questioned the long-term effects to water quality and migratory birds. Rating EC2.

EIS No. 20070063, ERP No. DS–USN–D52000–00, Introduction of F/A 18 E/F (Super Hornet) Aircraft, Updated Information, Construction and Operation of an Outlying Landing Field, Naval Air Station (NAS) Oceana, VA; Marine Corps Air Station (MCAS) Cherry Point, NC

Summary: EPA has concerns about the potential environmental impacts of locating an outlying landing field in close proximity to the nationally-significant Pocosin Lakes National Wildlife Refuge. EPA recommends that the Navy reconsider other available alternatives. Rating EC2. FINAL EISs

EIS No. 20070099, ERP No. F–SFW–K65313–CA, San Joaquin Valley Operations and Maintenance Program Habitat Conservation Plan, Application for Incidental Take Permits, San Joaquin, Stanislaus, Merced, Fresno, Kings, Kern Mariposa, Madera and Tulare Counties, CA

Summary: No formal comment letter was sent to the preparing agency.

EIS No. 20070148, ERP No. F–FHW–E40796–NC, U.S 64 Corridor Project, Transportation Improvements in the Vicinity of the City of Asheboro and Improved Access to the NC Zoological Park, Funding and COE Section 404 Permit, Transportation Improvement Program (TIP) Project No. R–2536, Randolph County, NC

Summary: EPA continues to have environmental concerns about stream/wetland impacts, terrestrial forest impacts, and short-term air quality impacts. EPA requested additional interchange design considerations to avoid and minimize impacts to streams and wetlands.

EIS No. 20070156, ERP No. F–NOA–K90031–CA, Channel Islands National Marine Sanctuary (CINMS) Project, Establishment of No-ake and Limited-Take Marine Zones, Protection of Sanctuary Biodiversity, CA

Summary: No formal comment letter was sent to the preparing agency.

EIS No. 20070161, ERP No. F–IBR–G39046–00, Upper Rio Grande Basin Water Operations Review, Preferred Alternative E–3, To Develop an Integrated Plan for Water Operations at the Existing Facilities, NM, CO and TX

Summary: No formal comment letter was sent to the pareparing agency.

EIS No. 20070162, ERP No. F–FRC–G03033–LA, Kinder Morgan Louisiana Pipeline Project, Natural Gas Pipeline Facilities, Construction and Operation, U.S. Army COE Section 10 and 404 Permits, Evangeline, Cameron, and Acadia Parishes, LA

Summary: No formal comment letter was sent to the preparing agency.

EIS No. 20070126, ERP No. FS–AFS–K65286–CA, Watdog Project, Preferred Alternative is B, Feather River Ranger District, Plumas National Forest, Butte and Plumas Counties, CA

Summary: EPA has continuing concerns about cumulative impacts to watersheds and short-term impacts to old-forest species, and continues to recommend a less-intensive harvest alternative.

Dated: June 5, 2007.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. E7–11102 Filed 6–7–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[ER–FRL–6687–6]

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 05/28/2007 Through 06/01/2007. Pursuant to 40 CFR 1506.9.

EIS No. 20070220, Final EIS, BLM, WY, Casper Field Office Planning Area

Resource Management Plan, Implementation, Natrona, Converse, Goshen, and Platte Counties, WY, Wait Period Ends: 07/09/2007, Contact: Linda Slone 307–261–7520

EIS No. 20070221, Draft EIS, AFS, MT, Butte Resource Management Plan, Implementation, Beaverhead, Broadwater, Deerlodge, Gallatin, Jefferson, Lewis and Clark, Silver Bow and Park Counties, MT, Comment Period Ends: 09/06/2007, Contact: Tim LaMarr 406–533–7645

EIS No. 20070222, Draft EIS, AFS, MT, Grizzly Vegetation and Transportation Management Project, Proposes Timber Harvest, Prescribed Burning, Road Maintenance, and Transportation Management Actions, Three Rivers Ranger District, Kootenai National Forest, Lincoln County, MT, Comment Period Ends: 07/23/2007, Contact: Kathy Mohar 406–295–4693 EIS No. 20070223, Second Final Supplement, AFS, CA, Empire Vegetation Management Project, Reducing Fire Hazards, Harvesting of Trees Using Group-Selection (GS) and Individual Trees Selection (ITS) Methods, Mt. Hough Ranger District, Plumas National Forest, Plumas County, CA, Wait Period Ends: 07/09/2007, Contact: Gary Rotta 530–283–0555

EIS No. 20070224, Final EIS, BLM, CA, Sierra Resource Management Plan, Provide Direction for Managing Public Lands, Several Counties, CA, Wait Period Ends: 07/09/2007, Contact: Sandra McGinnis 916–985–4474

EIS No. 20070225, Fifth Final Supplement, AFS, 00, Northern Spotted Owl Management Plan, Removal or the Modification to the Survey and Manage Mitigation Measures, Standards and Guidelines (to the Northwest Forest Plan) New Information to Address Three Deficiencies Final Supplemental EIS (2004), Northwest Forest Plan, OR, WA, and CA , Wait Period Ends: 07/09/2007 Contact: Alan Christensen 503–808–2922 EIS No. 20070226, Final Supplement, AFS, MT, Frenchtown Face Ecosystem Restoration Project, Additional Information Maintenance and Improvement of Forest Health, Risk Reduction of Damage Insects and Disease, Lolo National Forest, Ninemile Ranger District, Missoula County, MT, Wait Period Ends: 07/09/2007, Contact: Gary Edson 406–626–5201

EIS No. 20070227, Draft EIS, NPS, CA, Golden Gate National Recreation Area, Proposed Marin Headlands and Fort Baker Transportation Infrastructure and Management Plan, Implementation, Marin County, CA, Comment Period Ends: 08/07/2007, Contact: Steve Ortega 415–561–4841

EIS No. 20070228, Final EIS, AFS, NM, Canadian River Tamarisk Control, Proposes to Control the Nonnative Invasive Species Tamarisk (also Known as salt cedar) Cibola National Forest, Canadian River, Harding and Mora Counties, New Mexico, Wait Period Ends: 07/09/2007, Contact: Keith Baker 505–346–3820

EIS No. 20070229, Draft EIS, AFS, 00, Nebraska and South Dakota Black-Tailed Prairie Dog Management, To Mange Prairie Dog Colonies in an Adaptive Fashion, Nebraska National Forest and Associated Units, Including Land and Resource Management Plan Amendment 3, Dawes, Sioux, Blaines Counties, NE and Custer, Fall River, Jackson, Pennington, Jones, Lyman, Stanley Counties, SD, Comment Period Ends: 07/23/2007, Contact: Michael E. McNeill 605–745–4107

EIS No. 20070230, Draft EIS, FHW, NY, NYS Route 17 at Exit 122 Interchange Project, To Improve the Safety and Operation, Right-of-Way Acquisition, Town of Wallkill, Orange County, NY, Comment Period Ends: 07/25/2007, Contact: Robert Arnold 518–431–4127

EIS No. 20070231, Draft EIS, UAF, 00, Common Battlefield Airmen Training (CBAT) Program, Proposes to Implement the CBAT Program at One of Three Installations: Moody Air Force Base (AFB), near Valosta, GA; Barkdale AFB in Bossier City, LA; and Arnold AFB near Manchester, TN , Comment Period Ends: 07/27/2007, Contact: Debra Harkiewicz 210–652–3959

Dated: June 5, 2007.

Robert W. Hargrove,

Director, NEPA Compliance Division, Office of Federal Activities.

[FR Doc. E7–11104 Filed 6–7–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8322–2]

Availability of FY 06 Grantee Performance Evaluation Reports for the Eight States of EPA Region 4 and 15 Local Agencies, and FY 05 Grantee Performance Evaluation Reports for Four Local Agencies

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice of availability of Clean Air Act, section 105 grantee performance evaluation reports.

SUMMARY: EPA's grant regulations (40 CFR 35.115) require the Agency to evaluate the performance of agencies which receive grants. EPA's regulations for regional consistency (40 CFR 56.7) require that the Agency notify the public of the availability of the reports of such evaluations. EPA performed end-of-year evaluations of eight state air pollution control programs (Alabama Department of Environmental Management; Florida Department of Environmental Protection; Georgia Department of Natural Resources; Commonwealth of Kentucky Department for Environmental Protection; Mississippi Department of Environmental Quality; North Carolina Department of Environment and Natural Resources; South Carolina Department of Health and Environmental Control; and Tennessee Department of Environment and Conservation) and 15 local programs (City of Huntsville Division of Natural Resources, AL; Jefferson County Department of Health, AL; Broward County Environmental Protection Department, FL; City of Jacksonville Environmental Quality Division, FL; Hillsborough County Environmental Protection Commission, FL; Miami-Dade County Air Quality Management Division, FL; Palm Beach County Health Department, FL; Pinellas County Department of Environmental Management, FL; Forsyth County Environmental Affairs Department, NC; Mecklenburg County Land Use and Environmental Services Agency, NC; Western North Carolina Regional Air Quality Agency, NC; Chattanooga-Hamilton County Air Pollution Control Bureau, TN; Memphis-Shelby County Health Department, TN; Knox County Department of Air Quality Management, TN; and Metropolitan Government of Nashville and Davidson County Public Health Department, TN). The 23 evaluations were conducted to assess the agencies' FY 06 performance under the grants awarded by EPA under authority of section 105 of the Clean Air Act. EPA Region 4 has prepared reports for each agency identified above and these reports are now available for public inspection. The evaluation for the remaining local government (Louisville Metro Air Pollution Control District, KY) will be published at a later date.

In addition, EPA performed end-of-year evaluations in FY 05 of four local air pollution control programs (Broward County Environmental Protection Department, FL; Pinellas County Department of Environmental Management, FL; Louisville Metro Air Pollution Control District, KY; and

Chattanooga-Hamilton County Air Pollution Control Bureau, TN). EPA has prepared reports for these evaluations and these reports are now available for public inspection.

ADDRESSES: The reports may be examined at the EPA's Region 4 office, 61 Forsyth Street, SW., Atlanta, Georgia 30303, in the Air, Pesticides and Toxics Management Division. The Regional Office's official hours of business are Monday through Friday, 8:30 to 4:30, excluding Federal holidays.

FOR FURTHER INFORMATION CONTACT: Marie Persinger (404) 562–9048 for information concerning the state and local agencies of Alabama; Miya Smith (404) 562–9091 for the state and local agencies of Florida; Russandra Brown (404) 562–9064 for the state agency of Mississippi and the state and local agencies of Kentucky; Mary Echols (404) 562–9053 for the state agency of Georgia, and for the state and local agencies of North Carolina; and Marilyn Sabadaszka (404) 562–9001 for the state agency of South Carolina and for the state and local agencies of Tennessee. They may be contacted at the above Region 4 address.

Dated: May 25, 2007.

J.I. Palmer, Jr.,

Regional Administrator, Region 4.

[FR Doc. E7–11103 Filed 6–7–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[FRL–8323–8]

Science Advisory Board Staff Office EPA Clean Air Scientific Advisory Committee (CASAC) Notification of Public Advisory Committee Meeting of the CASAC Panel for Review of EPA's Lead Renovation, Repair and Painting (LRRP) Activities

AGENCY: Environmental Protection Agency (EPA).

ACTION: Notice.

SUMMARY: The U.S. Environmental Protection Agency (EPA or Agency) Science Advisory Board (SAB) Staff Office announces a public meeting of the Clean Air Scientific Advisory Committee (CASAC) Panel for Review of EPA's Lead Renovation, Repair, and Painting (LRRP) Activities (CASAC Panel) to conduct a peer review of EPA's *Draft Approach for Estimating Changes in Children's IQ from Lead Dust Generated During Renovation, Repair, and Painting in Residences and Child-Occupied Facilities* (Draft LRRP Activity IQ-Change Methodology, June 2007) and the *Draft Final Report on Characterization of Dust Lead Levels After Renovation, Repair, and Painting Activities* (OPPT Dust Study, January 2007).

DATES: The meeting dates are Monday and Tuesday, July 9 and 10, 2007 from 1 p.m. to 4 p.m. (Eastern Standard).

Location: The meeting will take place at the Marriott at Research Triangle Park, 4700 Guardian Drive, Durham, NC 27703, telephone: 919–941–6200.

FOR FURTHER INFORMATION CONTACT: Any member of the public who wishes to submit a written or brief oral statement (five minutes or less) or wants further information concerning this meeting must contact Mr. Fred Butterfield, Designated Federal Officer (DFO). Mr. Butterfield may be contacted at the EPA Science Advisory Board (1400F), U.S. Environmental Protection Agency, 1200 Pennsylvania Avenue, NW., Washington, DC 20460; or via telephone/voice mail: 202–343–9994; fax: 202–233–0643; or e-mail at: *butterfield.fred@epa.gov.* General information concerning the CASAC can be found on the EPA Web site at *http://www.epa.gov/sab.* Information concerning EPA technical contacts appears below in this **Federal Register** notice.

SUPPLEMENTARY INFORMATION:

Background: The CASAC, which is comprised of seven members appointed by the EPA Administrator, was established under section 109(d)(2) of the Clean Air Act (CAA or Act) (42 U.S.C. 7409) as an independent scientific advisory committee. The CASAC is chartered under the Federal Advisory Committee Act (FACA), as amended, 5 U.S.C., App. The CASAC Panel consists of the seven CASAC members supplemented by subject-matter-experts. The CASAC Panel provides advice and recommendations to EPA concerning the Agency's proposed rule for LRRP activities. The Panel complies with the provisions of FACA and all appropriate SAB Staff Office procedural policies.

On February 5, 2007, the CASAC Panel conducted a consultation on EPA's *Draft Assessment to Support the Lead Renovation, Repair, and Painting* (LRRP) Rule (1st Draft LRRP Assessment, January 2007). Detailed summary information on this CASAC consultation is contained in a previous EPA **Federal Register** notice (72 FR 1988, January 17, 2007). The CASAC's final letter from this consultation on the 1st Draft LRRP Assessment (EPA–CASAC–07–004, dated April 3, 2007) is posted on the SAB Web site at *http://www.epa.gov/sab/pdf/casac-07-004.pdf.*

In support of this rule-making activity, EPA's Office of Pollution Prevention and Toxics (OPPT), within the Agency's Office of Prevention, Pesticides and Toxic Substances (OPPTS), has requested that the CASAC conduct a peer review on EPA's Draft LRRP Activity IQ-Change Methodology and the OPPT Dust Study.

Technical Contacts: Any questions concerning the Agency's Draft LRRP Activity IQ-Change Methodology should be directed to Dr. Jennifer Seed, OPPT, at telephone: 202–564–7634, or e-mail: *seed.jennifer@epa.gov*; or to Ms. Cathy Fehrenbacher, OPPT, at telephone: 202–564–8551, or e-mail: *fehrenbacher.cathy@epa.gov.* Any questions concerning the Agency's OPPT Dust Study should be directed to Ms. Jackie Mosby, OPPT, at telephone: 202–566–2228, or e-mail: *mosby.jackie@epa.gov.*

Availability of Meeting Materials: On or about June 11, 2007, the Draft LRRP Activity IQ-Change Methodology will be posted on EPA's ''Lead in Paint, Dust, and Soil: Renovation, Repair, and Painting Program'' Web site at *http://www.epa.gov/lead/pubs/casac.htm.* The OPPT Dust Study is available both on the aforementioned Web site and the Agency's ''Lead Safe Work Requirements to Protect Children During Renovation, Repair and Painting Activities'' Web site at *http://www.epa.gov/lead/pubs/renovation.htm#info.* In addition, a copy of the draft agenda and other materials for this CASAC Panel meeting will be posted on the SAB Web site at *http://www.epa.gov/sab/panels/casac_adv_tech_assessment_lrrp.htm* prior to the meeting.

Procedures for Providing Public Input: Interested members of the public may submit relevant written or oral information for this CASAC Panel to consider during the advisory process. *Oral Statements:* In general, individuals or groups requesting an oral presentation at a public meeting will be limited to five minutes per speaker, with no more than a total of one hour for all speakers. Interested parties should contact Mr. Butterfield, DFO, in writing (preferably via e-mail), by Monday, July 2, 2007, at the contact information noted above, to be placed on the list of public speakers for this meeting. *Written Statements:* Written statements should be received in the SAB Staff Office by Thursday, July 5, 2007, so that the information may be made available to the CASAC Panel for their consideration prior to this meeting. Written statements should be supplied to the DFO in the following formats: one hard copy with original signature

(optional), and one electronic copy via e-mail (acceptable file format: Adobe Acrobat PDF, WordPerfect, MS Word, MS PowerPoint, or Rich Text files in IBM–PC/Windows 98/2000/XP format).

Accessibility: For information on access or services for individuals with disabilities, please contact Mr. Butterfield at the phone number or e-mail address noted above, preferably at least ten days prior to the meeting, to give EPA as much time as possible to process your request.

Dated: June 1, 2007.

Anthony F. Maciorowski,

Deputy Director, EPA Science Advisory Board Staff Office.

[FR Doc. E7–11118 Filed 6–7–07; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

[EPA–HQ–OW–2007–0282; FRL–8324–4]

EPA and Army Corps of Engineers Guidance Regarding Clean Water Act Jurisdiction after Rapanos

AGENCY: U.S. Army Corps of Engineers, DoD; Environmental Protection Agency (EPA).

ACTION: Notice of availability.

SUMMARY: The U.S. Environmental Protection Agency and U.S. Army Corps of Engineers are today issuing agency guidance, effective immediately, regarding Clean Water Act (CWA) jurisdiction following the U.S. Supreme Court's decision in the consolidated cases *Rapanos* v. *United States* and *Carabell* v. *United States* (''Rapanos''). The agencies are issuing this guidance to ensure that jurisdictional determinations, administrative enforcement actions, and other relevant agency actions being conducted under the CWA are consistent with the *Rapanos* decision and provide effective protection for public health and the environment. The agencies are concurrently providing a six-month public comment period to solicit input on early experience with implementing the guidance. The agencies, within nine months from the date of issuance, will either reissue, revise, or suspend the guidance after carefully considering the public comments received and field experience with implementing the guidance.

DATES: Comments must be received on or before December 5, 2007.

ADDRESSES: Submit your comments, identified by Docket ID No. EPA–HQ–OW–2007–0282, by one of the following methods:

- *www.regulations.gov:* Follow the on-line instructions for submitting comments.
- *E-mail: OW–Docket@epa.gov.* Include the docket number, EPA–HQ–OW–2007–0282 in the subject line of the message.
- *Mail:* Water Docket, Environmental Protection Agency, Mailcode: 2822T, 1200 Pennsylvania Ave., NW., Washington, DC 20460.
- *Hand Delivery:* 1301 Constitution Ave., NW., Room 3334, Washington, DC 20460. Such deliveries are only accepted during the Docket's normal hours of operation, and special arrangements should be made for deliveries of boxed information.

Instructions: Direct your comments to Docket ID No. EPA–HQ–OW–2007–0282. EPA's policy is that all comments received will be included in the public docket without change and may be made available online at www.regulations.gov, including any personal information provided, unless the comment includes information claimed to be Confidential Business Information (CBI) or other information whose disclosure is restricted by statute. Do not submit information that you consider to be CBI or otherwise protected through www.regulations.gov or e-mail. The www.regulations.gov Web site is an ''anonymous access'' system, which means EPA will not know your identity or contact information unless you provide it in the body of your comment. If you send an e-mail comment directly to EPA without going through www.regulations.gov your e-mail address will be automatically captured and included as part of the comment that is placed in the public docket and made available on the Internet. If you submit an electronic comment, EPA recommends that you include your name and other contact information in the body of your comment and with any disk or CD–ROM you submit. If EPA cannot read your comment due to technical difficulties and cannot contact you for clarification, EPA may not be able to consider your comment. Electronic files should avoid the use of special characters, any form of encryption, and be free of any defects or viruses.

Docket: All documents in the docket are listed in the www.regulations.gov index. Although listed in the index, some information is not publicly available, *e.g.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, will be publicly available only in hard copy. Publicly available docket materials are available either electronically in www.regulations.gov or in hard copy at the Water Docket, EPA/DC, EPA West, Room 3334, 1301 Constitution Ave., NW., Washington, DC. The Public Reading Room is open from 8:30 a.m. to 4:30 p.m., Monday through Friday, excluding legal holidays. The telephone number for the Public Reading Room is (202) 566–1744, and the telephone number for the Water Docket is (202) 566–2426.

FOR FURTHER INFORMATION CONTACT: Russell L. Kaiser, Regulatory Community of Practice (CECW–CO), U.S. Army Corps of Engineers, Headquarters, 441 G Street, NW., Washington, DC 20314; telephone number: (202) 761–7763: fax number: (202) 761–5096; e-mail address: *Rapanos.Comments@usace.army.mil.* Donna M. Downing, Office of Water (4502T), Environmental Protection Agency, 1200 Pennsylvania Ave., NW., Washington, DC 20460; telephone number: (202) 566–1783; e-mail address: *CWAwaters@epa.gov.*

SUPPLEMENTARY INFORMATION:

I. General Information

The U.S. Environmental Protection Agency and U.S. Army Corps of Engineers are issuing agency guidance, effective immediately, regarding Clean Water Act (CWA) jurisdiction following the U.S. Supreme Court's decision in the consolidated cases *Rapanos* v. *United States* and *Carabell* v. *United States* (126 S. Ct. 2208 (2006)) (''*Rapanos*''). Congress enacted the Clean Water Act (''CWA'') (33 U.S.C. 1251(a)) ''to restore and maintain the chemical, physical, and biological integrity of the Nation's waters.'' One of the mechanisms adopted by Congress to achieve that purpose is a prohibition on the discharge of any pollutants, including dredged or fill material, into ''navigable waters'' except in compliance with other specified sections of the CWA (33 U.S.C. 1311(a) and 1362(12)(A)). In most cases, this means compliance with a permit issued pursuant to CWA section 402 or section 404. The CWA defines the term ''discharge of a pollutant'' as ''any addition of any pollutant to navigable waters from any point source[,]''(33 U.S.C. 1362(12)(A)) and provides that ''[t]he term 'navigable waters' means the waters of the United States, including the territorial seas[,]'' (33 U.S.C. 1362(7); 33 CFR 328.3(a) and 40 C.R 230.3(s)). In *Rapanos,* the Court addressed where the Federal government can apply the CWA, specifically by determining whether a wetland or tributary is a ''water of the United States.'' The justices issued five separate opinions in *Rapanos* (one

plurality opinion, two concurring opinions, and two dissenting opinions), with no single opinion commanding a majority of the Court.

During the first six months implementing the guidance, the agencies invite public comment and case studies on early experience with implementing the guidance. The agencies, within nine months from the date of issuance, will either reissue, revise, or suspend the guidance after carefully considering the public comments received and field experience with implementing the guidance. A copy of the guidance can be found on EPA's Web site at *http://www.epa.gov/owow/wetlands/guidance/CWAwaters.html and on the Corps' Web site at http://www.usace.army.mil/cw/cecwo/reg/.*

The Court's split decision is causing uncertainty among agency field personnel and the general public regarding the scope of Federal jurisdiction under the CWA's section 404 program. As a result, many jurisdictional determinations and their associated permitting actions have been delayed. For this reason, the agencies believe it is imperative that the guidance be issued immediately, so that agency field personnel can address the backlog of pending jurisdictional determinations.

At the same time, the agencies appreciate that the public has considerable interest in the issues addressed in this guidance. The agencies are particularly interested in hearing from the public regarding their actual experience with implementing the guidance. For this reason, we are providing a six month public comment period, which will allow us to address the backlog of pending jurisdictional determinations, while encouraging the public to provide comments, case studies, and experiences with the use of this guidance. To assure the public of our commitment to carefully consider their comments, and to address issues that may unexpectedly arise during implementation of the guidance, the agencies will within nine months from the date of issuance either reissue, revise, or suspend the guidance.

Dated: June 5, 2007.

Benjamin H. Grumbles,

Assistant Administrator, Office of Water.

[FR Doc. E7–11123 Filed 6–7–07; 8:45 am]

BILLING CODE 6560–50–P

DEPARTMENT OF THE TREASURY

Office of the Comptroller of the Currency

FEDERAL RESERVE SYSTEM

[Docket No. OP–1267]

FEDERAL DEPOSIT INSURANCE CORPORATION

DEPARTMENT OF THE TREASURY

Office of Thrift Supervision

NATIONAL CREDIT UNION ADMINISTRATION

Illustrations of Consumer Information for Nontraditional Mortgage Products

AGENCIES: Office of the Comptroller of the Currency, Treasury (OCC); Board of Governors of the Federal Reserve System (Board); Federal Deposit Insurance Corporation (FDIC); Office of Thrift Supervision, Treasury (OTS); and National Credit Union Administration (NCUA) (collectively, the Agencies).

ACTION: Final guidance '' Illustrations of Consumer Information for Nontraditional Mortgage Products.

SUMMARY: The Agencies are publishing three documents that set forth Illustrations of Consumer Information for Nontraditional Mortgage Products. The illustrations are intended to assist institutions in implementing the consumer protection portion of the Interagency Guidance on Nontraditional Mortgage Product Risks (Interagency NTM Guidance) adopted on October 4, 2006. 71 FR 58609 (Oct. 4, 2006). The illustrations are not model forms and institutions may choose not to use them in providing information to consumers on nontraditional mortgage products as recommended in the Interagency NTM Guidance.

EFFECTIVE DATE: June 8, 2007.

FOR FURTHER INFORMATION CONTACT:

OCC: Michael Bylsma, Director, Stephen Van Meter, Assistant Director, or Kathryn Ray, Special Counsel, Community and Consumer Law Division, (202) 874–5750.

Board: Kathleen C. Ryan, Counsel, or Jamie Z. Goodson, Attorney, Division of Consumer and Community Affairs, (202) 452–3667. For users of Telecommunication Device for Deaf only, call (202) 263–4869.

FDIC: April Breslaw, Acting Associate Director, Compliance Policy & Exam Support Branch, Division of Supervision and Consumer Protection, (202) 898–6609; or Richard Foley, Counsel, Legal Division, (202) 898–3784.

OTS: Montrice G. Yakimov, Assistant Managing Director, Compliance and Consumer Protection Division, (202) 906–6173; or Glenn Gimble, Senior Project Manager, Compliance and Consumer Protection Division, (202) 906–7158.

NCUA: Cory Phariss, Program Officer, Examination and Insurance, (703) 518–6618.

SUPPLEMENTARY INFORMATION:

I. Background

On December 29, 2005, the Agencies published the Interagency NTM Guidance for comment. 70 FR 77249 (Dec. 29, 2005). After carefully reviewing and considering all comments received, the Agencies published the Interagency NTM Guidance (applicable to all banks and their subsidiaries, bank holding companies and their nonbank subsidiaries, savings associations and their subsidiaries, savings and loan holding companies and their subsidiaries, and credit unions) in final form on October 4, 2006. 71 FR 58609 (Oct. 4, 2006).

The Interagency NTM Guidance sets forth recommended practices to ensure that consumers have clear and balanced information about nontraditional mortgages prior to making a mortgage product choice, such as when lenders provide promotional materials about nontraditional mortgages or during face-to-face meetings when consumers are shopping for a mortgage. The guidance also recommends that any monthly statements given with payment option adjustable rate mortgages (ARMs) provide information to enable consumers to make informed payment choices.

Several commenters on the proposed guidance, including industry trade associations, encouraged the Agencies to include model or sample disclosures or other descriptive materials as part of the Interagency NTM Guidance. In response, the Agencies determined that illustrations of consumer information would be useful to institutions as they seek to implement the consumer information recommendations. Therefore, on the same day the Interagency NTM Guidance was published in the **Federal Register**, the Agencies published for comment proposed Illustrations of Consumer Information for Nontraditional Mortgage Products (Proposed Illustrations). 71 FR 58673 (Oct. 4, 2006).

The three Proposed Illustrations consisted of (1) A narrative explanation of nontraditional mortgage products, (2) a chart comparing interest only (IO)

loans and payment option ARMs to fixed rate and traditional adjustable rate loans, and (3) a table that could be included with any monthly statement for a payment option ARM providing information on the impact of various payment options on the loan balance. The Agencies noted that there would be no Agency requirement or expectation that institutions use the illustrations in their communications with consumers. Instead, the Agencies intended to illustrate the type of information that the Interagency NTM Guidance contemplates. Institutions would be able to determine whether or not to use the illustrations and whether and how to tailor them to their own circumstances.

The Agencies requested comment on all aspects of the Proposed Illustrations. Specifically, they requested commenters to address whether the illustrations, as proposed, would be useful to institutions, including community banks, seeking to implement the ''Communications with Consumers'' portion of the Interagency NTM Guidance, or whether changes should be made. The Agencies also encouraged specific comment on whether the illustrations, as proposed, would be useful in promoting consumer understanding of the risks and material terms of nontraditional mortgage products, as described in the Interagency NTM Guidance, or whether changes should be made. Finally, the Agencies sought comment on whether other illustrations relating to nontraditional mortgages, in addition to those proposed, would be useful to institutions and consumers.

After considering the comments received, the Agencies are now issuing final illustrations of consumer information for nontraditional mortgage products. The Interagency NTM Guidance recommends that promotional materials and other product descriptions provide consumers with information about the costs, terms, features, and risks of nontraditional mortgage products that can assist consumers in their product selection decisions. This includes information about potential payment shock and negative amortization and, where applicable, information about prepayment penalties and the costs of reduced documentation loans.

Institutions seeking to follow the recommendations set forth in the Interagency NTM Guidance may, at their option, elect to:

- Use the illustrations;
- Provide information based on the illustrations, but expand, abbreviate, or otherwise tailor any information in the illustrations as appropriate to reflect, for example:
- The institution's product offerings, such as by deleting information about loan products and loan terms not offered by the institution and by revising the illustrations to reflect specific terms currently offered by the institution;
- The consumer's particular loan requirements;
- Current market conditions, such as by changing the loan amounts, interest rates, and corresponding payment amounts to reflect current local market circumstances;
- Other information, consistent with the Interagency NTM Guidance, such as the payment and loan balance information for statements discussed in connection with Illustration No. 3 or information about when a prepayment penalty may be imposed; and
- The results of consumer testing of such forms; or
- Provide the information described in the Interagency NTM Guidance, as appropriate, in an alternate format.

To assist institutions that wish to use the illustrations, the Agencies will be posting each of the illustrations on their respective websites in a form that can be downloaded and printed for easy reproduction. In addition, in response to concerns that the interest rates used in Illustration No. 2 may become outdated with changes in market interest rates—and consistent with the Agencies' intention, expressed above, that the illustrations may be modified to reflect, among other things, current market conditions—the Agencies also will be posting on their respective websites a template that can be used by institutions that wish to modify the information presented in Illustration No. 2 to reflect more current interest rates (and corresponding payment amounts). Illustration No. 2 itself reflects typical interest rates for prime borrowers in today's environment, rounded to the nearest whole number to enhance simplicity.[1]

II. Overview of the Comments

Collectively, the Agencies received letters from over 30 commenters on the proposal, including comments from two financial institutions, 12 consumer advocates and community organizations, 12 trade organizations, two individuals, and three state regulatory organizations.

Most commenters generally approved of the illustrations and expressed appreciation for the Agencies' efforts to demonstrate ways lenders could advance the consumer communication goals outlined in the Interagency NTM Guidance. Generally, commenters stated that the proposed illustrations would be useful to financial institutions—including community banks—seeking to develop their own disclosures to help consumers understand the risks of nontraditional mortgage products. Commenters also suggested that the illustrations provided helpful guidance on the Agencies' expectations and would help reduce implementation costs.

Most financial institutions and trade organizations supported the voluntary nature of the illustrations. These commenters stated that the flexibility afforded them by the Agencies would allow them to convey information to their customers in a format most suited to customers' needs. Additionally, having the flexibility to develop their own disclosures would allow financial institutions to tailor their disclosures to take into account specific product offerings and market conditions.

However, a smaller group of commenters that included 8 consumer groups and one industry group disagreed, and suggested that consumer education efforts should be mandatory. The trade group noted that providing for voluntary use of the illustrations makes unclear the degree to which the illustrations will be used, when they will be used, and how they will assist consumers. This commenter suggested that the Agencies propose model forms and provide lenders with a safe harbor when they use the model forms.

Several financial institutions, trade organizations, and community organizations suggested that the illustrations should be made part of the Board's revisions to Regulation Z, which implements the Truth in Lending Act. These commenters suggested that making the illustrations part of Regulation Z would ensure more widespread industry use. Additionally, some commenters expressed concern that issuing guidance on consumer information materials applicable only to federally-supervised institutions would put those institutions at a competitive disadvantage. The Conference of State Bank Supervisors (CSBS), the American Association of Residential Mortgage Regulators (AARMR), and the National Association of Consumer Credit Administrators (NACCA) commented

[1] Illustration No. 2 also embodies assumptions about other product features that are typical in the current market: for example, the illustration assumes that the payment option ARM provides for a cap on increases in the minimum monthly payment equal to 7.5 percent per year for the first 5 years of the loan. Thus, the illustration shows the minimum monthly payment increasing over this time period from $739 (in Year 1) to $987 (in Year 5).

that they believe the illustrations also could be used by state-licensed entities subject to state-issued guidance that parallels the Interagency NTM Guidance.

A number of commenters expressed concern that the illustrations were difficult to follow and would be confusing to consumers, and should be simplified. A few industry trade groups and a consumer group advised the Agencies to engage in consumer testing or hire consultants to determine how to improve the illustrations. A number of commenters provided very specific suggestions aimed at making the illustrations easier to understand. Several industry commenters requested that the Agencies add language explaining how a consumer could benefit from nontraditional mortgage products. Further, one trade organization stated that lenders should be able to implement the consumer information recommendations of the Interagency NTM Guidance by providing consumers with the interagency publication titled, ''Interest-Only Mortgage Payments and Payment-Option ARMs—Are They for You?''[2]

Finally, two commenters suggested that the Agencies include in these illustrations information about two additional products—2/28 and 3/27 adjustable rate mortgages. These are ''hybrid'' ARMs that start with a fixed interest rate for two or three years, respectively, and then reset to a variable rate, which generally will be higher than the introductory fixed rate. Because the Interagency NTM Guidance does not cover fully-amortizing mortgage products such as hybrid ARMs, the Agencies are not including information on these products in the NTM illustrations. However, when the Agencies finalize the ''Statement on Subprime Mortgage Lending,'' which was proposed on March 8, 2007, and which provides guidance concerning hybrid ARM products, we expect to issue for public comment disclosure illustrations appropriate for that guidance.[3]

III. Final Illustrations

After carefully considering all of the comments received, the Agencies have decided to publish the proposed illustrations, with some modifications. The Agencies have determined that illustrations of the type of information contemplated in the Interagency NTM Guidance are needed now. Additionally, the Agencies believe that issuing the materials as nonmandatory illustrations will provide institutions with the flexibility needed to tailor the materials to their own circumstances and customer needs.

Some commenters asserted that use of the illustrations may place entities subject to the Interagency NTM Guidance at a competitive disadvantage. In this regard, we note that the Interagency NTM Guidance, which includes the consumer disclosure recommendations, is already in effect for these entities, and also has been adopted for state-regulated mortgage brokers and companies by over 30 state agencies and the District of Columbia.[4] The illustrations will be helpful to those institutions that prefer not to incur the costs and burdens of developing their own consumer information documents to implement the recommendations in the Interagency NTM Guidance. Additionally, as previously noted, CSBS, AARMR, and NACCA stated their belief that the illustrations also could be used by state-licensed entities subject to state-issued guidance that parallels the Interagency NTM Guidance.

The Agencies agree with the commenters who urged simplification of the Proposed Illustrations, particularly Proposed Illustration No. 2. The specific changes made in response to these comments are detailed below. The Agencies opted not to include additional text in the illustrations that would discuss the benefits of nontraditional mortgage products, to ensure that the materials focus on an objective description of material terms, risks, and features of such products. Institutions are not precluded, of course, from providing factual information concerning the features of their products to consumers.

One commenter asked whether the consumer information brochure entitled ''Interest-Only Mortgage Payments and Payment-Option ARMs—Are They for You?'' could be used in place of the illustrations to provide information to consumers. The information contemplated by the Interagency NTM Guidance serve a different purpose than this brochure. This detailed, multi-page publication includes valuable in-depth information, but it does not represent the more concise and focused consumer information contemplated by, and recommended in, the Interagency NTM Guidance. Illustrations 1 and 2, by contrast, are designed to be concise and focused so they can be quickly referenced by consumers during the mortgage shopping process. While, as explained in detail above, institutions are not required to use the illustrations, and may elect to provide the information contemplated in the Interagency NTM Guidance in a modified or alternate format, delivering this more detailed publication to consumers would not serve this same purpose or provide the information as recommended in the guidance.

The Agencies' changes to each Proposed Illustration are discussed below.

A. Proposed Illustration No. 1

Although most commenters stated that Illustration No. 1 would be useful in helping consumers understand the risks of nontraditional mortgage products, several suggested that the Agencies make the illustration more user-friendly by using simpler language and larger fonts. Most trade organization and financial institution commenters generally agreed that Illustration No. 1 would be helpful. Consumer groups, on the other hand, expressed their desire that the illustrations strongly communicate the risks of nontraditional mortgage products and add language clarifying that making the minimum payments on a payment option mortgage could lead to a reduction in a borrower's equity. Several consumer groups recommended that the illustration not suggest that consumers should request information orally from a lender, because consumers should be encouraged to review written information rather than rely on oral representations.

To address the commenters' concerns, the Agencies have simplified Illustration No. 1, deleted text where possible to shorten the length of the illustration, and made formatting changes to improve readability. Additionally, the Agencies have included language clarifying that making the minimum payments on a payment option mortgage could lead to a reduction in a borrower's equity. The Agencies have also added language advising consumers that if they do not understand the terms of a particular loan, they should not sign any loan contracts, and may want to consider other types of loans.

B. Proposed Illustration No. 2

Many commenters found proposed Illustration No. 2 confusing. Specifically, several commenters said the footnotes and the explanation of the minimum monthly payment row for years one through five of a payment

[2] ''Interest-Only Mortgage Payments and Payment-Option ARMs—Are They for You?'' available at: *http://www.federalreserve.gov/pubs/mortgage_interestonly/mortgage_interestonly.pdf.*

[3] 72 FR 10533 (March 8, 2007).

[4] See *www.csbs.org/Content/NavigationMenu/RegulatoryAffairs/FederalAgencyGuidanceDatabase/State_Implementation.htm.*

option ARM would confuse consumers. A few commenters suggested that Illustration No. 2 would be most helpful to consumers if a loan officer or credit counselor reviewed it with them. Additionally, one financial institution suggested that Illustration No. 2 should emphasize the risks of payment shock and negative amortization.

One industry trade group stated that assuming borrowers make minimum payments is unrealistic. This commenter added that the interest rates in the examples should represent a typical interest rate environment in which a fixed rate loan would have a higher rate than an adjustable rate loan. However, one financial institution suggested that the illustration should use the same interest rates for all the products to make comparison easier. One trade group stated that the rates for interest-only and payment option ARM loans should be higher to reflect the terms offered to non-prime borrowers. Two commenters stated that the illustration should use a $100,000 loan amount that would be easier for consumers to compare to their loan amounts than the $180,000 amount used in the proposed illustration.

A few commenters warned against using any assumptions that could become dated. Instead, one industry group suggested that payment amounts and interest rate information in Illustration No. 2 should be left blank so that loan officers and consumers could fill out the numbers themselves as they discuss and consider loan options. Another commenter suggested that the Agencies create a Web site where consumers could input their own specific information into different mortgage structures and get accurate and easy-to-understand cost alternatives.

To address commenter concerns, and to maintain consistency with the Interagency NTM Guidance, the Agencies have simplified Illustration No. 2 by reducing the number of products for which information is provided. The simplified illustration eliminates the need for footnotes or similar explanations. Additionally, the Agencies made formatting changes to draw consumers' attention to the important points the chart seeks to illustrate.

The Agencies agreed with commenters that a sample loan amount of $180,000 could make it more difficult for consumers to estimate their own payment amounts. The Agencies, therefore, have adopted a representative loan amount of $200,000, which is closer to the national median price for a single family home than the $100,000 loan amount suggested by some commenters.

C. Proposed Illustration No. 3

The Agencies received the fewest specific comments on Illustration No. 3. Moreover, commenters did not express concern that consumers would have difficulty understanding Illustration No. 3. Several commenters, however, asked the Agencies to make clear that lenders will have flexibility with regard to how and when to provide the information contemplated by the third illustration. One trade group stated that the third illustration could be burdensome for lenders that do not provide monthly statements. Similarly, another trade group asked the Agencies to state that lenders could provide the third illustration less frequently than monthly, or through an explanation on the lender's Web site. In contrast, another trade group stated that the Agencies should encourage lenders to provide monthly statements.

One financial institution recommended that the illustration include the resulting loan balance with each payment choice so that the consumer can see how their choice affects the loan on a monthly basis. However, one financial institution and one trade group commenter stated that providing specific payment information would be burdensome and that lenders would require implementation time to make system changes.

After reviewing and considering the comments, the Agencies decided not to make substantial changes to Illustration No. 3. The Interagency NTM Guidance recommends that if institutions provide monthly statements to consumers on payment option mortgages, those monthly statements should provide information that enables consumers to make informed payment choices, including an explanation of each payment option available and the impact of that choice on loan balances. Illustration No. 3 shows one way in which this information could be presented. Financial institutions retain the flexibility to provide the information in a format best suited to their customer's needs. Moreover, it is important to note this illustration is not intended to set forth all of the information lenders could provide that may be useful, such as the current loan balance, an itemization of the payment amount devoted to interest and to principal, and whether the loan balance has increased.

The final illustrations appear below.

Illustration 1

Important Facts About Interest-Only and Payment Option Mortgages

Whether you are buying a house or refinancing your mortgage, this information can help you decide if an interest-only mortgage or a payment option mortgage is right for you. These mortgages can be complicated. If you do not understand how they work, you should not sign any loan contracts, and you might want to consider other types of loans.

Interest-Only Mortgages allow you to pay only the interest on the money you borrowed for the first few years of the mortgage (the "interest-only period").

If you pay only the amount due, then at the end of the interest-only period:

- You will still owe the original amount you borrowed.
- Your monthly payment will increase because you must pay back the principal as well as interest. Your payment could increase even more if you have an adjustable rate mortgage ("ARM") and interest rates increase.

Payment Option Mortgages allow you to choose among several payment options each month during the first few years of the loan (the "option period"). The option period will end earlier than scheduled if the amount you owe grows beyond a set limit—for example, 110% or 125% of your original mortgage amount.

During the option period, the payment options usually include:

- A payment of principal and interest, which reduces the amount you owe over time.
- An interest-only payment, which does not reduce the amount you owe.
- A minimum payment, which may be less than the interest due that month. *If you choose this option, any unpaid interest will increase the amount you owe.*

At the end of the option period, depending on what payment options you chose:

- You could owe substantially more than the original amount you borrowed.
- Your monthly payment could increase significantly because:
  - You may have to start paying back principal, as well as interest.
  - Unpaid interest may have increased the amount you owe.
  - Interest rates may have increased (if you have an ARM).

Additional Information

►**Home Equity**—If you make interest-only payments, your payments are not building home equity. And, if you make only the minimum payment on a payment option mortgage, you may be losing home equity. This may make it harder to refinance your mortgage or to obtain funds from selling or refinancing your home.

►**Prepayment Penalties**—Some mortgages require you to pay a lump-sum prepayment penalty if you sell your home or refinance during the first few years of the loan. You should find out if your mortgage has a prepayment penalty, how it works, and how much it could be.

►**No Doc/Low Doc Loans**—"Reduced documentation" or "stated income" loans usually have higher interest rates or other costs compared to "full documentation" loans that require you to verify your income and assets.

Illustration 2

SAMPLE MORTGAGE COMPARISON

(Not actual loans available)

Sample Loan Amount $200,000 – 30-Year Term – Interest Rates For Example Purposes Only

	Traditional Fixed Rate Mortgage (7%)	5-Year Interest-Only ARM (initial rate 7%; maximum rate 12%)	Payment Option ARM (rate in 1st month 2%; variable rate after 1st month (starting at 7%); maximum rate 12%)
REQUIRED MONTHLY PAYMENTS			
Years 1-5	$1,331	$1,167	$739–$987 (increasing annually)
Year 6 – if rates don't change	$1,331	$1,414	$1,565
Year 6 – if rates rise 2%	$1,331	$1,678	$1,859
Year 8 – if rates rise 5%	$1,331	$2,094	$2,319
EFFECT ON LOAN BALANCE AND HOME EQUITY			
After 5 Years, How Much Will You Owe?	$188,263	$200,000	$221,486
After 5 Years, How Much Home Equity Have Your Loan Payments Built?	$11,737	$0	*NEGATIVE* $21,486

Illustration 3

Your Payment Options This Month	Amount	Impact
Principal and Interest Payment	$_____	• You will pay some of the principal on your loan. • You will reduce your loan balance.
Interest-Only Payment	$_____	• You will not pay any principal on your loan. • You will **not** reduce your loan balance.
Minimum Payment	$_____	• You [will] [will **not**] cover the interest on your loan. • You [will not] [will] **increase** your loan balance.

Dated: May 30, 2007.

John C. Dugan,

Comptroller of the Currency.

By order of the Board of Governors of the Federal Reserve System, May 29, 2007.

Jennifer J. Johnson,

Secretary of the Board.

Dated at Washington, DC, the 8th day of May, 2007.

By order of the Federal Deposit Insurance Corporation.

Robert E. Feldman,

Assistant Executive Secretary.

Dated: May 30, 2007.

By the Office of Thrift Supervision.

John Reich,

Director.

Dated: May 31, 2007.

By the National Credit Union Administration.

JoAnn M. Johnson,

Chairman.

[FR Doc. 07–2859 Filed 6–7–07; 8:45 am]

BILLING CODE 4810–35–P; 7535–01–P; 6210–01–P; 6714–01–P; 6720–01–P

FEDERAL MARITIME COMMISSION

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Federal Maritime Commission.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 and the Office of Management and Budget (''OMB'') regulations, the Federal Maritime Commission is announcing its intention to request a revision of an approved information collection regarding the licensing of ocean transportation intermediaries.

DATES: Comments must be submitted on or before August 7, 2007.

ADDRESSES: You may send comments to: Peter J. King, Director, Office of Administration, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573, (Telephone: (202) 523–5800), *administration@fmc.gov.* Please reference the information collection's title and OMB number in your comments.

FOR FURTHER INFORMATION CONTACT: To obtain additional information, copies of the information collection and instructions, or copies of any comments received, contact Jane Gregory, Management Analyst, Office of Administration, Federal Maritime Commission, 800 North Capitol Street, NW., Washington, DC 20573, (Telephone: (202) 523–5800), *jgregory@fmc.gov.*

SUPPLEMENTARY INFORMATION:

Request for Comments

The Federal Maritime Commission, as part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the revised information collection listed in this notice, as required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

Comments submitted in response to this notice will be included or summarized in our request for OMB approval of the relevant information collection. All comments are part of the public record and subject to disclosure. Please do not include any confidential or inappropriate material in your comments. We invite comments on: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

Information Collection Open for Comment

Title: 46 CFR 515—Licensing, Financial Responsibility Requirements and General Duties for Ocean Transportation Intermediaries and Related Forms.

OMB Approval Number: 3072–0018 (Expires July 31, 2007).

Abstract: Section 19 of the Shipping Act of 1984 (the ''Act''), 46 U.S.C. 40901–40904 (2006), as modified by Public Law 105–258 (The Ocean Shipping Reform Act of 1998) and Section 424 of Public Law 105–383 (The Coast Guard Authorization Act of 1998), provides that no person in the United States may act as an ocean transportation intermediary (''OTI'') unless that person holds a license issued by the Commission. The Commission shall issue an OTI license to any person that the Commission determines to be qualified by experience and character to act as an OTI. Further, no person may act as an OTI unless that person furnishes a bond, proof of insurance or other surety in a form and amount determined by the Commission to ensure financial responsibility. The Commission has implemented the provisions of section 19 in regulations contained in 46 CFR part 515, including financial responsibility forms FMC–48, FMC–67, FMC–68, and FMC–69, Optional Rider Forms FMC–48A and FMC–69A, and its related license application form, FMC–18.

Current Actions: The Commission intends to revise Form FMC–18, Application for a License as an Ocean Transportation Intermediary. Specifically, language is being added to the Privacy Act Notice regarding voluntary disclosure of the applicant's Social Security Number, and the System of Records citation is being updated. In the Paperwork Reduction Act Notice, the estimated time to prepare an Application is being revised from 1.5 hours per response to 2 hours. Throughout the Application, any reference to the Bureau of Consumer Complaints and Licensing (''BCCL'') has been changed to the Bureau of Certification and Licensing (''BCL''). Also, language has been added to Question 7(2) in Part B, and to Question 13(3) in Part D, allowing applicant or its qualifying individual to disclose whether he/she has ''been declared bankrupt, been subject to a tax lien, or had legal judgment rendered for a debt.'' In accordance with the Privacy Act of 1974, this would allow the agency, to the greatest extent practicable, to collect information about an applicant that may be used in making a decision with respect to the granting of an OTI license, directly from the applicant.

Type of Review: Revision of information collection contained in Form FMC–18, Application for a License as an Ocean Transportation Intermediary.

Needs and Uses: The Commission uses information obtained under 46 CFR part 515 and through Form FMC–18 to determine the qualifications of OTIs and their compliance with shipping statutes and regulations and to enable the Commission to discharge its duties under the Act by ensuring that OTIs maintain acceptable evidence of financial responsibility. If the collection of information were not conducted, there would be no basis upon which the Commission could determine if applicants are qualified for licensing.

Frequency: This information is collected when applicants apply for a license or when existing licensees change certain information in their application forms.

Type of Respondents: The respondents are persons desiring to obtain a license to act as an OTI. Under the Act, OTIs may be either an ocean freight forwarder, a non-vessel-operating common carrier, or both.

Number of Annual Respondents: The Commission estimates a potential

annual respondent universe of 4,765 entities.

Estimated Time Per Response: The time per response for completing Application Form FMC–18 averages 2 hours. The time to complete a financial responsibility form averages 20 minutes.

Total Annual Burden: The Commission estimates the annual burden for Form FMC–18 to be 1,400 person-hours, and for the financial responsibility forms to be 2,196 hours. The total annual person-hour burden for this collection is estimated to be 3,596 person-hours.

Bryant L. VanBrakle,

Secretary.

[FR Doc. E7–11067 Filed 6–7–07; 8:45 am]

BILLING CODE 6730–01–P

FEDERAL RESERVE SYSTEM

Change in Bank Control Notices; Acquisition of Shares of Bank or Bank Holding Companies

The notificants listed below have applied under the Change in Bank Control Act (12 U.S.C. 1817(j)) and § 225.41 of the Board's Regulation Y (12 CFR 225.41) to acquire a bank or bank holding company. The factors that are considered in acting on the notices are set forth in paragraph 7 of the Act (12 U.S.C. 1817(j)(7)).

The notices are available for immediate inspection at the Federal Reserve Bank indicated. The notices also will be available for inspection at the office of the Board of Governors. Interested persons may express their views in writing to the Reserve Bank indicated for that notice or to the offices of the Board of Governors. Comments must be received not later than June 25, 2007.

A. Federal Reserve Bank of St. Louis (Glenda Wilson, Community Affairs Officer) 411 Locust Street, St. Louis, Missouri 63166-2034:

1. Bennie F. Ryburn, Jr., as sole voting trustee of the Bennie F. Ryburn Family Trust; to retain voting shares of Drew Bancshares, Inc., and thereby indirectly retain voting shares of Commercial Bank & Trust Company, all of Monticello, Arkansas.

B. Federal Reserve Bank of Minneapolis (Jacqueline G. King, Community Affairs Officer) 90 Hennepin Avenue, Minneapolis, Minnesota 55480-0291:

1. William H. Unger, Sauk Centre, Minnesota, and Alfred P. Minnerath, Starbuck, Minnesota; to acquire control of Sauk Centre Financial Services, Inc., and thereby indirectly acquire control of First National Bank of Sauk Centre, both of Sauk Centre, Minnesota.

C. Federal Reserve Bank of Dallas (W. Arthur Tribble, Vice President) 2200 North Pearl Street, Dallas, Texas 75201-2272:

1. David E. Locke, Miami, Texas, Locke M. Carter, Wolfforth, Texas, and Susan Moore Carter Rhoades, Pampa, Texas; to acquire voting shares of Miami Bancshares, Inc., and thereby indirectly acquire voting shares of First State Bank of Miami Texas, both of Miami, Texas.

Board of Governors of the Federal Reserve System, June 5, 2007.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E7–11091 Filed 6–7–07; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Federal Open Market Committee; Domestic Policy Directive of May 9, 2007

In accordance with § 271.25 of its rules regarding availability of information (12 CFR part 271), there is set forth below the domestic policy directive issued by the Federal Open Market Committee at its meeting held on May 9, 2007.[1]

The Federal Open Market Committee seeks monetary and financial conditions that will foster price stability and promote sustainable growth in output. To further its long–run objectives, the Committee in the immediate future seeks conditions in reserve markets consistent with maintaining the federal funds rate at an average of around 5¼ percent.

By order of the Federal Open Market Committee, May 31, 2007.

Vincent R. Reinhart,

Secretary, Federal Open Market Committee.

[FR Doc. E7–11106 Field 6–7–07; 8:45 am]

BILLING CODE 6210–01–S

[1] Copies of the Minutes of the Federal Open Market Committee meeting on May 9, 2007, which includes the domestic policy directive issued at the meeting, are available upon request to the Board of Governors of the Federal Reserve System, Washington, D.C. 20551. The minutes are published in the Federal Reserve Bulletin and in the Board's annual report.

FEDERAL TRADE COMMISSION

Agency Information Collection Activities; Submission for OMB Review; Comment Request

AGENCY: Federal Trade Commission.

ACTION: Notice.

SUMMARY: The information collection requirements described below will be submitted to the Office of Management and Budget (''OMB'') for review, as required by the Paperwork Reduction Act (''PRA''). The Federal Trade Commission (''FTC'' or ''Commission'') is seeking public comments on its proposal to extend through June 30, 2010 the current OMB clearance for information collection requirements contained in its Identity Theft Report Definition Rule (''Rule''). That clearance expires on June 30, 2007.

DATES: Comments must be filed by July 9, 2007.

ADDRESSES: Interested parties are invited to submit written comments. Comments should refer to ''IDT Report Rule: FTC Matter No. R411011,'' to facilitate the organization of comments. A comment filed in paper form should include this reference both in the text and on the envelope and should be mailed or delivered, with two complete copies, to the following address: Federal Trade Commission, Room H-135 (Annex J), 600 Pennsylvania Ave., N.W., Washington, D.C. 20580. Because paper mail in the Washington area and at the Commission is subject to delay, please consider submitting your comments in electronic form, as prescribed below. However, if the comment contains any material for which confidential treatment is requested, it must be filed in paper form, and the first page of the document must be clearly labeled ''Confidential.''[1]

Comments filed in electronic form should be submitted by following the instructions on the web-based form at *https://secure.commentworks.com/ftc-IDTReportRule*. To ensure that the Commission considers an electronic comment, you must file it on the web-based form at the *https://secure.commentworks.com/ftc-IDTReportRule* weblink. If this notice appears at *www.regulations.gov*, you may also file an electronic comment through that website. The Commission will consider all comments that regulations.gov forwards to it.

Comments also should be submitted to: Office of Management and Budget, ATTN: Desk Officer for the Federal Trade Commission. Comments should be submitted by facsimile to (202) 395-

[1] Commission Rule 4.2(d), 16 CFR 4.2(d). The comment must be accompanied by an explicit request for confidential treatment, including the factual and legal basis for the request, and must identify the specific portions of the comment to be withheld from the public record. The request will be granted or denied by the Commission's General Counsel, consistent with applicable law and the public interest. *See* Commission Rule 4.9(c), 16 CFR 4.9(c).

6974 because U.S. Postal Mail is subject to lengthy delays due to heightened security precautions.

The FTC Act and other laws the Commission administers permit the collection of public comments to consider and use in this proceeding as appropriate. All timely and responsive public comments will be considered by the Commission and will be available to the public on the FTC website, to the extent practicable, at *www.ftc.gov*. As a matter of discretion, the FTC makes every effort to remove home contact information for individuals from the public comments it receives before placing those comments on the FTC website. More information, including routine uses permitted by the Privacy Act, may be found in the FTC's privacy policy at *http://www.ftc.gov/ftc/privacy.htm*.

FOR FURTHER INFORMATION CONTACT: Requests for additional information should be addressed to Kristin Krause Cohen, Attorney, Division of Privacy and Identity Protection, Bureau of Consumer Protection, Federal Trade Commission, 600 Pennsylvania Avenue, N.W., Washington, DC 20580, (202) 326-2252.

SUPPLEMENTARY INFORMATION: On March 29, 2007, the FTC sought public comments on its proposal to extend through June 30, 2010 its current OMB clearance for information collection contained in the Rule. See 72 FR 14810. No comments were received. Pursuant to the OMB regulations, 5 CFR Part 1320, that implement the PRA, 44 U.S.C. 3501-3520, the FTC is providing this second opportunity for public comment while seeking OMB approval to extend the existing paperwork clearance for the Rule. All comments should be filed as prescribed in the **ADDRESSES** section above, and must be received on or before July 9, 2007.

The Identity Theft Report Definition Rule, 16 CFR Part 603, was promulgated pursuant to the Fair and Accurate Credit Transactions Act of 2003 (''FACT Act'' or the ''Act''), Pub.L. 108-159 (December 4, 2003), amending the Fair Credit Reporting Act, which established requirements for consumer reporting agencies, creditors, and others to help remedy problems associated with identity theft. Under the Act, an individual can mitigate a number of specific harms resulting from identity theft by providing an identity theft report to consumer reporting agencies and information furnishers. For example, with an identity theft report, an identity theft victim can obtain a seven year fraud alert or seek to block fraudulent information on their credit report. Pursuant to the FACT Act, the Rule defined the term ''identity theft report,'' 16 CFR 603.3, and became effective on December 1, 2004.

Burden statement:

Staff anticipates that, as both individuals and police departments become increasingly aware of the benefits of obtaining an ''identity theft report'' under the Act, the number of individuals who ultimately obtain an identity theft report will likely increase because the Rule facilitates a victim's ability to file a law enforcement report. To estimate that increase and associated effect on paperwork burden, staff has drawn from publicly available survey results that quantify: (a) how many individuals are victimized annually by identity theft; and (b) the frequency in which consumers file related identity theft reports with law enforcement agencies and other third-parties.

In a survey prepared for the Commission by Synovate and issued in September 2003, *Federal Trade Commission—Identity Theft Survey Report* (Synovate Survey Report),[2] Synovate stated that there are 9.91 million individuals victimized by identity theft each year.[3] More recent public data, however, states that in 2006, the number of domestic consumer victims of identity theft totaled 8.9 million,[4] and staff will apply this latter amount to its projections of increased consumer use of identity theft reports.

The Synovate Survey Report also provided data on the frequency in which consumers file identity theft reports with law enforcement agencies and other third-parties. Staff is unaware of newer publicly available data of this nature. Accordingly, staff will incorporate this previously provided data into its revised estimates of the number of consumers who will obtain identity theft reports.

Based on past years' experience drawn from the Synovate Survey Report, 26% of all identity theft victims contact a law enforcement agency.[5] Of those contacting law enforcement officials, 76% file a police report alleging identity theft.[6] Conversely, 24% of victims who contact a law enforcement agency have not filed a police report. Applying this information to the updated population of identity theft victims, that would amount to 2.314 million individuals contacting a law enforcement agency (8.9 million victims x 26%) of which roughly 555,000 (rounded to the nearest thousand) have not filed a police report. Staff anticipates that the Rule will enable those victims who previously were unable to file reports with local law enforcement to now file reports with a state or federal law enforcement agency.

The Synovate Survey Report stated that 43% of identity theft victims annually contact an information furnisher.[7] This would amount to 3.827 million victims in a given year (8.9 million victims x 43%). Based on its knowledge of identity theft trends, staff anticipates that the Rule will result in an increase of 10% of these persons, or roughly 383,000, who will now obtain an identity theft report to file with an information furnisher as proof of being an identity theft victim.

In a given year, 3.23 million persons are victims of their personal information being used to open new accounts or to commit other frauds.[8] Of these victims, approximately 20% — or 646,000 — do not take any action on this misuse.[9] Based on its knowledge of identity theft trends, staff estimates that the Rule will likely result in 75%, or 485,000, of these victims obtaining identity theft reports.

In sum, then, staff estimates that the Rule will increase by 1.423 million the number of individuals obtaining identity theft reports (555,000 + 383,000 + 485,000).

Estimated total annual hours burden: 545,000 hours (rounded to the nearest thousand)

In its 2004 notice of proposed rulemaking and corresponding submission to OMB, FTC staff estimated, based on the experience of the Commission's Consumer Response Center, that an individual would spend an average of 5 minutes finding and reviewing filing instructions, 8 minutes filing the law enforcement report with the law enforcement agency, and 5 minutes submitting the law enforcement report and any additional information or documentation to the information furnisher or consumer reporting agency, resulting in an average of 18 minutes for each identity theft report.[10]

[2] *See* Synovate Survey Report at *http://www.ftc.gov/os/2003/09/synovatereport.pdf.*

[3] Synovate Survey Report at 7.

[4] *See http://www.privacyrights.org/ar/idtheftsurveys.htm* (summarizing findings of the January 2006 Javelin Strategy and Research *2006 Identity Fraud Survey Report*).

[5] Synovate Survey Report at 59.

[6] *Id.*

[7] *Id.* at 50.

[8] *Id.* at 7. Absent newer data on this point, staff refers to and applies this Synovate-provided data.

[9] Based upon staff's analysis of data collected in the Synovate Survey Report, these types of victims constitute 20% of such victims.

[10] These estimates take into account that the time required to file the report will vary depending on the law enforcement agency used by the individual.

Staff now estimates, based on the ongoing experience of the Commission's Consumer Response Center, that an individual will spend 5 minutes finding and reviewing filing instructions, 13 minutes filing the law enforcement report with the law enforcement agency (due to added entry fields), and 5 minutes submitting the law enforcement report and any additional information or documentation to the information furnisher or consumer reporting agency, resulting in an average of 23 minutes for each identity theft report. Thus, the annual information collection burden for the estimated 1.423 million new identity theft reports due to the Rule will be 545,000 hours, rounded to the nearest thousand (1.423 million x 23 minutes ÷ 60 minutes/hour).

Estimated labor costs: $10,802,000 (rounded to the nearest thousand)

Commission staff derived labor costs by applying appropriate hourly cost figures to the burden hours described above. Based on Bureau of Labor Statistics data, further adjusted for inflation, the average national hourly wage for individuals is $19.82.[11] Applied to 545,000 total burden hours yields an estimated $10,802,000 in cumulative labor costs for all those who will newly obtain identity theft reports ($19.82 x 545,000 hours) as a projected result of the Rule.

Estimated annual non-labor cost burden: $0 or minimal

Staff believes that the Rule's paperwork burden imposes negligible capital or other non-labor costs, as an identity theft victim is likely to have the necessary supplies and/or equipment already (telephone, computer, paper, envelopes) for purposes of obtaining the identity theft report and submitting it to information furnishers or consumer reporting agencies.

William Blumenthal

General Counsel

[FR Doc. E7–11049 Filed 6–7–07: 8:45 am]

[Billing code: 6750 – 01S]

[11] An hourly rate of $18.62 was drawn from average annual Bureau of Labor Statistics National Compensation Survey data, June 2005 (with 2005 as the most recent whole year information available, and June the focal median point), *http://www.bls.gov/ncs/ocs/sp/ncbl0832.pdf* (Table 1.1). Further adjusted by a multiplier of 1.06426 (a compounding for approximate wage inflation for 2005 and 2006, based on the BLS Employment Cost Index), the revised hourly wage is $19.82.

FEDERAL TRADE COMMISSION

Privacy Act of 1974; System of Records

AGENCY: Federal Trade Commission (FTC).

ACTION: Notice of routine use.

SUMMARY: The FTC is adopting in final form a new routine use that permits disclosure of FTC records protected by the Privacy Act when reasonably necessary to respond and prevent, minimize, or remedy harm that may result from an agency data breach or compromise.

DATES: The routine use is effective June 8, 2007.

FOR FURTHER INFORMATION CONTACT: Alex Tang, Attorney, FTC, Office of General Counsel, 600 Pennsylvania Ave. NW, Washington, DC 20580, 202-326-2447, *atang@ftc.gov*.

SUPPLEMENTARY INFORMATION: In a document previously published in the FEDERAL REGISTER, 72 FR 14814 (Mar. 29, 2007), the FTC, as required by the Privacy Act of 1974, 5 U.S.C. 552a, sought comments on a proposed new ''routine use'' of the FTC's Privacy Act records systems.[1] As the FTC explained, the new routine use, the text of which is set forth at the end of this document,[2] is necessary to allow for disclosures of Privacy Act records by the FTC to appropriate persons and entities for purposes of response and remedial efforts in the event of a breach of data contained in the protected systems. The routine use will facilitate an effective response to a confirmed or suspected breach by allowing for disclosure to individuals affected by the breach, in cases, if any, where such disclosure is not otherwise authorized under the Act. The routine use will also authorize disclosures to others who are in a position to assist in response efforts, either by assisting in notification to affected individuals or otherwise playing a role in preventing, minimizing, or remedying harms from the breach. The FTC explained that this new routine use would be added to Appendix 1 of the FTC's Privacy Act system notice; that Appendix describes the routine uses that apply globally to all FTC Privacy Act records systems.[3]

The Privacy Act authorizes agencies, after public notice and comment, to adopt routine uses that are compatible with the purpose for which information subject to the Act has been collected. 5 U.S.C. 552a(b)(3); *see also* 5 U.S.C. 552a(a)(7). The FTC believes that it is consistent with the agency's collection of information pertaining to individuals under the Privacy Act to disclose such records when, in doing so, it will help prevent, minimize or remedy a data breach or compromise that may affect such individuals. By contrast, the FTC believes that failure to take reasonable steps to help prevent, minimize or remedy the harm that may result from such a breach or compromise would jeopardize, rather than promote, the privacy of such individuals.

In seeking public comments on the proposed routine use, the FTC explained that it would take into account any such comments and make appropriate or necessary revisions, if any, before publishing the proposed routine use as final. In response, the FTC received one comment, from the Electronic Privacy Information Center (EPIC).[4]

First, EPIC urges that the FTC narrow the proposed routine use to the minimum required to fulfill the agency's stated purpose. EPIC questions what standards or requirements the agency would follow in determining the Privacy Act disclosures to be made in the case of a data breach, and wonders whether the agency would now be routinely disclosing Social Security numbers or other sensitive personal information to other agencies, entities and persons in every data breach investigation. Recognizing that specific disclosures may be necessary, EPIC suggests, for example, that the FTC could create tiers of access, allowing specific categories of individuals limited access to data, according to the needs of the agency's investigation.

The FTC agrees that any disclosure of Privacy Act records in order to investigate or remedy a breach must be necessary and narrowly tailored to the circumstances. The FTC believes that the restriction on disclosures to those that are ''reasonably necessary'' accurately and appropriately describes the relevant limitation on disclosures under this routine use. The scope of potential disclosures authorized by that routine use is not intended to suggest that the FTC will always disclose all of an individual's records, if any, every time there is a breach that the agency needs to investigate or mitigate. Rather, the purpose and intent of the routine use is to give individuals full and fair notice of the extent of potential

[1] The FTC simultaneously provided OMB and the Congress with 40 days advance notice of the proposed routine use, as required by the Privacy Act, 5 U.S.C. 552a(r), and OMB Circular A-130, Revised, Appendix I.

[2] The text of the routine use was taken from the routine use that has already been published in final form by the Department of Justice after public comment. *See* 72 FR 3410 (Jan. 25, 2007).

[3] *See* 57 FR 45678 (1992), *http://www.ftc.gov/foia/sysnot/appendix1.pdf*. A list of the agency's current Privacy Act records systems can be viewed on the FTC's web site at: *http://www.ftc.gov/foia/listofpasystems.htm*.

[4] *See http://www.ftc.gov/os/publiccomments.shtm* (#207).

disclosures, consistent with the Privacy Act's requirement that individuals be made aware of how their records may be disclosed, even if the FTC anticipates that there may often be very limited or no disclosure of an individual's records to third parties as part of the agency's investigatory or remedial efforts.

Developing fixed categories of access for certain entities or individuals, as EPIC suggests, would not appear to confer significantly greater protection, if any, for an individual's records than limiting disclosures to those that are ''reasonably necessary.'' The determination of when disclosure is ''reasonably necessary'' will logically depend on a case-by-case evaluation of the specific circumstances of the breach, including how much of an individual's information, if any, it is reasonably necessary to disclose, and the specific nature of the entities to whom such information needs to be disclosed, in order to investigate or respond to a breach.[5] Amending a routine use to accommodate disclosures in response to a breach is not a viable option when there is a clear need to respond rapidly and effectively in investigating and mitigating the breach, in light of the prior notice and comment requirements of the Privacy Act for routine use amendments.

Second, EPIC's comment advocates that consumers be notified as soon as possible after a security breach results in their personal information being accessed by an unauthorized person, and before notifying any other agency, entity or individual. That issue, however, is outside the scope of a routine use notice under the Privacy Act. The Act requires that agencies notify individuals about the establishment of a Privacy Act system of records, the routine uses of such systems of records, and additional notice at the time that information in such a system is collected from individuals.

Nothing in the Act, however, governs or provides criteria for determining when notice of a data breach to affected individuals would be appropriate or not. Guidance on that issue has been issued to all Federal agencies by the Office of Management & Budget (OMB), in conjunction with the President's Identity Theft Task Force, chaired by the Attorney General and co-chaired by the FTC Chairman.[6] As stated in that guidance, agencies must consider various factors in determining whether notice is appropriate in a given case. The routine use published by the FTC neither addresses nor is it intended to supersede or supplant such guidance, or any other applicable guidance that may later arise in applicable statute, rule or policy regarding when notice to individuals must or should be given.

Accordingly, after consideration of the above, the FTC has determined to adopt the routine use for data breach as originally published, and hereby amends Appendix 1 of its Privacy Act system notices, as published at 57 FR 45678, by adding the following new routine use at the end of the existing routine uses set forth in that Appendix:

* * *

To appropriate agencies, entities, and persons when (1) the FTC suspects or has confirmed that the security or confidentiality of information in the system of records has been compromised; (2) the FTC has determined that as a result of the suspected or confirmed compromise 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 (whether maintained by the FTC or another agency or entity) that rely upon the compromised information; and (3) the disclosure made to such agencies, entities, and persons is reasonably necessary to assist in connection with the FTC's efforts to respond to the suspected or confirmed compromise and prevent, minimize, or remedy such harm.

By direction of the Commission.

Donald S. Clark

Secretary

[FR Doc. E7–11122 Filed 6–7–07: 8:45 am]

[BILLING CODE 6750–01–S]

[5] For example, under FTC rules, disclosures to other law enforcement agencies may be made on a confidential basis for law enforcement purposes. *See* Commission Rule 4.11(c), 16 CFR 4.11(c).

[6] *See* Memorandum for the Heads of Department and Agencies, from Clay Johnson, Deputy Director for Management, OMB, ''Recommendations for Identity Theft Related Data Breach Notification'' (Sept. 20, 2006) (attaching Memorandum from the Identity Theft Task Force, ''Identity Theft Related Data Security Breach Notification Guidance'' (Sept. 19, 2006), *also reproduced in* The President's Identity Theft Task Force, *Combating Identity Theft: A Strategic Plan* (Apr. 2007) at 73-82 (App. A)).

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Committee on Vital and Health Statistics: Meeting

Pursuant to the Federal Advisory Committee Act, the Department of Health and Human Services (HHS) announces the following advisory committee meeting.

Name: National Committee on Vital and Health Statistics (NCVHS).

Time and Date: June 20, 2007: 9 a.m.–3:15 p.m.; June 21, 2007: 9 a.m.–3 p.m.

Place: Natcher Center, Building 45, National Institutes of Health, Bethesda Campus, Bethesda, MD.

Status: Open.

Purpose: At this meeting the Committee will hear presentations and hold discussions on several health data policy topics. On the morning and afternoon of the first day the Committee will hear updates and status reports from its subcommittees as well as a briefing on the 5010 transaction data set.

On the morning of the second day the Committee will first hear updates from the Department on activities of the Data Council and the Office of the National Coordinator for Health Information Technology (ONCHIT) followed by Committee actions on selected topics from the subcommittees. The next item will be a briefing on the International Health Terminology Standards Development Organization (IHTSDO.) This briefly will be followed by a discussion of secondary uses of electronic medical record information which will continue after the noon break. There will be a short discussion of future agendas before the meeting adjourns.

The times shown above are for the full Committee meeting. Subcommittee breakout sessions are scheduled for late in the afternoon of the first day and in the morning prior to the full Committee meeting on the second day. Agendas for these breakout sessions will be posted on the NCVHS Web site (URL below) when available.

Contact Person for More Information: Substantive program information as well as summaries of meetings and a roster of committee members may be obtained from Marjorie S. Greenberg, Executive Secretary, NCVHS, National Center for Health Statistics, Centers for Disease Control and Prevention, 3311 Toledo Road, Room 2402, Hyattsville, Maryland 20782, telephone (301) 458–4245. Information also is available on the NCVHS home page of the HHS Web site: *http://www.ncvhs.hhs.gov/,* where further information including an agenda will be posted when available.

Should you require reasonable accommodation, please contact the CDC Office of Equal Employment Opportunity on (301) 458–4EEO (4336) as soon as possible.

Dated: May 31, 2007.

James Scanlon,

Deputy Assistant Secretary for Planning and Evaluation (SDP), Office of the Assistant Secretary for Planning and Evaluation.

[FR Doc. 07–2861 Filed 6–7–07; 8:45 am]

BILLING CODE 4151–05–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Administration on Aging

Agency Information Collection Activities; Proposed Collection; Comment Request; Fourth National Study of Older Americans Act Recipients

AGENCY: Administration on Aging, HHS.

ACTION: Notice.

SUMMARY: The Administration on Aging (AoA) is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act of 1995 (the PRA), Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, and to allow 60 days for public comment in response to the notice. This notice solicits comments on the information collection requirements relating to The Fourth National Survey of Older Americans Act Service Recipients. This information collection, builds on earlier national pilot studies and performance measurement tools developed by grantees in the Performance Outcomes Measures Project (POMP). It will include consumer assessment surveys for congregate and home delivered meal nutrition program, transportation, homecare services and other Title IIIB services, and National Family Caregiver Support Program. Copies of the POMP instruments can be located at *http://www.gpra.net.* Information collected through this study will be used by AoA to track performance outcome measures, support budget requests; comply with Government Performance and Results Act (GPRA) reporting requirements; provide information for OMB's program assessment (PART) process: Provide national benchmark information for grantees and inform program improvement and management initiatives.

DATES: Submit written or electronic comments on the collection of information by August 7, 2007.

ADDRESSES: Submit electronic comments on the collection of information to: *Valerie.Cook@aoa.hhs.gov.*

Submit written comments on the collection of information to Administration on Aging, Washington, DC 20201.

FOR FURTHER INFORMATION CONTACT: Valerie Cook (202) 357–3583

SUPPLEMENTARY INFORMATION: Under the PRA (44 U.S.C. 3501–3520), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. ''Collection of information'' is defined in 44 U.S.C. 3502(3) and 5 CFR 1320.3(c) and includes agency request or requirements that members of the public submit reports, keep records, or provide information to a third party. Section 3506(c)(2)(A) of the PRA (44 U.S.C. 3506(c)(2)(A)) requires Federal agencies to provide a 60-day notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of an existing collection of information, before submitting the collection to OMB for approval. To comply with this requirement, AoA is publishing notice of the proposed collection of information set forth in this document. With respect to the following collection of information, AoA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of AoA's functions, including whether the information will have practical utility; (2) the accuracy of AoA's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques when appropriate, and other forms of information technology. AoA estimates the burden of this collection of information as follows: Recipient surveys—Respondents: Individuals; Number of Respondents 6,000; Number of Responses per Respondent: One; Average Burden per Response: 30 minutes: Total Burden for Recipients Surveys: 3,000 hours—Administrative Assistance from Area Agencies on Aging (AAA)—Number of AAAs: 250; Average Burden per Respondent: 4 hours; total Burden for AAAs: 1,000—Total Burden for Study 4,000.

Dated: June 4, 2007.

Josefina G. Carbonell,

Assistant Secretary for Aging.

[FR Doc. E7–11105 Filed 6–7–07; 8:45 am]

BILLING CODE 4154–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

[30Day–07–05CP]

Agency Forms Undergoing Paperwork Reduction Act Review

The Centers for Disease Control and Prevention (CDC) publishes a list of information collection requests under review by the Office of Management and Budget (OMB) in compliance with the Paperwork Reduction Act (44 U.S.C. Chapter 35). To request a copy of these requests, call the CDC Reports Clearance Officer at (404) 639–5960 or send an e-mail to *omb@cdc.gov*. Send written comments to CDC Desk Officer, Office of Management and Budget, Washington, DC or by fax to (202) 395–6974. Written comments should be received within 30 days of this notice.

Proposed Project

Micro-Finance Project for HIV Prevention—New—National Center for HIV/AIDS, Viral Hepatitis, STD and TB Prevention (NCHHSTP), Centers for Disease Control and Prevention (CDC).

Background and Brief Description

CDC is requesting a one-year approval from the Office of Management and Budget to conduct focus groups and administer a one-on-one qualitative interview to women who are at risk for HIV infection, and community leaders in four communities, in the southeastern United States. The purpose of this project is to conduct formative research to determine the most realistic and efficacious approach for developing a micro-finance project to reduce HIV/STD-related risk behavior among unemployed or underemployed high-risk African-American women in the southeastern United States, who are among those most at risk for HIV infection in the country. The project addresses goals of the CDC HIV Prevention Strategic Plan, specifically the goal of decreasing the number of persons at high risk of acquiring or transmitting HIV infection. Information from this project will inform the development of economic empowerment interventions to reduce risk for HIV infection. A focus group will be conducted with eight women (who are screened for eligibility) in each of the four communities (a total of 32 women) in the southeast United State with high prevalence of HIV and other sexually transmitted diseases. Up to eight women from each focus group (up to 32 women) will participate in individual interviews. Another focus group will include community leaders in each of the four communities (a total of 32 individuals). The focus groups will capture demographic information, attitudes, and knowledge regarding income-generating activities that are feasible (can be done with small capitalization and by these women with some training and other preparation), attractive (women will do this work), and useful (likely to produce income to address a reasonable proportion of economic need; the community will use the service or purchase the product of the activity). The focus group participants who also participate in

individual interviews will respond to more personal questions. The semistructured individual interviews will explore behavioral, social, and economic conditions that might contribute to risk for HIV infection. The focus groups and interviews will each take about two hours each to complete. A screening interview for women participants will take about 11 minutes to complete. A demographic information form will take all participants an additional five minutes to complete. The total estimated annual burden to the public is 202 hours.

ESTIMATE OF ANNUALIZED BURDEN HOURS

Type of respondents	Form name	Number of respondents	Number of responses per respondent	Average burden per response (in hours)
African American Women Ages 18–29 Years.				
	Screening Form	55	1	8/60
	Contact Form	55	1	3/60
	Demographic Information Form	32	1	5/60
	Focus Group Guide	32	1	115/60
	Individual Interview	32	1	2
Community Leaders	Focus Group Guide (CL)	32	1	115/60
	Demographic Information Form (CL)	32	1	5/60

Dated: May 30, 2007.

Maryam I. Daneshvar,

Acting Reports Clearance Officer, Centers for Disease Control and Prevention.

[FR Doc. E7–11088 Filed 6–7–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Disease, Disability, and Injury Prevention and Control Special Emphasis Panel: Studies of the Effects of Influenza Antiviral Agents, Funding Opportunity Announcement (FOA) IP07–003, and Epidemiology of Influenza in Tropical Developing Countries, FOA IP07–004

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) announces a meeting of the aforementioned Special Emphasis Panel.

Time and Date: 12 p.m.–4 p.m., July 10, 2007 (Closed).

Place: Teleconference.

Status: The meeting will be closed to the public in accordance with provisions set forth in section 552b(c)(4) and (6), Title 5 U.S.C., and the Determination of the Director, Management Analysis and Services Office, CDC, pursuant to Public Law 92–463.

Matters to be Discussed: The meeting will include the review, discussion, and evaluation of research grant applications in response to FOA IP07–003, ''Studies of the Effects of Influenza Antiviral Agents,'' and FOA IP–07–004 ''Epidemiology of Influenza in Tropical, Developing Countries.''

CONTACT PERSON FOR MORE INFORMATION: Trudy Messmer, PhD, Scientific Review Administrator, 1600 Clifton Road, Mailstop C–19, Atlanta, GA 30333, telephone (404) 639–3770.

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: June 1, 2007.

Elaine L. Baker,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E7–11100 Filed 6–7–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Advisory Council for the Elimination of Tuberculosis Meeting (ACET) In Accordance With Section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), the Centers for Disease Control and Prevention (CDC) Announces the Following Council Meeting of the Aforementioned Committee

Times and Dates:

8:30 a.m.–5:15 p.m., July 10, 2007.

8:30 a.m.–12:30 p.m., July 11, 2007.

Place: Corporate Square, Building 8, 1st Floor Conference Room, Atlanta, Georgia 30333, telephone (404)639–8317.

Status: Open to the public, limited only by the space available. The meeting room accommodates approximately 100 people.

Purpose: This council advises and makes recommendations to the Secretary, Health and Human Services, the Assistant Secretary for Health, and the Director, CDC, regarding the elimination of tuberculosis. Specifically, the Council makes recommendations regarding policies, strategies, objectives, and priorities; addresses the development and application of new technologies; and reviews the extent to which progress has been made toward eliminating tuberculosis.

Matters to be Discussed: Agenda items include issues pertaining to Tuberculosis and Immigration, Extensively Drug Resistant Tuberculosis Preparedness Planning; and Special Issues in Extensively Drug Resistant Tuberculosis Surveillance and Control and other related tuberculosis issues. Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Margie Scott-Cseh, National Center for HIV/AIDS, Viral Hepatitis, STD, and TB Prevention, 1600 Clifton Road, NE, M/S E–07, Atlanta, Georgia 30333, telephone (404)639–8317.

The Director, Management Analysis and Services Office, has been delegated the authority to sign **Federal Register** Notices pertaining to announcements of meetings and other committee management activities, for both the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry.

Dated: June 1, 2007.

Elaine L. Baker,

Acting Director, Management Analysis and Services Office, Centers for Disease Control and Prevention.

[FR Doc. E7–11089 Filed 6–7–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention (CDC)

National Center for Environmental Health/Agency for Toxic Substances and Disease Registry

The Program Peer Review Subcommittee (PPRS) of the Board of Scientific Counselors (BSC), CDC, National Center for Environmental Health (NCEH/Agency for Toxic Substances and Disease Registry (ATSDR): Teleconference.

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Pub. L. 92–463), CDC, NCEH/ATSDR announces the following subcommittee teleconference meeting:

Time and Date: 3 p.m.–5 p.m., June 11, 2007.

Place: The teleconference will originate at NCEH/ATSDR in Atlanta, Georgia. To participate, dial 877/315–6535 and enter conference code 383520.

Purpose: Under the charge of the BSC, NCEH/ATSDR, the PPRS will provide the BSC, NCEH/ATSDR with advice and recommendations on NCEH/ATSDR program peer review. They will serve the function of organizing, facilitating, and providing a long-term perspective to the conduct of NCEH/ATSDR program peer review.

Matters to be Discussed: Review and approve previous meeting minutes; discuss preparedness and emergency response peer review, approach to program peer review (internal discussion and BSC evaluation), and questionnaires; identify a PPRS member to participate on the workgroup, and areas of expertise needed for the review; identify peer reviewers, partners, and customers to participate on the workgroup; and draft peer review site visit agenda. Agenda items are subject to change as priorities dictate.

Supplementary Information: This meeting is scheduled to begin at 3 p.m. Eastern Daylight Saving Time. Public comment period is scheduled for 4:15–4:25 p.m.

BSC, NCEH/ATSDR held a bi-annual meeting on May 16–18, 2007 in Atlanta, Georgia. During the proceeding of this meeting, the Chair of the BSC, the Chair of PPRS of the BSC, and the Director of NCEH/ATSDR determined that an intramural peer review of the preparedness and emergency response activities at NCEH/ATSDR should be conducted by early fall in 2007. In order to accomplish this task in the desired short timeframe, the Chair of the PPRS as well as the Associate Director for Science at NCEH/ATSDR stipulated a need to hold a conference during the second week of June to discuss and plan the peer review of preparedness and emergency response activities at NCEH/ATSDR. This **Federal Register** notice is being published on less than 15 calendar days notice to the public (41 CFR 102–3.150(b)).

Contact Person for More Information: Sandra Malcom, Committee Management Specialist, Office of Science, NCEH/ATSDR, M/S E–28, 1600 Clifton Road, NE., Atlanta, Georgia 30333, telephone 404/498–0622.

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 ATSDR.

Dated: June 4, 2007.

Elaine L. Baker,

Acting Director, Management Analysis and Services Office Centers for Disease Control and Prevention.

[FR Doc. E7–11086 Filed 6–7–07; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10185, CMS–10142, CMS–10106 and CMS–116]

Agency Information Collection Activities: Proposed Collection; Comment Request

AGENCY: Centers for Medicare & Medicaid Services, HHS.

In compliance with the requirement of section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995, the Centers for Medicare & Medicaid Services (CMS) is publishing the following summary of proposed collections for public comment. Interested persons are invited to send comments regarding this burden estimate or any other aspect of this collection of information, including any of the following subjects: (1) The necessity and utility of the proposed information collection for the proper performance of the agency's functions; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) the use of automated collection techniques or other forms of information technology to minimize the information collection burden.

1. *Type of Information Collection Request:* Revision of a currently approved collection; *Title of Information Collection:* Medicare Part D Reporting Requirements and Supporting Regulations under 42 CFR 423.505; *Form Number:* CMS–10185 (OMB#: 0938–0992); *Use:* 42 CFR 423.514, requires each Part D Sponsor to have an effective procedure to provide statistics indicating: The cost of its operations, the patterns of utilization of its services, the availability, accessibility, and acceptability of its services, information demonstrating it has a fiscally sound operation and other matters as required by CMS. In addition, subsection 423.505 of the Medicare Prescription Drug, Improvement, and Modernization Act, establishes as a contract provision that Part D Sponsors must comply with the reporting requirements for submitting drug claims and related information to CMS. Data collected via Medicare Part D Reporting Requirements will be an integral resource for oversight, monitoring, compliance and auditing activities necessary to ensure quality provision of the Medicare Prescription Drug Benefit to beneficiaries. Refer to the ''Revisions to CY 2008 Part D Reporting Requirement'' document to view the changes from CY 2007 to CY 2008. *Frequency:* Reporting—Monthly, Annually, Quarterly and Semi-annually; *Affected Public:* Business or other for-profit; *Number of Respondents:* 4,857; *Total Annual Responses:* 330,276; *Total Annual Hours:* 291,989.

2. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Bid Pricing Tool (BPT) for Medicare Advantage (MA) Plans and Prescription Drug Plans (PDPs); *Use:* Under the Medicare Prescription Drug, Improvement, and Modernization (MMA), Medicare Advantage organizations (MAO) and Prescription Drug Plans (PDP) are required to submit an actuarial pricing ''bid'' for each plan offered to Medicare beneficiaries. CMS requires that MAOs and PDPs complete the BPT as part of the annual bidding process. During this process, organizations prepare their proposed actuarial bid pricing for the upcoming contract year and submit them to CMS for review and approval. The purpose of the BPT is to collect the actuarial pricing information for each plan. The BPT calculates the plan's bid, enrollee premiums, and payment rates. *Form Number:* CMS–10142 (OMB#: 0938–0944); *Frequency:* Yearly; *Affected Public:* Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 550 *Total Annual*

Responses: 6,050; Total Annual Hours: 42,350.

3. *Type of Information Collection Request:* Extension of a currently approved collection; *Title of Information Collection:* Medicare Authorization to Disclose Personal Health Information; *Form Number:* CMS–10106 (OMB#: 0938–931); Use: Unless permitted or required by law, § 164.508 of the Standards for Privacy of Individually Identifiable Health Information final rule (67 FR 53182) prohibits Medicare, a Health Insurance Portability and Accountability (HIPAA) covered entity, from disclosing an individual's protected health information without a valid authorization. In order to be valid, an authorization must include specified core elements and statements. Medicare will make available to Medicare beneficiaries a standard, valid authorization to enable beneficiaries to request the disclosure of their protected health information. This standard authorization will simplify the process of requesting information disclosure for beneficiaries and minimize the response time for Medicare. The completed authorization will allow Medicare to disclose an individual's personal health information to a third party at the individual's request. *Frequency:* Reporting—On occasion; *Affected Public:* Individuals or households; *Number of Respondents:* 1,000,000; *Total Annual Responses:* 1,000,000; *Total Annual Hours:* 250,000.

4. *Type of Information Collection Request:* Revision of a currently approved collection. In this revision, a number of changes were made to the form and accompanying instructions to facilitate the completion and data entry of the form. Specifically, the enumeration of individuals involved in laboratory testing was eliminated, and the reporting of hours of laboratory operations was streamlined. Some fields were expanded to reflect changes in laboratory demographics (added prison and assisted living facility to location of laboratory testing) and to collect complete information on the number of tests performed in laboratories. There are no program changes; *Title of Information Collection:* Clinical Laboratory Improvement Amendments Application Form and Supporting Regulations at 42 CFR 493.1–2001; *Form Number:* CMS–116 (OMB#: 0938–0581); *Use:* The application must be completed by entities performing laboratory's testing specimens for diagnostic or treatment purposes. This information is vital to the certification process. *Frequency:* Reporting—Biennially; *Affected Public:* Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 187,000; *Total Annual Responses:* 17,960; *Total Annual Hours:* 22,450.

To obtain copies of the supporting statement and any related forms for the proposed paperwork collections referenced above, access CMS' Web Site address at *http://www.cms.hhs.gov/PaperworkReductionActof1995*, or E-mail your request, including your address, phone number, OMB number, and CMS document identifier, to *Paperwork@cms.hhs.gov*, or call the Reports Clearance Office on (410) 786–1326.

To be assured consideration, comments and recommendations for the proposed information collections must be received at the address below, no later than 5 p.m. on *August 7, 2007*.

CMS, Office of Strategic Operations and Regulatory Affairs, Division of Regulations Development—C, *Attention:* Bonnie L Harkless, Room C4–26–05, 7500 Security Boulevard, Baltimore, Maryland 21244–1850.

Dated: May 31, 2007.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E7–10984 Filed 6–7–07; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Medicare & Medicaid Services

[Document Identifier: CMS–10137, CMS–10069 and CMS–R–246]

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:* Revision of a currently approved collection; *Title of Information Collection:* Application for Prescription Drug Plans (PDP); Application for Medicare Advantage Prescription Drug (MA–PD); Application for Cost Plans to Offer Qualified Prescription Drug Coverage; Application for Employer Group Waiver Plans to Offer Prescription Drug Coverage; Service Area Expansion Application for Prescription Drug Coverage; *Use:* Collection of this information is mandated in Part D of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003. The application requirements are codified in Subpart K of 42 CFR part 423. Coverage for the prescription drug benefit is provided through prescription drug plans (PDPs) that offer drug-only coverage, or through Medicare Advantage (MA) organizations that offer integrated prescription drug and health care coverage (MA–PD plans). PDPs must offer a basic drug benefit. Medicare Advantage Coordinated Care Plans (MA–CCPs) must offer either a basic benefit or may offer broader coverage for no additional cost. Medicare Advantage Private Fee for Service Plans (MA–PFFS) may choose to offer a Part D benefit. Cost Plans that are regulated under Section 1876 of the Social Security Act, and Employer Group Plans may also provide a Part D benefit. If any of the contracting organizations meet basic requirements, they may also offer supplemental benefits through enhanced alternative coverage for an additional premium.

The information will be collected under the solicitation of proposals from PDP, MA–PD, Cost Plan, and Employer Group Waiver Plans applicants. The collected information will be used by CMS to: (1) Insure that applicants meet CMS requirements, and (2) support the determination of contract awards.

The major program change that has occurred in Part D applications was that CMS removed several attestations related to Health Insurance Portability and Accountability Act (HIPAA), bids and privacy; *Form Number:* CMS–10137 (OMB#: 0938–0936); *Frequency:* Reporting: Once; *Affected Public:* Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 857; *Total Annual Responses:* 857; *Total Annual Hours:* 28,122.

2. *Type of Information Collection Request*: Extension without change of a currently approved collection; *Title of Information Collection:* Medicare Waiver Demonstration Application; *Use:* The Medicare Waiver Demonstration Application will be used to collect standard information needed to implement congressionally mandated and administration high priority demonstrations. The application will be used to gather information about the characteristics of the applicant's organization, benefits, and services they propose to offer, success in operating the model, and evidence that the model is likely to be successful in the Medicare program. The standard application will be used for all waiver demonstrations and will reduce the burden on applicants, provide for consistent and timely information collections across demonstrations, and provide a user-friendly format for respondents; *Form Number:* CMS–10069 (OMB#: 0938–0880); *Frequency:* Reporting: Once; *Affected Public:* Business or other for-profit and Not-for-profit institutions; *Number of Respondents:* 75; *Total Annual Responses:* 75; *Total Annual Hours:* 6000.

3. *Type of Information Collection Request:* Extension without change of a currently approved collection; *Title of Information Collection:* Medicare CAHPS Survey; *Use:* The collection of Consumer Assessment of Healthcare Providers and Systems (CAHPS) Survey measures is necessary to hold health and prescription drug plans accountable for the quality of care and services they deliver. This requirement will allow CMS to obtain information for the proper oversight of the program. This information is used to help beneficiaries choose among plans, contribute to improved quality of care through identification of quality improvement opportunities, and assist CMS in carrying out its responsibilities; *Form Number:* CMS–R–246 (OMB#: 0938–0732); *Frequency:* Reporting: Yearly; *Affected Public:* Individuals or households; *Number of Respondents:* 660,000; *Total Annual Responses:* 660,000; *Total Annual Hours:* 217,800.

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: May 31, 2007.

Michelle Shortt,

Director, Regulations Development Group, Office of Strategic Operations and Regulatory Affairs.

[FR Doc. E7–10985 Filed 6–7–07; 8:45 am]

BILLING CODE 4120–01–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Request for Notification From Industry Organizations Interested in Participating in Selection Process for Nonvoting Industry Representatives on Public Advisory Committees and Request for Nominations for Nonvoting Industry Representatives on Public Advisory Committees

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

SUMMARY: The Food and Drug Administration (FDA) is requesting that any industry organizations interested in participating in the selection of nonvoting industry representatives to serve on its public advisory committees for the Center for Drug Evaluation Research (CDER) notify FDA in writing. FDA is also requesting nominations for nonvoting industry representatives to serve on CDER's public advisory committees. A nominee may either be self-nominated or nominated by an organization to serve as a nonvoting industry representative. Nominations will be accepted for current vacancies effective with this notice.

DATES: Any industry organization interested in participating in the selection of an appropriate nonvoting member to represent industry interests must send a letter stating that interest to FDA by July 9, 2007, for vacancies listed in this notice. Concurrently, nomination materials for prospective candidates should be sent to FDA by July 9, 2007.

ADDRESSES: All letters of interest and nominations should be submitted in writing to Jayne Peterson (see **FOR FURTHER INFORMATION CONTACT**).

FOR FURTHER INFORMATION CONTACT: Jayne Peterson, Advisors and Consultants Staff (HFD–21), Food and Drug Administration, 5600 Fishers Lane, Rockville, MD 20857, 301–827–7001, e-mail: *jayne.peterson@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Section 120 of the FDA Modernization Act of 1997 (FDAMA) (21 U.S.C. 355) requires that newly formed FDA advisory committees include representatives from the drug manufacturing industries. Although not required for committees existing prior to the passage of FDAMA, to keep within the spirit of FDAMA, the agency has added nonvoting industry representatives to CDER advisory committees identified in the following paragraphs.

I. CDER Advisory Committees

1. Advisory Committee for Pharmaceutical Science and Clinical Pharmacology (Formerly Advisory Committee for Pharmaceutical Science)

Advises on scientific and technical issues concerning the safety and effectiveness of human generic drug products for use in the treatment of a broad spectrum of human diseases.

2. Advisory Committee for Reproductive Health Drugs

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in obstetrics, gynecology, and contraception.

3. Anesthetic and Life Support Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in anesthesiology and surgery.

4. Anti-Infective Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of infectious diseases and disorders.

5. Antiviral Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of acquired immune deficiency syndrome (AIDS), HIV-related illnesses, and other viral, fungal, and mycobacterial infections.

6. Arthritis Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human

drug products for use in the treatment of arthritis, rheumatism, and related diseases.

7. Cardiovascular and Renal Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of cardiovascular and renal disorders.

8. Dermatologic and Ophthalmic Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of dermatologic and ophthalmic disorders.

9. Drug Safety and Risk Management Advisory Committee

Advises the Commissioner of Food and Drugs (the Commissioner) regarding the scientific and medical evaluation of all information gathered by the Department of Health and Human Services and the Department of Justice with the regard to safety, efficacy, and abuse potential, risk management, risk communication, and quantitative evaluation of spontaneous reports, and recommends actions to be taken by FDA with regard to marketing, investigation, and control of such drugs or other substances.

10. Endocrinologic and Metabolic Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of endocrine and metabolic disorders.

11. Gastrointestinal Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of gastrointestinal disorders.

12. Nonprescription Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of over-the-counter (nonprescription) human drug products for use in the treatment of a broad spectrum of human symptoms and diseases.

13. Oncologic Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of cancer.

14. Peripheral and Central Nervous System Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of neurologic diseases.

15. Psychopharmacologic Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the practice of psychiatry and related fields.

16. Pulmonary-Allergy Drugs Advisory Committee

Reviews and evaluates available data concerning the safety and effectiveness of marketed and investigational human drug products for use in the treatment of pulmonary disease and diseases with allergic and/or immunologic mechanisms.

II. Selection Procedure

Any industry organization interested in participating in the selection of an appropriate nonvoting member to represent industry interests should send a letter stating that interest to the FDA contact (see **FOR FURTHER INFORMATION CONTACT**) within 30 days of publication of this document (see **DATES**). Within the subsequent 30 days, FDA will send a letter to each organization that has expressed and interest, attaching a complete list of all such organizations; and a list of all nominees along with their current resumes. The letter will also state that it is the responsibility of the interested organizations to confer with one another and to select a candidate, within 60 days after the receipt of the FDA letter, to serve as the nonvoting member to represent industry interests for a particular committee. The interested organizations are not bound by the list of nominees in selecting a candidate. However, if no individual is selected within 60 days, the Commissioner will select the nonvoting member to represent industry interests.

III. Application Procedure

Individuals may self nominate and/or an organization may nominate one or more individuals to serve as a nonvoting industry representative. A current curriculum vitae and the name of the committee of interest should be sent to the FDA contact person (see **FOR FURTHER INFORMATION CONTACT**) within 30 days (see **DATES**). FDA will forward all nominations to the organizations expressing interest in participating in the selection process for that committee. (Persons who nominate themselves as nonvoting industry representatives will not participate in the selection process.)

FDA has a special interest in ensuring that women, minority groups, individuals with physical disabilities, and small businesses are adequately represented on its advisory committees, and therefore, encourages nominations for appropriately qualified candidates from these groups. Specifically, in this document, nominations for nonvoting representatives of industry interests are encouraged from the drug manufacturing industry.

This notice is issued under the Federal Advisory Committee Act (5 U.S.C. app. 2) and 21 CFR part 14, relating to advisory committees.

Dated: May 28, 2007.

Randall W. Lutter,

Associate Commissioner for Policy and Planning.

[FR Doc. E7–11065 Filed 6–7–07; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: Participant Feedback on Training Under the Cooperative Agreement for Mental

Health Care Provider Education in HIV/AIDS Program (OMB No. 0930–0195)—Extension

The Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Mental Health Services (CMHS) intends to continue to conduct a multi-site assessment for the Mental Health Care Provider Education in HIV/AIDS Program. These education programs are designed to disseminate knowledge of the psychological and neuropsychiatric sequelae of HIV/AIDS to both traditional (e.g., psychiatrists, psychologists, nurses, primary care physicians, medical students, and social workers) and non-traditional (e.g., clergy, and alternative health care workers) first-line providers of mental health services, in particular to providers in minority communities.

The multi-site assessment is designed to assess the effectiveness of particular training curricula, document the integrity of training delivery formats, and assess the effectiveness of the various training delivery formats. Analyses will assist CMHS in documenting the numbers and types of traditional and non-traditional mental health providers accessing training; the content, nature and types of training participants receive; and the extent to which trainees experience knowledge, skill and attitude gains/changes as a result of training attendance. The multi-site data collection design uses a two-tiered data collection and analytic strategy to collect information on (1) the organization and delivery of training, and (2) the impact of training on participant's knowledge, skills and abilities.

Information about the organization and delivery of training will be collected from trainers and staff, hence there is no respondent burden. All training participants will be asked to complete a brief feedback form at the end of the training session. CMHS anticipates funding 10 education sites for the Mental Health Care Provider Education in HIV/AIDS Program. The annual burden estimates for this activity are shown below:

Form	Responses per respondent	Estimated number of respondents × 10 sites)	Hours per response	Total hours
Session Report Form	1	60 × 10 = 600	0.080	48
Participant Feedback Form (General Education)	1	500 × 10 = 5000	0.167	835
Neuropsychiatric Participant Feedback Form	1	160 × 10 = 1600	0.167	267
Non Physician Neuropsychiatric Participant Feedback Form	1	240 × 10 = 2400	0.167	401
Adherence Participant Feedback Form	1	100 × 10 = 1000	0.167	167
Ethics Participant Feedback Form	1	200 × 10 = 2000	0.167	125
Total	.....	12,600	.....	1,843

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 7–1044, One Choke Cherry Road, Rockville, MD 20857 *and* e-mail her a copy at *summer.king@samhsa.hhs.gov*. Written comments should be received within 60 days of this notice.

Dated: May 30, 2007.

Elaine Parry,

Acting Director, Office of Program Services.

[FR Doc. 07–2871 Filed 6–7–07; 8:45 am]

BILLING CODE 4162–20–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Substance Abuse and Mental Health Services Administration

Agency Information Collection Activities: Proposed Collection; Comment Request

In compliance with section 3506(c)(2)(A) of the Paperwork Reduction Act of 1995 concerning opportunity for public comment on proposed collections of information, the Substance Abuse and Mental Health Services Administration (SAMHSA) will publish periodic summaries of proposed projects. To request more information on the proposed projects or to obtain a copy of the information collection plans, call the SAMHSA Reports Clearance Officer on (240) 276–1243.

Comments are invited on: (a) Whether the proposed collections of information are necessary for the proper performance of the functions of the agency, including whether the information shall have practical utility; (b) the accuracy of the agency's estimate of the burden of the proposed collection of information; (c) ways to enhance the quality, utility, and clarity of the information to be collected; and (d) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or other forms of information technology.

Proposed Project: 2007 National Survey of Mental Health Treatment Facilities (NSMHTF) (OMB No. 0930–0119)—Revision

The Substance Abuse and Mental Health Services Administration's (SAMHSA) Center for Mental Health Services (CMHS) will conduct a 2007 NSMHTF. This national survey represents a re-design of the biennial Survey of Mental Health Organizations (SMHO) last conducted in 2004 under OMB No. 0930–0119. Instead of surveying each mental health organization as a whole, the 2007 NSMHTF will survey all of the mental health treatment locations. These separate mental health service locations are called facilities, in contrast to mental health organizations, which may include multiple facilities (service locations). This survey will be (a) a 100 percent enumeration of all known mental health treatment facilities nationwide, (b) more consumer-oriented in describing services available at each facility location, and (c) patterned after SAMHSA's Office of Applied Studies National Survey of Substance Abuse Treatment Services (OMB No. 0930–0106).

The 2007 NSMHTF will utilize one questionnaire for all mental health treatment facility types including hospitals, residential treatment centers and outpatient clinics. The information collected will include intake telephone numbers for services, types of services offered and acceptable forms of payment, emergency hotline numbers, facility caseload, and facility bed counts, if applicable. All treatment facilities will be contacted by telephone prior to the mailing to verify their eligibility, and facility type.

The resulting database will be used to provide both state and national estimates of facility types and their patient caseloads. Information from the 2007 survey will also be used to update the National Mental Health Information Center's facility locator for consumers. In addition, data derived from the

survey will be published by CMHS in *Data Highlights, in Mental Health, United States,* and in professional journals such as *Psychiatric Services* and the *American Journal of Psychiatry.* The publication *Mental Health, United States* is used by the general public, State governments, the U.S. Congress, university researchers, and other health care professionals. The following Table summarizes the estimated response burden for the survey.

ESTIMATED TOTAL RESPONSE BURDEN FOR THE 2007 NSMHTF

Facility type	Number of respondents	Responses per respondent	Average hours per response	Total hour burden
Public psychiatric hospitals	502	1	1	502
Private Psychiatric Hospitals	557	1	1	557
General Hospitals	1,599	1	1	1,599
Residential Treatment Centers for SED	1,456	1	1	1,456
Outpatient Clinics	3.493	1	1	3,493
Multi-Setting Facilities	5,264	1	1	5,264
Total Facilities	12,871	1	1	12,871

Send comments to Summer King, SAMHSA Reports Clearance Officer, Room 7–1044, One Choke Cherry Road, Rockville, MD 20857. Written comments should be received within 60 days of this notice.

Dated: May 31, 2007.

Elaine Parry,

Acting Director, Office of Program Services.

[FR Doc. E7–11092 Filed 6–7–07; 8:45 am]

BILLING CODE 4162–20–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Extension of a Currently Approved Information Collection; Comment Request

ACTION: 60-Day Notice of Information Collection Under Review: Notice of Immigration Pilot Program, OMB Control No. 1615–0061.

The Department of Homeland Security, U.S. Citizenship and Immigration Services has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for sixty days until August 7, 2007.

Written comments and suggestions regarding the item(s) contained in this notice, and especially regarding the estimated public burden and associated response time, should be directed to the Department of Homeland Security (DHS), USCIS, Chief, Regulatory Management Division, Clearance Office,111 Massachusetts Avenue, NW., 3rd Floor, Suite 3008, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352, or via e-mail at *rfs.regs@dhs.gov.* When submitting comments by e-mail please add the OMB Control Number 1615–0061 in the subject box.

Written comments and suggestions from the public and affected agencies concerning the collection of information should address one or more of the following four points:

(1) Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Immigration Pilot Program.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* No form number. U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or Households. The information collected will be used by USCIS to determine which regional centers should participate in the immigration pilot program.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 50 responses at 40 hours per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 2,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the information collection instrument, please contact Richard A. Sloan, Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, 111 Massachusetts Avenue, NW., 3rd Floor, Suite 3008, Washington, DC 20529; Telephone No. 202–272–8377.

Dated: June 5, 2007.

Richard Sloan,

Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, Department of Homeland Security.

[FR Doc. E7–11095 Filed 6–7–07; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Extension of a Currently Approved Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review: Form I–140, Immigrant Petition for Alien Workers; OMB Control Number 1615–0015.

The Department of Homeland Security, U.S. Citizenship and

Immigration Services (USCIS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on March 23, 2007, at 72 FR 13811. The notice allowed for a 60-day public comment period. No comments were received on this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until July 9, 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 Department of Homeland Security (DHS), USCIS, Chief, Regulatory Management Division,

Clearance Office, 111 Massachusetts Avenue, 3rd floor, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov*, and to the OMB USCIS Desk Officer via facsimile at 202–395–6974 or via e-mail at kastrich@omb.eop.gov.

When submitting comments by e-mail please make sure to add OMB Control Number 1615–0015 in the subject box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1)Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agencies estimate of the burden of the 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) T*ype of Information Collection:* Extension of existing information collection.

(2) *Title of the Form/Collection:* Immigrant Petition for Alien Workers.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form I–140; U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract:*

Primary: U.S. Employers. The information furnished on Form I-140 will be used by U.S. Citizenship and Immigration Services to classify aliens under section 203(b)(1), 203(b)(2) or 203(b)(3) of the Immigration and Nationality Act (Act).

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 96,000 responses at 60 minutes (1 hour) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 96,000 annual burden hours.

If you have additional comments, suggestions, or need a copy of the information collection instrument, please contact Richard A. Sloan, Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, 111 Massachusetts Avenue, NW., 3rd Floor, Suite 3008, Washington, DC 20529; 202–272–8377.

Dated: June 5, 2007.

Richard Sloan,

Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services.

[FR Doc. E7–11096 Filed 6–7–07; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Extension of a Currently Approved Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review: Form N–600K, Application for Citizenship and Issuance of Certificate under Section 322; OMB Control No. 1615–0087.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on March 23, 2007, at 72 FR 13812, allowing for a 60-day public comment period. USCIS did not receive any comments on this information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until July 9, 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 Department of Homeland Security (DHS), USCIS, Chief, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, 3rd floor, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov*, and to the OMB USCIS Desk Officer via facsimile at 202–395–6974 or via e-mail at *kastrich@omb.eop.gov.*

When submitting comments by e-mail please make sure to add OMB Control Number 1615–0087 in the subject box. 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 agencies estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, *e.g.*, permitting electronic submission of responses.

Overview of this information collection:

(1) *Type of Information Collection:* Extension of a currently approved information collection.

(2) *Title of the Form/Collection:* Application for Citizenship and

Issuance of Certificate under Section 322.

(3) *Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection:* Form N–336; U.S. Citizenship and Immigration Services.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Individuals or Households. The data collected on this form is used by U.S. Citizenship and Immigration Services (USCIS) to determine eligibility for the requested immigration benefit of citizenship. The form serves the purpose of standardizing requests for the benefit, and will ensure that the basic information required to assess eligibility is provided by the applicants.

(5) *An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond:* 1,500 responses at 1 hour and 35 minutes (1.583 hours) per response.

(6) *An estimate of the total public burden (in hours) associated with the collection:* 2,374 annual burden hours.

If you have additional comments, suggestions, or need a copy of the information collection instrument, please contact Richard A. Sloan, Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, 111 Massachusetts Avenue, NW., 3rd Floor, Suite 3008, Washington, DC 20529; 202–272–8377.

Dated: June 5, 2007.

Richard A. Sloan

Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services.

[FR Doc. E7–11097 Filed 6–7–07; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOMELAND SECURITY

U.S. Citizenship and Immigration Services

Agency Information Collection Activities: Extension of a Currently Approved Information Collection; Comment Request

ACTION: 30-Day Notice of Information Collection Under Review: Form N–336, Request for Hearing on a Decision in Naturalization Proceedings under Section 336; OMB Control No. 1615–0050.

The Department of Homeland Security, U.S. Citizenship and Immigration Services (USCIS) has submitted the following information collection request to the Office of Management and Budget (OMB) for review and clearance in accordance with the Paperwork Reduction Act of 1995. The information collection was previously published in the **Federal Register** on March 23, 2007 at 72 FR 13812. The notice allowed for a 60-day public comment period. USCIS did not receive any comments on this proposed information collection.

The purpose of this notice is to allow an additional 30 days for public comments. Comments are encouraged and will be accepted until July 9, 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 Department of Homeland Security (DHS), USCIS, Chief, Regulatory Management Division, Clearance Office, 111 Massachusetts Avenue, 3rd floor, Washington, DC 20529. Comments may also be submitted to DHS via facsimile to 202–272–8352 or via e-mail at *rfs.regs@dhs.gov*, and to the OMB USCIS Desk Officer via facsimile at 202–395–6974 or via e-mail at *kastrich@omb.eop.gov.*

When submitting comments by e-mail please make sure to add OMB Control Number 1615–0050 in the subject box. Written comments and suggestions from the public and affected agencies should address one or more of the following four points:

(1) Evaluate whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

(2) Evaluate the accuracy of the agency's estimate of the burden of the collection of information, including the validity of the methodology and assumptions used;

(3) Enhance the quality, utility, and clarity of the information to be collected; and

(4) Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques, or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of this information collection:

(1) Type of Information Collection: Extension of a currently approved information collection.

(2) Title of the Form/Collection: Request for Hearing on a Decision in Naturalization Proceedings under Section 336.

(3) Agency form number, if any, and the applicable component of the Department of Homeland Security sponsoring the collection: Form N–336. U.S. Citizenship and Immigration Services.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Individuals or Households. This form provides a method for applicants, whose applications for naturalization are denied, to request a new hearing by an immigration officer of the same or higher rank as the denying officer.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond: 7,669 responses at 2 hours and 45 minutes (2.75 hours) per response.

(6) An estimate of the total public burden (in hours) associated with the collection: 21,090 annual burden hours.

If you have additional comments, suggestions, or need a copy of the information collection instrument, please contact Richard A. Sloan, Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services, 111 Massachusetts Avenue, NW., 3rd Floor, Suite 3008, Washington, DC 20529; 202–272–8377.

Dated: June 5, 2007.

Richard A. Sloan,

Chief, Regulatory Management Division, U.S. Citizenship and Immigration Services.

[FR Doc. E7–11098 Filed 6–7–07; 8:45 am]

BILLING CODE 4410–10–P

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

[Docket No. FR–5125–N–23]

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.

EFFECTIVE DATE: *June 8, 2007*

FOR FURTHER INFORMATION CONTACT: Kathy Ezzell, Department of Housing and Urban Development, Room 7262, 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 the December 12, 1988 court order in *National Coalition for the Homeless* v. *Veterans Administration*, No. 88–2503–OG (D.D.C.), HUD publishes a Notice, on a weekly basis, identifying unutilized, underutilized, excess and surplus Federal buildings and real property that HUD has reviewed for suitability for use to assist the homeless. Today's Notice is for the purpose of announcing that no additional properties have been determined suitable or unsuitable this week.

Dated: May 31, 2007

Mark R. Johnston,

Deputy Assistant Secretary for Special Needs.

[FR Doc. E7–10827 Filed 6–7–07; 8:45 am]

BILLING CODE 4210–67–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Issuance of Permits

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of issuance of permits for endangered species and/or marine mammals.

SUMMARY: The following permits were issued.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION: Notice is hereby given that on the dates below, as authorized by the provisions of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*), and/or the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), the Fish and Wildlife Service issued the requested permits subject to certain conditions set forth therein. For each permit for an endangered species, the Service found that (1) The application was filed in good faith, (2) the granted permit would not operate to the disadvantage of the endangered species, and (3) the granted permit would be consistent with the purposes and policy set forth in Section 2 of the Endangered Species Act of 1973, as amended.

Permit number	Applicant	Receipt of application **Federal Register** notice	Permit issuance date
		Endangered Species	
130064	University of Idaho	72 FR 2538, January 19, 2007	April 11, 2007.
135928, 135929	Smithsonian's National Zoo	72 FR 8195, February 23, 2007	April 11, 2007.
146588	Jerry A. Jaeger	72 FR 12182; March 15, 2007	April 25, 2007.
147381	Richard J. Lullo	72 FR 12182; March 15, 2007	April 17, 2007.
147382	Daniel H. Braman, III	72 FR 12182; March 15, 2007	April 17, 2007.
147383	Shelby C. Fischer	72 FR 12182; March 15, 2007	April 17, 2007.
147384	Stella W. Braman	72 FR 12182; March 15, 2007	April 17, 2007.
133514	James A. Slattery	72 FR 8194; February 23, 2007	April 19, 2007.
145883	Chris C. Hudson	72 FR 8195; February 23, 2007	April 14, 2007.
147415	Dennis R. Kallash	72 FR 12182; March 15, 2007	April 25, 2007.
147469	Manuel F. Camacho	72 FR 12182; March 15, 2007	April 25, 2007.

Dated: April 27, 2007.

Michael L. Carpenter,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. E7–11134 Filed 6–7–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Receipt of Applications for Permit

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice of receipt of applications for permit.

SUMMARY: The public is invited to comment on the following applications to conduct certain activities with endangered species and/or marine mammals.

DATES: Written data, comments or requests must be received by July 9, 2007.

ADDRESSES: Documents and other information submitted with these applications are available for review, subject to the requirements of the Privacy Act and Freedom of Information Act, by any party who submits a written request for a copy of such documents within 30 days of the date of publication of this notice to: U.S. Fish and Wildlife Service, Division of Management Authority, 4401 North Fairfax Drive, Room 700, Arlington, Virginia 22203; fax 703/358–2281.

FOR FURTHER INFORMATION CONTACT: Division of Management Authority, telephone 703/358–2104.

SUPPLEMENTARY INFORMATION:

Endangered Species

The public is invited to comment on the following applications for a permit to conduct certain activities with endangered species. This notice is provided pursuant to Section 10(c) of the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*). Written data, comments, or requests for copies of these complete applications should be submitted to the Director (address above).

Applicant: James S. Difrancia, Yorktown HTS, NY, PRT–152081.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Vincent K. Ney, San Antonio, TX, PRT–152349.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (Damaliscus pygargus pygargus) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Applicant: Edward J. Holba, Joliet, IL, PRT–150839.

The applicant requests a permit to import the sport-hunted trophy of one male bontebok (*Damaliscus pygargus pygargus*) culled from a captive herd maintained under the management program of the Republic of South Africa, for the purpose of enhancement of the survival of the species.

Marine Mammals

The public is invited to comment on the following applications for a permit to conduct certain activities with marine mammals. The applications were submitted to satisfy requirements of the Marine Mammal Protection Act of 1972, as amended (16 U.S.C. 1361 *et seq.*), and the regulations governing marine mammals (50 CFR part 18). Written data, comments, or requests for copies of the complete applications or requests for a public hearing on these applications should be submitted to the Director (address above). Anyone requesting a hearing should give specific reasons why a hearing would be appropriate. The holding of such a hearing is at the discretion of the Director.

Applicant: Larry E. Ensign, Jamestown, NY, PRT–151724.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Northern Beaufort Sea polar bear population in Canada for personal, noncommercial use.

Applicant: John H. MacPeak, Garland, TX, PRT–151828.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Northern Beaufort Sea polar bear population in Canada for personal, noncommercial use.

Applicant: Mark E. Buchanan, San Diego, CA, PRT–151877.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Northern Beaufort Sea polar bear population in Canada for personal, noncommercial use.

Applicant: Joey A. Dimucci, Palatine, IL, PRT–151301.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal, noncommercial use.

Applicant: James H. Bandy, Argyle, TX, PRT–152720.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal, noncommercial use.

Applicant: Sherwin N. Scott, Phoenix, AZ, PRT–152740.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal, noncommercial use.

Applicant: Sherwin N. Scott, Phoenix, AZ, PRT–152741.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Lancaster Sound polar bear population in Canada for personal, noncommercial use.

Applicant: James C. Wondzell, Wisconsin Rapids, WI, PRT–152930.

The applicant requests a permit to import a polar bear (*Ursus maritimus*) sport hunted from the Northern Beaufort Sea polar bear population in Canada for personal, noncommercial use.

Dated: April 27, 2007.

Michael L. Carpenter,

Senior Permit Biologist, Branch of Permits, Division of Management Authority.

[FR Doc. E7–11142 Filed 6–7–07; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[WY–060–07–1610–DQ]

Notice of Availability (NOA) of the Casper Proposed Resource Management Plan (PRMP) and associated Final Environmental Impact Statement (FEIS), Wyoming; and Notice of Supplemental Information on Proposed Areas of Critical Environmental Concern (ACEC) Provided in the Casper Draft Resource Management Plan (RMP) and Associated Draft Environmental Impact Statement (EIS), Wyoming

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability and Notice of Supplemental Information.

SUMMARY: (1) 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) with its cooperating agencies has prepared a Proposed RMP and Final EIS for the Casper Field Office. The document is available for public review. (2) Pursuant to FLPMA, the BLM also announces the availability of supplemental information regarding proposed ACECs that were considered in the Draft Resource Management Plan/Draft Environmental Impact Statement (DRMP/DEIS), but only partially described in the original NOA published in the **Federal Register** (Vol. 71, No. 140) on July 21, 2006. This notice of supplemental information fulfills an administrative procedural requirement and presents no new information that was not already made available to the public during the previous 90-day comment period on the DRMP/DEIS.

DATES: 1. *Protest Period for the Proposed Casper RMP/FEIS:* The BLM Planning Regulations (43 CFR 1610.5–2) state any person who participated in the planning process, and has an interest which is or may be adversely affected, may protest BLM's approval of an RMP. You must file a protest within 30 days of the date the Environmental Protection Agency (EPA) publishes their NOA in the **Federal Register**.

2. *Comment Period for the Proposed ACECs in the Casper DRMP/DEIS:* Consistent with 43 CFR 1610.7–2, a 60-day public review of the ACEC information and comment period will start on the date that this notice appears in the **Federal Register**. The 30-day protest period (identified in Item 1 above) will not be extended or repeated, unless new and significant ACEC-related information is identified and a Supplemental PRMP/FEIS is issued.

Instructions for filing a protest or commenting on the proposed ACECs are provided in the ''Dear Reader'' letter in the Casper PRMP/FEIS and in the Supplementary Information section of this notice.

ADDRESSES: Refer to the Supplementary sec. below for addresses for filing a protest or commenting on the proposed ACECs.

FOR FURTHER INFORMATION CONTACT: Linda Slone, RMP Project Manager, Bureau of Land Management, 2987 Prospector Drive, Casper, WY 82604; telephone—(307) 261–7520; e-mail *CRMP_wymail@blm.gov* with Casper RMP in the subject line.

SUPPLEMENTARY INFORMATION: The Casper Field Office is located in east-central Wyoming and includes approximately 8.5 million acres of land in most of Natrona County, and all of Converse, Goshen, and Platte counties. Public land in the southwestern corner of Natrona County is administered by the BLM Lander Field Office. Within the Casper planning area, the BLM administers approximately 1.4 million acres of BLM-administered public land surface and 4.7 million acres of Federal mineral estate. The DRMP/DEIS made available for public review on July 21, 2006, described and analyzed five alternatives for the management of public lands and resources administered by the BLM Casper Field Office:

Alternative A (Continuation of Existing Management Direction or the ''No Action'' Alternative) continues to balance the use and development of resources; Alternative B emphasizes conservation of physical, biological, and heritage resources with constraints on resource uses; Alternative C provides physical, biological, and heritage resource conservation similar to current management while allowing for more recreation experiences; Alternative D emphasizes resource uses, e.g., energy and mineral development, recreation, and forest products; and Alternative E (Preferred Alternative) conserves physical, biological, and heritage resources while emphasizing moderate constraint). The major issues addressed in the alternatives include: (1) Energy and mineral resource exploration and development; (2) vegetation and habitat management; (3) landownership adjustments, access and transportation; and (4) special designations.

There are currently two ACECs, Jackson Canyon ACEC and Salt Creek Hazardous ACEC, totaling approximately 249,350 acres of mixed public surface and private or state land ownership as established in the Platte River RMP (1985). Five potential ACECs were proposed in the Casper DRMP. Supplemental ACEC information presented in this notice is identified as use limitations below. This information was already presented in the DRMP/DEIS but inadvertently omitted from the NOA announcing release of the document for a 90-day public comment period.

- Alcova Fossil Area (7,073 acres; mostly Federal surface): Values of Concern—rare fossil tracks and additional fossils from two geological periods. Use Limitations—surface-disturbing activities may be restricted if impacts cannot be mitigated. Off-highway vehicle (OHV) use is limited to designated roads and trails. The area is closed to locatable mineral entry.
- Black-tailed Prairie Dog Complex (22,937 acres; mostly non-Federal surface): Values of Concern—protection of habitat and other species dependent on prairie dog colonies. Use Limitations—the area is administratively unavailable for oil and gas geophysical exploration. Future development on new oil and gas leases is limited to one well per 160 acres. The area is a right-of-way avoidance area.
- Cedar Ridge (21,742 acres; over 60 percent Federal surface): Values of concern—historic cultural resources, including traditional ceremonial sites in use by the Shoshone, Arapaho, and other tribes. Use Limitations within the Traditional Cultural Property—surface-disturbing activities are prohibited. The area is closed to locatable mineral entry and disposal of mineral materials. Use Limitation within the Periphery Area (3-mile viewshed)—surface-disturbing activities may be restricted unless impacts can be mitigated. Mineral material development is limited to five acres or less with provisions for expansion once rehabilitation of the initial location has started.
- North Platte River—(85,393 acres; mostly non-Federal surface): Values of Concern—fisheries and wildlife habitats and high recreational and scenic values. Use Limitations—the area is administratively unavailable to oil and gas leasing and geophysical operations. The area is closed to disposal of mineral materials. The existing North Platte River protective withdrawal on 3,226 acres is continued. Surface-disturbing activities are prohibited, unless to benefit the values of concern. Grazing leases may be adjusted or terminated and those grazing leases at the Trapper's Route landing sites are not renewed.
- South Bighorns/Red Wall (262,901 acres; over 55 percent Federal surface): Values of Concern—crucial wildlife habitat, cultural resources, intact native vegetation communities and outstanding scenery. Use Limitations—the area is closed to locatable mineral entry and disposal of mineral materials. Oil and gas leasing and geophysical operations are administratively unavailable and the area is a right-of-way exclusion area. Non-mineral surface-disturbing activities may be restricted if impacts cannot be mitigated.

In the DRMP/DEIS, Alternative E proposes to maintain ACEC status for Jackson Canyon; remove ACEC status for Salt Creek Hazardous Area; and add the following to be managed as ACECs in the future: Alcova Fossil Area. The following areas would be established as Management Areas (MAs): Bates Hole, Salt Creek, Sand Hills, South Bighorns/Red Wall, and Wind River Basin. Public involvement and collaboration included a Notice of Intent to Prepare a Resource Management Plan Revision published in the **Federal Register**; four open houses during public scoping; presentations to interested organizations upon request; distribution of information on the Casper RMP Web site and periodic newsletters; and a 90-day public review and comment period on the DRMP/DEIS, including four public meetings/hearings. Cooperating agencies include the EPA; National Park Service (NPS)—Fort Laramie National Historic Site; State of Wyoming; Converse, Natrona, and Platte counties; and Converse, Natrona, Lingle-Fort Laramie, North Platte Valley, and South Goshen Conservation districts.

Comments on the DRMP/DEIS received from the public and internal BLM review comments were incorporated into the proposed plan. Public comments resulted in the addition of clarifying text but did not significantly change proposed land use decisions. After careful consideration of both public and internal comments received on the DRMP/DEIS, adjustments and clarifications have been made to Alternative E, the Preferred Alternative. As modified, Alternative E is now presented as the Proposed Casper RMP in the FEIS. The Proposed Casper RMP would: (1) Provide comprehensive, long-range decisions for the use and management of resources in the planning area administered by the BLM; (2) focus on the principles of multiple use and sustained yield as prescribed by Section 202 of FLPMA; (3) maintain the Jackson Canyon ACEC—(14,308 acres), and add the Alcova Fossil Area ACEC (5,963 acres); and (4) provide prescriptions for five separate management areas—Bates Hole (375,221 acres), Salt Creek (23,911acres), Sand Hills (17,633 acres), South Bighorns/Red Wall (93,352 acres), and Wind River Basin (54,575 acres).

Copies of the Casper PRMP/FEIS have been sent to affected Federal, state, and local government agencies and Tribal governments and to interested parties. Copies of the PRMP/FEIS are available for public inspection during normal working hours (7:45 a.m. to 4:30 p.m.) except weekends and holidays at the BLM Casper Field Office, 2987 Prospector Drive, Casper, WY 82604 and the BLM Wyoming State Office, 5353 Yellowstone Road, Cheyenne, WY 82009. Interested persons may also review the PRMP/FEIS on the Internet *http://www.blm.gov/rmp/casper/*.

1. Instructions for Filing a Protest

Instructions for filing a protest with the Director of the BLM regarding the PRMP/FEIS may be found at 43 CFR 1610.5–2. A protest may only raise those issues submitted for the record during the planning process. E-mail and faxed protests will not be accepted as valid protests unless the protesting party also provides the original letter by either regular or overnight mail postmarked by the close of the protest period. Under these conditions, 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 the BLM with such advance notification, please direct faxed protests to the attention of the BLM protest coordinator at 202–452–5112, and e-

mails to *Brenda_Hudgens-Williams@blm.gov*.

Please direct the follow-up letter to the appropriate address provided below. The protest must contain:

a. The name, mailing address, telephone number, and interest of the person filing the protest.

b. A statement of the part or parts of the plan and the issue or issues being protested.

c. A copy of all documents addressing the issue(s) the protesting party submitted during the planning process or a statement of the date they were discussed for the record.

d. A concise statement explaining why the protestor believes the State Director's decision is wrong.

All protests must be in writing and mailed to one of the following addresses:

Regular Mail: Director (210), Attention: Brenda Williams, P.O. Box 66538, Washington, DC 20035.

Overnight Mail: Director (210), Attention: Brenda Williams, 1620 L Street, NW., Suite 1075, Washington, D.C. 20036.

The Director will promptly render a decision on the protest. The decision will be in writing and will be sent to the protesting party by certified mail, return receipt requested. The decision of the Director is the final decision of the Department of the Interior.

2. Instructions on Commenting on the Proposed ACECs

BLM planning regulations at 43 CFR 1610.7–2 require the BLM to notify the public of proposed ACECs in the **Federal Register** releasing the DRMP/DEIS. While the DRMP/DEIS including the ACEC information has been available for public review and comment, the BLM is providing an additional 60-day review period to ensure the procedural requirements contained in 43 CFR 1610.7–2 are met. Specifically, these regulations require the BLM to specify in a **Federal Register** any resource use limitations, which would occur if an ACEC is designated. The BLM can best use your comments on only the ACEC information presented in the DRMP/DEIS and in this Notice of Supplemental Information if they are received on or before the end of the 60-day comment period following publication of this notice. If any comments received identify new and significant ACEC-related information that has not currently been raised in the planning process, then a Supplemental Proposed Resource Management Plan/Final Environmental Impact Statement may have to be issued and the Record of Decision on this PRMP and FEIS deferred.

Written comments on the ACECs as proposed in the DRMP/DEIS may be submitted as follows:

1. The Casper RMP Revision Web site at *http://www.blm.gov/rmp/casper/*; the web site allows commenters to submit ACEC-related comments electronically into the Special Designations topic directly onto a comment form posted on the web site.

2. Written comments may be mailed or delivered to the BLM at: Casper RMP/EIS, Bureau of Land Management—Casper Field Office, 2987 Prospector Drive, Casper, WY 82604–2968.

3. Comments may be sent by facsimile to (307) 261–7587.

The BLM will only accept comments if they are submitted in the methods described above. To be given consideration by the BLM, comment submittals must include the commenter's name and street address. Whenever possible, please include reference to either the page or section in the DRMP/EIS to which the ACEC-related comment applies. To facilitate analysis of comments and information submitted, it is encouraged to submit comments in an electronic format through the Web site.

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 publicly available at any time. While you can ask us to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: April 2, 2007.

Robert A. Bennett,

State Director.

[FR Doc. E7–10886 Filed 6–7–07; 8:45 am]

BILLING CODE 4310–22–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

Notice of Availability of Sierra Proposed Resource Management Plan and Final Environmental Impact Statement, California

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969 (NEPA, 42 U.S.C. 4321 *et seq.*) and the Federal Land Policy and Management Act of 1976 (FLPMA, 43 U.S.C. 1701 *et seq.*), the Bureau of Land Management (BLM) has prepared a Proposed Resource Management Plan (RMP) and Final Environmental Impact Statement (EIS) for the Sierra planning area managed by the Folsom Field Office.

DATES: BLM Planning Regulations (43 CFR 1610.5–2) state that any person who participated in the planning process and has an interest which may be adversely affected, may protest BLM's approval or amendment of an RMP. Protests must be filed within 30 days of the date that the Environmental Protection Agency publishes their Notice of Availability in the **Federal Register**. Instructions for filing protests are described in the front cover of the Sierra Proposed RMP and Final EIS and in the Supplementary Information section of this notice.

FOR FURTHER INFORMATION CONTACT: Sandra McGinnis, (916) 985–4474, Bureau of Land Management, 63 Natoma Street, Folsom, CA 95630; *caformp@ca.blm.gov.*

SUPPLEMENTARY INFORMATION: The planning area for the Sierra RMP is the Folsom Field Office's area of management responsibility. The planning area encompasses portions of 15 California counties: Yuba, Sutter, Colusa, Nevada, Placer, El Dorado, Alpine, Amador, Calaveras, San Joaquin, Tuolumne, Mariposa, Sacramento, Stanislaus, and Merced. A total of 230,000 acres of public lands and 300,000 acres of subsurface mineral estate are administered by BLM. The decisions in the RMP will only apply to BLM lands and mineral estate in the planning area. The Sierra Proposed RMP and Final EIS have been developed through collaborative planning and consider four alternatives. Primary issues include: recreation, wild and scenic river recommendations, sensitive natural and cultural resources, livestock grazing, wildland fire risk and fuel reduction, energy and mineral development, land ownership adjustments, and motorized vehicle route designations. The Proposed RMP includes two wild and scenic river suitability recommendations: South Fork American River (8.8 miles—recreational) and North Fork and Main Mokelumne River (13.7 miles—wild, scenic, recreational). The Proposed RMP includes eight new Areas of Critical Environmental Concern (ACECs): Pine Hill Preserve (3,236 acres), Cosumnes River Preserve (2,035 acres), Spivey Pond (54 acres), Deadman's Flat (796 acres), Dutch Flat/Indiana Hill proposed Research Natural Area, which is a type of ACEC (320 acres), Bagby Serpentine

(5,775 acres) and North Fork Cosumnes (1,129 acres). Additionally, the Proposed RMP would expand three existing ACECs: Red Hills, Ione Manzanita, and Limestone Salamander ACECs. Use of public lands in these ACECs would vary depending on their individual resources and values but would include limitations on motorized use, mining, and other surface disturbing activities. Copies of the Sierra Proposed RMP and Final EIS have been sent to affected Federal, state, and local government agencies and to interested parties. Copies are available for public inspection on the internet at *http://www.blm.gov/ca/st/en/fo/folsom/nepa2.2.html.* The document is also available at some local libraries, BLM's Folsom Field Office (63 Natoma Street, Folsom, CA 95630) and upon request by emailing or calling BLM (see contact information, above). Comments on the Sierra Draft RMP/EIS received from the public and internal BLM review were incorporated into the proposed RMP. Public comments resulted in corrections, clarifying text, and the proposal to establish a 1,129 acre ACEC along the North Fork Cosumnes River. The public has 60 days from this notice to comment on this ACEC proposal. A final decision on the RMP will not be issued until after this 60 day comment period and until all protests are resolved.

Instructions for filing a protest with the Director of the BLM regarding the Proposed RMP and Final EIS are described in 43 CFR 1610.5–2. A protest may only raise issues that were submitted for the record during the planning process. Emailed and faxed protests will not be accepted as valid protests unless the protesting party also provides the original letter by regular or overnight mail postmarked by the close of the protest period. Under these conditions, BLM will consider the emailed or faxed protest as an advance copy and it will receive full consideration. If you wish to provide BLM with such advance notification, please direct faxed protests to the attention of the BLM protest coordinator at (202) 452–5112, and e-mails to *Brenda_Hudgens-Williams@blm.gov*.

Please direct the follow-up letter to the appropriate address provided below.

The protest must contain:

a. The name, mailing address, telephone number, and interest of the person filing the protest.

b. A statement of the part(s) of the plan and the issue(s) being protested.

c. A copy of all documents addressing the issue(s) that the protesting party submitted during the planning process or a statement of the date they were discussed for the record.

d. A concise statement explaining why the protestor believes the State Director's decision is wrong.

All protests must be in writing and mailed to one of the following addresses:

Regular Mail: Director (210), Attention: Brenda Williams, P.O. Box 66538, Washington, DC 20035.

Overnight Mail: Director (210), Attention: Brenda Williams, 1620 L Street, NW., Suite 1075, Washington, DC 20036.

Before including your address, phone number, email 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 publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

The Director will promptly render a decision on any protests. The decision will be in writing and will be sent to the protesting party by certified mail, return receipt requested. The decision of the Director is the final decision of the Department of the Interior.

Dated: March 13, 2007.

William S. Haigh,

Field Manager.

[FR Doc. E7–11140 Filed 6–7–07; 8:45 am]

BILLING CODE 4310–40–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–070–1610-DP–030E]

Notice of Availability of the Draft Resource Management Plan and Environmental Impact Statement for the Butte Field Office, Montana

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Availability.

SUMMARY: In accordance with the National Environmental Policy Act of 1969 (NEPA), and under the authority of the Federal Land Policy and Management Act of 1976 (FLPMA), a Draft Resource Management Plan and Environmental Impact Statement (DRMP/EIS) has been prepared for public lands and resources administered by the Bureau of Land Management (BLM) Butte Field Office in Montana.

DATES: The 90-day public comment period will begin the date the Environmental Protection Agency (EPA) publishes their Notice of Availability (NOA) in the **Federal Register**. Public meetings to gather comments on the draft will be held in Montana at the following locations during the public comment period: Boulder, Bozeman, Butte, Divide, Helena, and Townsend. Comments on the DRMP/EIS must be received on or before the end of the comment period at the address listed below. Public meetings and any other public involvement activities will be announced at least 15 days in advance through public notices, media news releases, newsletter mailings, and on the Butte RMP Web site at *http://www.blm.gov/mt/st/en/fo/butte_field_office.html.*

ADDRESSES: You may submit comments by any of the following methods below. Your name and mailing address must be submitted as part of your comments.

- *E-mail: MT_Butte_RMP@blm.gov.*
- *Fax:* (406) 533–7660
- *Mail or hand-deliver to:* Butte RMP Team, BLM Butte Field Office, 106 North Parkmont, Butte, Montana 59701.

FOR FURTHER INFORMATION CONTACT: Tim La Marr, Project Manager, BLM, (406) 533–7645.

SUPPLEMENTARY INFORMATION: The Butte Field Office RMP planning area is located in southwestern Montana in Beaverhead, Broadwater, Deerlodge, Gallatin, Jefferson, Lewis and Clark, Park, and Silver Bow Counties. The planning area contains approximately 302,000 acres of public surface estate and approximately 678,000 acres of federal mineral estate administered by the Butte Field Office. The DRMP/EIS focuses on the principles of multiple use and sustained yield as prescribed by Section 202 of the FLPMA.

The public involvement and collaboration process included invitations to Federal agencies and tribal and local governments to become cooperating agencies. None of the Federal agencies or governments have participated as cooperating agencies. Public scoping included six public meetings in communities throughout the planning area (January 2004), six additional public meetings specifically focused on site-specific travel planning issues (November/December 2004), two additional public meetings to scope the Proposed Planning Scenario (a preliminary draft proposal of management) in June 2005, ten briefings to specific organizations/county governments on the Proposed Planning Scenario (June/July 2005), and release of reports on Wild and Scenic River (WSR) and Area of Critical Environmental Concern (ACEC) findings. Community-

based working groups sponsored by the Lewis and Clark County Commission helped develop travel management planning alternatives for three travel planning areas in Lewis and Clark County.

The DRMP/EIS considers and analyzes four alternatives (A–D), including the No Action, or Continuation of Current Management Alternative. These alternatives were developed based on the BLM's planning team expertise, public input, and community-based working group recommendations for three site-specific travel plans. The alternatives provide for an array of alternative land use allocations and variable levels of commodity production and resource protection and restoration. Alternative B is the BLM's Preferred Alternative, which emphasizes moderate levels of resource protection, use, and restoration. After comments are reviewed and any pertinent adjustments made, a Proposed RMP and Final Environmental Impact Statement is expected to be available in 2008.

The issues addressed in the formulation of alternatives include vegetation management (including commodity uses associated with livestock grazing and forest products), wildlife and special status species habitat management, travel management, recreation, and special designations such as ACECs and WSRs. In all alternatives, ACECs have been proposed to protect relevant and important values. These potential ACECs, their values, acreages, and summaries of use limitations are listed in the table below. More detailed information on the management of the five potential ACECs and analysis of impacts is described within the DRMP/EIS. Restrictions would only occur to the degree necessary to prevent degradation of relevant and important values for which an area is designated.

ACRES OF BLM-MANAGED SURACE ESTATE PROPOSED TO BE MANAGED AS ACECS BY ALTERNATIVE IN THE BUTTE DRMP/EIS

ACEC values and use limitations	Alternative A	Alternative B (Preferred)	Alternative C	Alternative D
Sleeping Giant:				
Values: high scenic quality, diverse upland and aquatic habitat, primitive/unconfined recreation.	11,679 acres	11,679 acres	11,679 acres	11,679 acres.
Limitations: Exclude motorized vehicle use. Exclude timber harvest. Exclude firewood cutting. Exclude ROWs. Exclude outfitter/guide hunting permits. Restrict livestock grazing along Missouri River shoreline. No Surface Occupancy allowed for oil and gas leasing.				
Elkhorn Mountains:				
Values: cultural resources, diverse upland and aquatic habitat, unique national management area.	N/A	53,349 acres	67,665 acres	3,595 acres.
Limitations: Manage to sustain full range of potential biological diversity and ecosystem processes. Exclude R&PP actions. Exclude timber salvage unless beneficial to ACEC values or needed for human safety. Emphasize non-motorized recreation. No Surface Occupancy allowed for oil and gas leasing in the Muskrat Creek watershed.				
Humbug Spires:				
Values: high scenic quality, diverse upland and aquatic habitat, primitive/unconfined recreation.	N/A	8,374 acres	8,374 acres	8,374 acres.
Limitations: Exclude R&PP actions. Exclude outfitter camping w/in 200 feet of existing trail. Close outfitter rock climbing on spires with active raptor nests. Exclude new roads or motorized trails. Exclude timber harvest. No Surface Occupancy allowed for oil and gas leasing.				
Spokane Creek:				
Values: important sport-fish spawning stream	N/A	14 acres	14 acres	N/A.
Limitations: Exclude new road construction. Exclude R&PP actions. Exclude ROWs. No Surface Occupancy allowed for oil and gas leasing.				
Ringing Rocks:				
Values: unique geological feature	N/A	160 acres	160 acres	N/A.
Limitations: Exclude salable mineral removal. Exclude R&PP actions. Exclude ROWs. No Surface Occupancy allowed for oil and gas leasing.				

Other key management concerns addressed in the plan include mineral development, oil and gas leasing, rights-of-way and utility corridor designations, and renewable energy. Comments and information submitted on the DRMP/EIS, including names, email addresses, and street addresses of respondents, will be available for public review and disclosure at the above address. The BLM will not accept anonymous comments. 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 publicly available at any time. While you can ask us in your comment to withhold your personal identifying information from public review, we cannot guarantee that we will be able to do so.

Dated: February 23, 2007.

Editorial Note: This document was received at the Office of the Federal Register on June, 1, 2007.

Randy D. Heuscher,

Acting State Director.

[FR Doc. E7–10887 Filed 6–7–07; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

National Park Service

National Register of Historic Places; Notification of Pending Nominations and Related Actions

Nominations for the following properties being considered for listing or related actions in the National Register were received by the National Park Service before May 26, 2007. Pursuant to section 60.13 of 36 CFR Part 60 written comments concerning the significance of these properties under the National Register criteria for evaluation may be forwarded by United States Postal Service, to the National Register of Historic Places, National Park Service, 1849 C St., NW., 2280, Washington, DC 20240; by all other carriers, National Register of Historic Places, National Park Service,1201 Eye St., NW., 8th floor, Washington DC 20005; or by fax, 202–371–6447. Written or faxed comments should be submitted by June 25, 2007.

J. Paul Loether,

Chief, National Register of Historic Places/ National Historic Landmarks Program.

CALIFORNIA

Los Angeles County

Roosevelt Building,

727 W. Seventh St., Los Angeles, 07000636

Santa Clara County

Highway 152 Tree Row, CA 152, Gilroy, 07000635

DISTRICT OF COLUMBIA

District of Columbia

Acacia Mutual Life Company Building, 320 First St., NW., Washington, 07000642

Central Heating Plant, 325 13th St., SW., Washington, 07000637

Railroad Retirement Board Building, 330 C St., SW., Washington, 07000638

Social Security Administration Building, 330 Independence Ave., SW., Washington, 07000639

U.S. Courthouse—District of Columbia, 333 Constitution Ave., NW., Washington, 07000640

U.S. Department of Agriculture South Building, 14th St. and Independence Ave., SW., Washington, 07000643

U.S. Public Health Service Building, 1951 Constitution Ave., NW., Washington, 07000641

ILLINOIS

Champaign County

Solon, Francis and Abbie, House, 503 South State St., Champaign, 07000644

MINNESOTA

Ramsey County

Commerce Building, 10 E. Fourth St., St. Paul, 07000645

MISSISSIPPI

Hinds County

Lorena Dulling School, 622 Dulling Ave., Jackson, 07000650

Lowndes County

Mt. Pleasant Methodist Church, 2382 Wright Rd., Caledonia, 07000649

Tate County

McGehee Plantation, 950 Ed Nelson Dr., Senatobia, 07000648

MISSOURI

Jackson County

Howard Neighborhood Historic District, (Lee's Summit, Missouri MPS) Roughly bounded by SE 5th St., SE Green St., SE 7th St., and SE Miller St., Lee's Summit, 07000651

Jasper County

Jopin Supply Company, 228 S. Joplin Ave., Joplin, 07000652

St. Louis Independent City

Hempstead School, (St. Louis Public Schools of William B. Ittner MPS), 5872 Minerva Ave., St. Louis (Independent City), 07000653

MONTANA

Missoula County

Missoula Downtown Historic District, Roughly bounded by Northern Pacific RR, Clak Fork R, Little McCormick Park and Madison St., Missoula, 07000647

NEBRASKA

Cherry County

Dry Valley Church and Cemetery, Address Restricted, Mullen, 07000660

Custer County

Brenizer Library, 430 W. Center Ave., Merna, 07000654

Kellenbarger, Benjamin and Mary, House, 451 W. Center Ave., Merna, 07000659

Douglas County

Swartz Printing Company Building, 714 S. 15th St., Omaha, 07000658

Lancaster County

Lewis—Syford House, 700 N. 16th St., Lincoln, 07000657

Platte County

Lincoln Highway—Duncan West, (Lincoln Highway in Nebraska MPS AD) North Blvd. in Duncan, rural 145th St., Village of Duncan and Butler Township, 07000656

Lincoln Highway—Gardiner Station, (Lincoln Highway in Nebraska MPS) 115th St. bet 340th and 355th Ave., Butler Township, 07000655

NEW YORK

Dutchess County

Hoffman House, (Poughkeepsie MRA) N. Water St., Poughkeepsie, 07000669

TENNESSEE

De Kalb County

Foster, Susie, Log House, 810 College St., Smithville, 07000665

Henderson County

Montgomery High School, Montgomery Ave., Lexington, 07000662

Rutherford County

Elmwood (Boundary Increase), (Historic Family Farms in Middle Tennessee MPS) 5722 Old Nashville Hwy., Murfreesboro, 07000664

Sevier County

First Methodist Church, Gatlinburg, 742 Parkway, Gatlinburg, 07000661

Williamson County

Triangle School, (Williamson County MRA) Fairview Blvd., Fairview, 07000663

UTAH

Utah County

Payson Historic District, Roughly bounded by 500 North, 300 East, 500 South, 400 West, Payson, 07000666

Wasatch County

Wilson House and Farmstead, 94 E. 250 North, Midway, 07000667

WISCONSIN

Price County

Fifield Fire Lookout Tower, 5 mi. E of Fifield, WI 70, Fifield, 07000668

In the interest of preservation the comment period for the following resource has been reduced to 3 (three) days:

MICHIGAN

Genesee County

First National Bank and Trust Company Building, 460 South Saginaw St., Flint, 07000646

A request for Removal has been made for the following resources:

NEBRASKA

Thomas County

Thomas County Courthouse (Courthouses of Nebraska MPS) 503 Main St., Thedford, 90000971

NORTH CAROLINA

Wake County

Midway Plantation, E of Raleigh on U.S. 64, Raleigh vicinity, 70000473

[FR Doc. E7–11066 Filed 6–7–07; 8:45 am]

BILLING CODE 4312–51–P

INTERNATIONAL TRADE COMMISSION

[USITC SE–07–011]

Government in The Sunshine Act Meeting Notice

AGENCY HOLDING THE MEETING: United States International Trade Commission.

TIME AND DATE: June 14, 2007 at 11 a.m.

PLACE: Room 101, 500 E Street, SW., Washington, DC 20436, Telephone: (202) 205–2000.

STATUS: Open to the public.

MATTERS TO BE CONSIDERED: 1. Agenda for future meetings: none.

2. Minutes.

3. Ratification List.

4. Inv. Nos. 701–TA–402 and 731–TA–892 and 893 (Review) (Honey from Argentina and China)—briefing and vote. (The Commission is currently scheduled to transmit its determination and Commissioners' opinions to the Secretary of Commerce on or before June 29, 2007.)

5. Outstanding action jackets: none.

In accordance with Commission policy, subject matter listed above, not disposed of at the scheduled meeting, may be carried over to the agenda of the following meeting.

By order of the Commission:

Issued: June 5, 2007.

William R. Bishop,

Hearings and Meetings Coordinator.

[FR Doc. E7–11165 Filed 6–7–07; 8:45 am]

BILLING CODE 7020–02–P

DEPARTMENT OF JUSTICE

[OMB Number 1103–0066]

Office of Community Oriented Policing Services; Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: Revision of a Currently Approved Collection.

National Center for Victims of Crime: Service Referral Questionnaire

The Department of Justice (DOJ) Office of Community Oriented Policing Services (COPS), will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. 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** Volume 72, Number 63, pages 15905–15906, on April 3, 2007, allowing for a 60-day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until July 9, 2007. This process is conducted in accordance with 5 CFR 1320.10.

If you have comments especially on the estimated public burden or associated response time, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact Rebekah Dorr, Department of Justice Office of Community Oriented Policing Services, 1100 Vermont Avenue, NW, Washington, DC 20530.

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 agencies 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:* Revision of a currently approved collection.

2. *Title of the Form/Collection:* National Center for Victims of Crime: Service Referral Questionnaire

3. *Agency form number, if any, and the applicable component of the Department of Justice sponsoring the collection: Form Number:* None. U.S. Department of Justice Office of Community Oriented Policing Services (COPS).

4. *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Non-Profit and For-Profit Crime Victim Service Providers and government agencies.

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 12,000 respondents annually will complete the form within 15minutes.

6. *An estimate of the total public burden (in hours) associated with the collection:* There are an estimated 3,000 total annual burden hours associated with this collection.

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: June 5, 2007.

Lynn Bryant,

Department Clearance Officer, PRA Department of Justice.

[FR Doc. E7–11111 Filed 6–7–07; 8:45 am]

BILLING CODE 4410–AT–P

DEPARTMENT OF JUSTICE

[OMB Number 1105 NEW]

Justice Management Division; Office of Attorney Recruitment and Management; Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: Applications for Attorney Student Loan Repayment Program.

The U.S. Department of Justice (DOJ), Justice Management Division, Office of Attorney Recruitment and Management (OARM), will be submitting 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 April 3, 2007, Volume 72, Number 63, Page 15905, allowing for a 60-day public comment period.

The purpose of this notice is to allow an additional 30 days for public comment until July 9, 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:* Proposed new collection

(2) *Title of the Form/Collection:* Applications for Attorney Student Loan Repayment 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 Department of Justice Attorney Student Loan Repayment Program (ASLRP) is an agency recruitment and retention incentive program based on 5 U.S. C. 5379, as amended, and 5 CFR part 537. The Department selects participants during an annual open season each spring. Anyone currently employed as an attorney or hired to serve in an attorney position within the Department may request consideration for the ASLRP. The Department selects new attorneys each year for participation on a competitive basis and renews current beneficiaries who remain qualified for these benefits, subject to availability of funds. There are two types of application forms: One is for new requests, and the other for renewal requests. There are also two service agreement forms: An initial three-year service agreement form, and a one-year service extension form.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply: The Department anticipates that on a yearly basis, about 175 respondents will complete the application for a new request. In addition, each year the Department expects to receive approximately 300 applications from attorneys and law clerks requesting renewal of the benefits they received in previous years. It is estimated that each new application will take one (1) hour to complete, and each renewal application approximately 30 minutes to complete.

(6) An estimate of the total public burden (in hours) associated with the collection: The total estimated annual public burden associated with this collection is 325 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: June 5, 2007.

Lynn Bryant,

Department Clearance Officer, PRA Department of Justice.

[FR Doc. E7–11116 Filed 6–7–07; 8:45 am]

BILLING CODE 4410–PB–P

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Advanced Energy Consortium

Notice is hereby given that, on March 30, 2007, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Advanced Energy Consortium (''AEC'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the venture and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the identifies of the parties to the venture are: The University of Texas at Austin, Austin, TX; BP America Inc., Houston, TX; ConocoPhillips Company, Houston, TX; Marathon Oil Company, Houston, TX; Occidental Oil & Gas Corporation, Houston, TX; Shell International E & P Inc., Houston, TX; Schlumberger Technology Corporation, Sugar Land, TX; and Halliburton Energy Services, Inc., Houston, TX. The AEC wa formed by a written agreement effective as of January 1, 2007, to engage in research concerning subsurface microsensors, nanosensors and nonomaterials to benefit the exploration and production function of the petroleum industry. The AEC will not engage in production or sales activities. Participation in the venture is open to other companies (subject to the numerical limit on participants as set from time to time by the Board of Management of the venture) who meet the qualifications and receive the approvals specified in the written agreement.

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 07–2854 Filed 6–7–07; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—American Society of Mechanical Engineers

Notice is hereby given that, on April 10, 2007, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), American Society of Mechanical Engineers (''ASME'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions or changes to its standards development activities. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damage under specified circumstances. Specifically, since December 5, 2006, ASME has published several new standards and initiated several new standards activities within the general nature and scope of ASME's standards development activities, as specified in its original notification. More details

regarding these changes can be found at *http://www.asme.org.*

On September 15, 2004, ASME filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on October 13, 2004 (69 FR 60895).

The last notification was filed with the Department on December 6, 2006. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on December 28, 2006 (71 FR 78223).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 07–2853 Filed 6–7–07; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—ASTM International—Standards

Notice is hereby given that, on May 9, 2007, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), ASTM International—Standards (''ASTM'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing additions or changes to its standards developing activities. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, ASTM has provided an updated list of current, ongoing ASTM standards activities originating between February 2007 and May 2007, designated as Work Items. A complete listing of ASTM Work Items, along with a brief description of each, is available at *http:///www.astm.org.*

On September 15, 2004, ASTM filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on November 10, 2004 (69 FR 65226).

The last notification was filed with the Department on March 13, 2007. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on April 9, 2007 (72 FR 17582).

For additional information, please contact: Thomas B. O'Brien, Jr., General Counsel, at 100 Barr Harbor Drive, West Conshohocken, PA 19428, telephone 610–832–9597, e-mail address *tobrien@astm.org.*

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 07–2855 Filed 6–7–07; 8:45am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—DVD Copy Control Association

Notice is hereby given that, on March 21, 2007, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), DVD Copy Control Association (''DVD CCA'') has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, Cyrus Audio Limited, Huntingdon, Cambridgeshire, UNITED KINGDOM; Fuji Film Media Crest Co., Ltd., Tokyo, JAPAN; Hangzhou Silan Microelectronics Co., Ltd., HangZhou, PEOPLE'S REPUBLIC OF CHINA; Hansong (Nanjing Electronic Ltd., Nanjing, PEOPLE'S REPUBLIC OF CHINA; Jabil Circuit Hungary Ltd., Szombathely, HUNGARY; Protect Software GmbH, Dortmund, GERMANY; Quantum Optical Laboratories (QOL), Vernouillet, FRANCE; Shenzhen Jin Mei Wei Electron Co., Ltd., Shenzhen, PEOPLE'S REPUBLIC OF CHINA; Star Master SRL, Milano, ITALY; and Victory Development Group Limited, Shenzhen, PEOPLE'S REPUBLIC OF CHINA; have been added as parties to this venture.

Also, Behavior Tech Computer Corp., Taipei, TAIWAN; BenQ Corporation, Taoyuan, TAIWAN; Citron Electronic Co., Ltd., Hong Kong, HONG KONG-CHINA; CKC Electronic Corp., Taipei Hsien, TAIWAN; Digitalway, Gyeonggi-Do, REPUBLIC OF KOREA; Enlight Corporation, Taoyuan, TAIWAN; Future Media Productions Inc., Valencia, CA; Global Brands Manufacture Ltd., Guangdong, PEOPLE'S REPUBLIC OF CHINA; Gradiente Electronica S.A., Sao Paulo, BRAZIL; GVG Digital Technology Holdings (HK) Limited, Shatin, Hong Kong, HONG KONG-CHINA; Hitachi High-Technologies Corporation, Tokyo, JAPAN; Humax Co., Ltd., Gyeonggi-Do, REPUBLIC OF KOREA; Jabil Circuit, Hong Kong, HONG KONG-CHINA; Kestrelink Corp., Boise, ID; Laser Disc Argentina S.A., Buenos Aires, ARGENTINA; Media Mastering Services, LLC, Brae, CA; Mikasa Shoji, Osaka, JAPAN; Orient Power Multimedia Ltd., Kowloon, Hong Kong, HONG KONG-CHINA; Paramount Digital Technology (Huizhou) Co., Ltd., Huizhou, PEOPLE'S REPUBLIC OF CHINA; PHD Electronics, Hong Kong, HONG KONG-CHINA; Shanghai Thakral Electronics Industrial Corporation, Ltd., Shanghai, PEOPLE'S REPUBLIC OF CHINA; Shantou Hi-Tech Zone Idall Enterprise Co., Ltd., Guandong, PEOPLE'S REPUBLIC OF CHINA; Shenzhen Skywood Info-Tech Industries Co., Ltd. Shenzhen, PEOPLE'S REPUBLIC OF CHINA; Shenzhen Sobon Digital Technology Dev. Co., Ltd., Shenzhen, PEOPLE'S REPUBLIC OF CHINA; Sichuan Changhong Electronic Co., Ltd., Sichuan, PEOPLE'S REPUBLIC OF CHINA; and UAV Corporation, Fort Mill, SC have withdrawn as parties to this venture. In addition, MJTel Co., Ltd. has changed its name to KalosNett, Seoul, REPUBLIC OF KOREA.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and DVD CCA intends to file additional written notifications disclosing all changes in membership.

On April 11, 2001, DVD CCA filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on August 3, 2001 (66 FR 40727).

The last notification was filed with the Department on December 19, 2006. a notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on January 25, 2007 (72 FR 3415).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 07–2852 Filed 6–7–07; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Mobile Enterprise Alliance, Inc.

Notice is hereby given that, on April 19, 2007, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Mobile Enterprise Alliance, Inc. has filed written notifications simultaneously with the Attorney General and the Federal Trade Commission disclosing changes in its membership. The notifications were filed for the purpose of extending the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances. Specifically, PortNexus Corporation, Miami, FL has withdrawn as a party to this venture.

No other changes have been made in either the membership or planned activity of the group research project. Membership in this group research project remains open, and Mobile Enterprise Alliance, Inc. intends to file additional written notifications disclosing all changes in membership.

On June 24, 2004, Mobile Enterprise Alliance, Inc. filed its original notification pursuant to Section 6(a) of the Act. The Department of Justice published a notice in the **Federal Register** pursuant to Section 6(b) of the Act on July 23, 2004 (69 FR 44062).

The last notification was filed with the Department on February 1, 2007. A notice was published in the **Federal Register** pursuant to Section 6(b) of the Act on March 15, 2007 (72 FR 12198).

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 07–2850 Filed 6–7–07; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Antitrust Division

Notice Pursuant to the National Cooperative Research and Production Act of 1993—Network Service Enablers Work Order Collaboration

Notice is hereby given that, on April 20, 2007, pursuant to Section 6(a) of the National Cooperative Research and Production Act of 1993, 15 U.S.C. 4301 *et seq.* (''the Act''), Network Service Enablers Work Order Collaboration (''NSEWOC'') has filed written notification simultaneously with the Attorney General and the Federal Trade Commission disclosing (1) the identities of the parties to the venture and (2) the nature and objectives of the venture. The notifications were filed for the purpose of invoking the Act's provisions limiting the recovery of antitrust plaintiffs to actual damages under specified circumstances.

Pursuant to Section 6(b) of the Act, the identities of the parties to the venture are: Intel Americas, Inc., Santa Clara, CA; Nissan Technical Center North America, Inc., Farmington Hills, MI; and TechnoCom Corporation, Encino, CA. The general area of NSEWOC's planned activity is the development of linkages between applications in on-board vehicle equipment and various network services and functions in the vehicle infrastructure integration system, a national infrastructure to enable data collection and exchange in real time between vehicles, and between vehicles and the roadway.

Patricia A. Brink,

Deputy Director of Operations, Antitrust Division.

[FR Doc. 07–2849 Filed 6–7–07; 8:45 am]

BILLING CODE 4410–11–M

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OMB Number 1121–0219]

Office of Juvenile Justice and Delinquency Prevention; Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review; Extension without change, of a previously approved collection-Juvenile Residential Facility Census.

The Department of Justice (DOJ), Office of Justice Programs, Office of Juvenile Justice and Delinquency Prevention, will be submitting the following information collection request to the Office of Management and Budget (OMB) for review and approval in accordance with the Paperwork Reduction Act of 1995. 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** Volume 72, Number 63, pages 15906–16907, on April 3, 2007, allowing for a 60 day comment period.

The purpose of this notice is to allow for an additional 30 days for public comment until July 9, 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 The Office of Management and Budget, Office of Information and Regulatory Affairs, Attention Department of Justice Desk Officer, Washington, DC 20503. Additionally, comments may be submitted to OMB via facsimile to (202) 395–7285.

Request 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 agencies 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 a currently approved collection.

(2) *The title of the form/collection:* Juvenile Residential Facility Census.

(3) *The agency form number, if any, and the applicable component of the Department sponsoring the collection:* The form number is CJ–15, Office of Juvenile Justice and Delinquency Prevention, United States Department of Justice.

(4) *Affected public who will be asked or required to respond, as well as a brief abstract: Primary:* Federal Government, State, Local or Tribal.

Other: Not-for-profit institutions; Business or other for-profit.

This collection will gather information necessary to routinely monitor the types of facilities into

which the juvenile justice system places young persons and the services available in these facilities.

(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 3,500 respondents will complete a 2-hour questionnaire.

(6) *An estimate of the total public burden (in hours) associated with the collection:* The total hour burden to complete the nominations is 7,000 annual burden hours.

If additional information is required contact: Lynn Bryant, Deputy Clearance Officer, United States Department of Justice, Information Management and Security Staff, Justice Management Division, Suite 1600, Patrick Henry Building, 601 D Street NW., Washington, DC 20530.

Dated: June 5, 2007.

Lynn Bryant,

Department Clearance Officer, PRA United States Department of Justice.

[FR Doc. E7–11114 Filed 6–7–07; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of petitions for modification of existing mandatory safety standards.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR Part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification filed by the parties listed below to modify the application of existing mandatory safety standards published in Title 30 of the Code of Federal Regulations.

DATES: Comments on the petitions must be received by the Office of Standards, Regulations, and Variances on or before July 9, 2007.

ADDRESSES: You may submit your comments, identified by ''docket number'' on the subject line, by any of the following methods:

1. *E-Mail:* Standards-Petitions@dol.gov.

2. *Telefax:* 1–202–693–9441.

3. *Hand-Delivery or Regular Mail:* Submit comments to the Mine Safety and Health Administration (MSHA), Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2349, Arlington, Virginia 22209, Attention: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances.

We will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments. Individuals who submit comments by hand-delivery are required to sign-in at the receptionist desk on the 21st floor.

Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Edward Sexauer, Chief, Regulatory Development Division at 202–693–9444 (Voice), *sexauer.edward@dol.gov* (E-mail), or 202–693–9441 (Telefax), or contact Barbara Barron at 202–693–9447 (Voice), *barron.barbara@dol.gov* (E-mail), or 202–693–9441 (Telefax). [These are not toll-free numbers].

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary determines that: (1) An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard, or (2) the application of such standard to such mine will result in a diminution of safety to the miners in such mine. In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modifications.

II. Petitions for Modification

Docket Number: M–2007–007-C.

Petitioner: Mingo Logan Coal Company, P.O. Box 553, Charleston, West Virginia 25322.

Mine: Mountaineer II Mine, (MSHA I.D No. 46–09029), located in Logan and Boone Counties, West Virginia.

Regulation Affected: 30 CFR 75.1700 (Oil and gas wells).

Modification Request: The petitioner proposes to plug abandoned oil and gas wells, (including injection wells) to mine them or to reduce the barrier size. The petitioner proposes to: (1) Clean out and prepare the oil and gas wells; (2) plug the oil and gas wells to the surface using a cement plug and a small amount of steel turnings; (3) plug the oil or gas wells using the vent pipe method; (4) plug the oil and gas wells for use as degasification boreholes; and (5) follow cut-through procedures whenever the petitioner reduces the safety barrier diameter to a distance less than the District Manager would approve or proceeds with an intent to cut-through a plugged well. The petitioner has listed additional specific procedures in this petition to implement the proposed alternative method. Individuals may review a complete description of the petition at the MSHA address listed in this notice. The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded the miners under 30 CFR 75.1700.

Docket Number: M–2007–008-C.

Petitioner: The American Coal Company, 9085 Highway 34 North, Galatia, Illinois 62935.

Mine: Galatia Mine, (MSHA I.D. No. 11–02752), located in Saline County, Illinois.

Regulation Affected: 30 CFR 75.1700 (Oil and gas wells).

Modification Request: The petitioner requests modification of approved petition for modification, docket number M–88–246–C, addressing the drilling out and plugging of oil and gas wells at the Galatia Mine. This request is based on the following: (1) On occasion the mine operations have encountered wells drilled for oil and gas production that cannot be drilled out and plugged to meet the specifications in the approved petition for modification; (2) approved procedures are ineffective because the concrete used to plug the original wellbore is harder than the surrounding strata, making it difficult to keep the drill bit in the hole and on target for locating the original wellbore; (3) in the near future the petitioner will encounter hundreds of wells drilled for oil and gas production that it will be unable to drill out to meet the specifications in the approved petition for modification; and (4) a substantial number of the reserves at the mine will be rendered unmineable without the approval of this petition. The petitioner has listed specific procedures in this petition that will be used for compliance with the proposed alternative method including notification procedures; using driving sights; the availability of firefighting equipment; roof support; ventilation procedures; methane testing and other hazard prevention procedures. Individuals may review a complete description of the procedures at the MSHA address listed in this notice. The petitioner asserts that the proposed

alternative method will at all times guarantee no less than the same measure of protection afforded the miners under 30 CFR 75.1700.

Docket Number: M–2007–009–C.

Petitioner: Postar Coal Company, Inc., 685 Cavitts Creek, North Tazewell, Virginia 24630.

Mine: Postar No. 1 Mine, (MSHA I.D. No. 46–07983), located in McDowell County, West Virginia.

Regulation Affected: 30 CFR 75.364(b)(4) (weekly examination).

Modification Request: The petitioner request a modification of the existing standard to permit an alternative method of examining the seals underground because the mine seals between the petitioner's mine and the abandoned U.S. Steel No. 9 Mine are in place to separate the mines and cannot be examined. The petitioner proposes to: (1) Drill two (2) monitoring holes from the surface to the entries at the Postar No. 1 Mine, MSHA I.D. No. 46–07983, side of the seals and drill two (2) monitoring holes from the entries of the Mine No. 35, MSHA I.D. No. 46–08131, side of the seals; (2) have a certified person examine and evaluate the monitoring holes; and (3) maintain a record of the examinations and evaluations in an approved record book. The petitioner states that the Postar No. 1 Mine is a drift operation with multiple outcrop and surface openings and has no history of methane or ventilation problems. The petitioner further states that the ventilation is setup to prevent any contaminant from the abandoned area reaching the working section. The petitioner asserts that the monitoring holes will provide the level of safety as required by 30 CFR 75.364(b)(4).

Docket Number: M–2007–010–C.

Petitioner: XMV, Inc., P.O. Box 1335, Bluefield, West Virginia 24701.

Mine: Mine No. 35, (MSHA I.D. No. 46–08131), located in McDowell County, West Virginia.

Regulation Affected: 30 CFR 75.364(b)(4) (Weekly examination).

Modification Request: The petitioner requests a modification of the existing standard to permit the inaccessible seals underground to be examined as follows: (1) Drilling two monitoring holes from the surface to the entries at the Mine No. 35, MSHA I.D. No. 46–08161, side of the seals and two monitoring holes from the surface to the entries at the Postar No. 1 Mine, MSHA I.D. No. 46–07983, side of the seals at locations listed on the mine map; (2) have a certified person examine and evaluate the monitoring holes on each side of the seals weekly to insure the integrity of the seals; and (3) record the results of the examinations and evaluations in an approved record book.

Docket Number: M–2007–011–C.

Petitioner: Blue Diamond Coal Company, P.O. Box 47, Slemp, Kentucky 41763.

Mine: Mine No. 75, (MSHA I.D. No. 15–17478), located in Perry County, Kentucky.

Regulation Affected: 30 CFR 75.364(b)(2) (Weekly examination).

Modification Request: The petitioner requests a modification of the existing standard because water accumulations in these areas cause roof falls, which prevent foot travel through these areas. Petitioner proposes to establish examination points at certain points to evaluate airflow entering the Powerline Mains. The petitioner also proposes to establish ventilation check points in certain areas of the mine between certain breaks and the Powerline Mains. The petitioner describes additional safety precautions, such as signage and establishing and monitoring air measurement stations at locations that would allow a certified person to effectively evaluate ventilation in the affected areas of the mine and signage. The petitioner states that no lesser degree of safety is ensured by traveling to the water on both sides and verifying adequate air volume and quality at the noted Examination Points. The petitioner has listed specific additional procedures in this petition that will be used to comply with the proposed alternative method. Individuals may review a complete description of the procedures at the MSHA address listed in this notice. The petitioner asserts that this petition for modification will provide no lesser degree of safety for the personnel at this mine.

Docket Number: M–2007–012-C.

Petitioner: Consol Energy on behalf of Eighty Four Mining Company, 1800 Washington Road, Pittsburgh, Pennsylvania 15241.

Mine: Mine 84, (MSHA I.D. No. 00958), located in Washington County, Pennsylvania.

Regulation Affected: 30 CFR 75.364(b)(2) (Weekly examination).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method of compliance for examining the return air course. The petitioner proposes to establish evaluation points to monitor the air in the 33P Mains return air course in its entirety because deterioration, rib conditions, and roof falls expose workers to hazardous conditions. The petitioner proposes to use the following procedures to meet the requirements of its alternative method: (1) Establish evaluation point 33P E.P. B. on the upward side of the bad roof; (2) establish evaluation point 33P E.P.A. on the downwind side of the bad roof area; (3) have a certified person conduct weekly evaluations at each of the monitoring stations to determine the quantity and quality of air entering or exiting the monitoring stations using an MSHA approved hand-held methane and oxygen meter; and (4) record the date, time, and examiner's initials on a date board at each monitoring station and in a book kept on the surface The petitioner states that all monitoring stations and the approaches to the monitoring stations will be maintained in a safe condition at all times, and the roof will be adequately supported by roof bolts or other suitable means to prevent deterioration of the roof in the vicinity of the stations. The petitioner further states that methane gas or other harmful, noxious poisonous gases will not be permitted to accumulate in excess of the legal limits for return air. Petitioner will immediately investigate the affected area if there is an increase of 0.5 per centum methane from the last previous methane readings or a 10 percent change in the quantity of air flow. The petitioner asserts that the proposed alternative method would at all times guarantee no less than the same measure of protection to all miners at the Mine 84 as would be provided by the existing standard and that use of the evaluation points to measure air and gas will provide an accurate picture of the conditions of the air course without unduly exposing persons to safety hazards.

Docket Number: M–2007–013–C.

Petitioner: TJS Mining Company, Inc., 2340 Smith Road, Shelocta, Pennsylvania 15774.

Mine: Rossmoyne #1 Mine, (MSHA I.D. No. 36–09075), located in Indiana County, Pennsylvania.

Regulation Affected: 30 CFR 75.503 (Permissible electric face equipment; maintenance) and 30 CFR 18.35 (Portable trailing cables and cords).

Modification Request: The petitioner requests a modification of the existing standard to increase the cable length of cables supplying power to two (2) Fletcher Roof Ranger II Roof Bolters. The petitioner states that: (1) The utilization voltage for these machines is 480-volts, three-phase alternating current; (2) the maximum length of the 480-volt trailing cable will be 950 feet; (3) the trailing cables for the 480-volt Fletcher Roof Ranger will not be smaller than No. 2 American Wire Gauge (AWG) cable; (4) the current breakers that will be used to protect those cables in excess of 700 feet will have instantaneous trip units calibrated to trip at 500 amperes;

and (5) all miners designated to operate the Roof Ranger II and individuals who examine the cables will receive the proper training prior to implementation of the proposed alternative method. The petitioner has listed additional procedures in this petition that will be used to comply with the proposed alternative method. Individuals may review a complete description of the procedures at the MSHA address listed in this notice. The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded the miners by such standard with no diminution of safety to the miners.

Docket Number: M–2007–014–C.

Petitioner: TJS Mining Company, Inc., 2340 Smith Road, Shelocta, Pennsylvania 15774.

Mine: TJS #5 Mine, (MSHA I.D. No. 36–00159), located in Armstrong County, Pennsylvania.

Regulation Affected: 30 CFR 75.503 (Permissible electric face equipment; maintenance) and 30 CFR 18.35 (Portable trailing cables and cords).

Modification Request: The petitioner requests a modification of the existing standard to increase the cable length of cables supplying power to two (2) Fletcher Roof Ranger II Roof Bolters. The petitioner states that: (1) The utilization voltage for these machines is 480-volts, three-phase alternating current; (2) the maximum length of the 480-volt trailing cable will be 950 feet; (3) the trailing cables for the 480-volt Fletcher Roof Ranger will not be smaller than No. 2 American Wire Gauge (AWG) cable; (4) the current breakers that will be used to protect those cables in excess of 700 feet will have instantaneous trip units calibrated to trip at 500 amperes; and (5) all miners designated to operate the Roof Ranger II and individuals who examine the cables will receive the proper training prior to implementation of the proposed alternative method. The petitioner has listed additional procedures in this petition that will be used to comply with the proposed alternative method. Individuals may review a complete description of the procedures at the MSHA address listed in this notice. The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded the miners by such standard with no diminution of safety to the miners.

Docket Number: M–2007–015-C.

Petitioner: Summit Engineering, Inc., P.O. Box 130, 3016 Route 10, Chapmanville, West Virginia 25508, on behalf of Spartan Mining Company.

Mine: No. 38 Mine, (MSHA I.D. No. 46–07874), located in Logan County, West Virginia.

Regulation Affected: 30 CFR 77.214(a) (Refuse piles; general).

Modification Request: The petitioner requests a modification to the current standard to backfill four (4) mine openings associated with the Spartan Mining Company with non-acid producing soil. The petitioner proposes to: (1) Extend the soil approximately 25 feet into the mine and at least 4 feet in all directions beyond the limits of the mine openings; (2) cover any exposed coal seam along the mine bench with soil to at least 4 feet above the coal seam; (3) install a rock underdrain along the mine openings that would consist of approximately 6-inch (O.D.) SDR 11 high density polyethylene pipes installed in the lowest elevation mine opening; and (4) install riser pipes at the ends of the pipes to establish water seals. The petitioner states that the existing mine bench and highwall will then be reclaimed with breaker rock coal refuse and the slope will be soil covered and revegetated in accordance with the approved West Virginia Department of Environmental Protection reclamation permit. The petitioner asserts that since the mine is abandoned, this plan will provide the same measure of protection for the miners as given to them by the standard.

Docket Number: M–2007–016–C.

Petitioner: Penn View Mining Company, 2340 Smith Road, Shelocta, Pennsylvania 15774.

Mine: Penn View Mine, (MSHA I.D. No. 36–08741), located in Indiana County, Pennsylvania.

Regulation Affected: 30 CFR 75.503 (Permissible electric face equipment; maintenance) and 30 CFR 18.35 (Portable trailing cables and cords).

Modification Request: The petitioner requests a modification of the existing standard to increase the cable length of cables supplying power to two (2) Fletcher Roof Ranger II Roof Bolters. The petitioner states that: (1) The utilization voltage for these machines is 480-volts, three-phase alternating current; (2) the maximum length of the 480-volt trailing cable will be 950 feet; (3) the trailing cables for the 480-volt Fletcher Roof Ranger will not be smaller than No. 2 American Wire Gauge (AWG) cable; (4) the current breakers that will be used to protect those cables in excess of 700 feet will have instantaneous trip units calibrated to trip at 500 amperes; and (5) all miners designated to operate the Roof Ranger II and for individuals who examine the cables will receive the proper training prior to implementation of the proposed alternative method. The petitioner has listed additional procedures in this petition that will be used to comply with the proposed alternative method. Individuals may review a complete description of the procedures at the MSHA address listed in this notice. The petitioner asserts that the proposed alternative method will at all times guarantee no less than the same measure of protection afforded the miners by such standard with no diminution of safety to the miners.

Docket Number: M–2007–017–C.

Petitioner: The North American Coal Company, P.O. Box 399, Jourdanton, Texas 78026.

Mine: San Miguel Mine, (MSHA I.D. No. 41–02840), located in Atascosa County, Texas.

Regulation Affected: 30 CFR 77.803 (Fail safe ground check circuits on high-voltage resistance grounded systems).

Modification Request: The petitioner requests a modification of the existing standard to permit an alternative method for raising or lowering the boom during construction and maintenance, disassembly, or major maintenance to prevent power loss and injuries to workers. The petitioner listed specific guidelines in this petition that would be used to minimize the potential for electrical power loss to the boom when raising or lowering the boom on draglines using the machines electrical onboard motor generator sets. The petitioner states that: (1) This procedure will most likely be used for boom raising and boom lowering during disassembly or major maintenance; (2) major maintenance requiring the raising/lowering of the boom/mast would only be performed as needed, which could be for long periods of time; (3) training and retraining will be conducted, prior to the need, for all persons involved in the process; (4) the affected area would be secured; (5) a dedicated channel on a two-way radio would be used to communicate at the dragline; (6) a qualified electrician will examine all electrical components 2 hours prior to the boom process and record the examinations; (7) ground fault and ground check circuits will be disabled under certain conditions; and (8) a qualified electrician will be positioned at the substation dedicated to monitor the grounding circuit. The petitioner states that the proposed alternative method is not an application that would result in a diminution of safety to the miners.

Docket Number: M–2007–003-M.

Petitioner: Intrepid Potash NM, LLC, P.O. Box 101, Carlsbad, New Mexico 88220.

Mine: Intrepid Underground Potash Mine, (MSHA I.D. No. 29–00175), located in Eddy County, New Mexico.

Regulation Affected: 30 CFR 57.18028 (Mine emergency and self-rescuer training). Modification Request: The petitioner proposes to use 10-Minute (Oeanco M–20 or equivalent) and 60-Minute Self-Contained Self-Rescuers (SCSRs) in its Underground Potash Mine outside of Carlsbad, New Mexico to comply with the New Mexico State Mining Act. The petitioner states that the miner would wear the M–20 units (MSHA rated at 10 minutes) on their person and a 60-Minute unit (the SR–100, EBA 6.5 or equivalent MSHA rated for 60 minutes) on their vehicles or equipment. The units would be located within 200 to 500 feet or 5 minutes maximum of the employee. The petitioner further states that: (1) The alternative to the M–20 type are bulky and heavy units that would expose miners to additional risk; and (2) all training on the Ocenco M–20 and the SR 100 will be conducted according to manufacturer's recommendations and applicable MSHA and New Mexico State standards. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

Docket Number: M–2007–004-M.

Petitioner: Intrepid Potash NM, LLC, P.O. Box 101, Carlsbad, New Mexico 88220.

Mine: Intrepid Underground Potash Mine, (MSHA I.D. No. 29–00170), located in Lea County, New Mexico.

Regulation Affected: 30 CFR 57.18028 (Mine emergency and self-rescuer training). Modification Request: The petitioner proposes to use 10–Minute (Oeanco M–20 or equivalent) and 60–Minute Self-Contained Self-Rescuers (SCSRs) in its Underground Potash Mine outside of Carlsbad, New Mexico to comply with the New Mexico State Mining Act. The petitioner states that the miner would wear the M–20 units (MSHA rated at 10 minutes) on their person and a 60–Minute unit (the SR–100, EBA 6.5 or equivalent MSHA rated for 60 minutes) on their vehicles or equipment. The units would be located within 200 to 500 feet or 5 minutes maximum of the employee. The petitioner further states that: (1) The alternative to the M–20 type are bulky and heavy units that would expose miners to additional risk; and (2) all training on the Ocenco M–20 and the SR 100 will be conducted according to manufacturer's recommendations and applicable MSHA and New Mexico State standards. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

Dated: June 1, 2007.

Jack Powasnik,

Acting Deputy Director, Office of Standards, Regulations, and Variances.

[FR Doc. E7–11129 Filed 6–7–07; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Mine Safety and Health Administration

Petitions for Modification

AGENCY: Mine Safety and Health Administration, Labor.

ACTION: Notice of petitions for modification of existing mandatory safety standards.

SUMMARY: Section 101(c) of the Federal Mine Safety and Health Act of 1977 and 30 CFR part 44 govern the application, processing, and disposition of petitions for modification. This notice is a summary of petitions for modification filed by the parties listed below to modify the application of existing mandatory safety standards published in Title 30 of the Code of Federal Regulations.

DATES: Comments on the petitions must be received by the Office of Standards, Regulations, and Variances on or before July 9, 2007.

ADDRESSES: You may submit your comments, identified by ''docket number'' on the subject line, by any of the following methods:

1. *E-Mail: Standards-Petitions@dol.gov.*

2. *Telefax:* 1–202–693–9441.

3. *Hand-Delivery or Regular Mail:* Submit comments to the Mine Safety and Health Administration (MSHA), Office of Standards, Regulations, and Variances, 1100 Wilson Boulevard, Room 2349, Arlington, Virginia 22209, Attention: Patricia W. Silvey, Director, Office of Standards, Regulations, and Variances.

We will consider only comments postmarked by the U.S. Postal Service or proof of delivery from another delivery service such as UPS or Federal Express on or before the deadline for comments. Individuals who submit comments by hand-delivery are required to check in at the receptionist desk on the 21st floor.

Individuals may inspect copies of the petitions and comments during normal business hours at the address listed above.

FOR FURTHER INFORMATION CONTACT: Edward Sexauer, Chief, Regulatory Development Division at 202–693–9444 (Voice), *sexauer.edward@dol.gov* (E-mail), or 202–693–9441 (Telefax), or contact Barbara Barron at 202–693–9447 (Voice), *barron.barbara@dol.gov* (E-mail), or 202–693–9441 (Telefax). [These are not toll-free numbers].

SUPPLEMENTARY INFORMATION:

I. Background

Section 101(c) of the Federal Mine Safety and Health Act of 1977 (Mine Act) allows the mine operator or representative of miners to file a petition to modify the application of any mandatory safety standard to a coal or other mine if the Secretary determines that: (1) An alternative method of achieving the result of such standard exists which will at all times guarantee no less than the same measure of protection afforded the miners of such mine by such standard; or (2) that the application of such standard to such mine will result in a diminution of safety to the miners in such mine. In addition, the regulations at 30 CFR 44.10 and 44.11 establish the requirements and procedures for filing petitions for modifications.

II. Petitions for Modification

Docket Number: M–2007–022–C.

Petitioner: Little Buck Coal Company, 57 Lincoln Road, Pine Grove, Pennsylvania 17963.

Mine: Bottom Split Slope Mine, (MSHA I.D. No. 36–09491), located in Schuylkill County, Pennsylvania.

Regulation Affected: 30 CFR 75.1100–2 (a)(2) (Quantity and location of firefighting equipment).

Modification Request: The petitioner requests a modification of the existing standard 30 CFR 75.1100–2(a)(2), which requires that each working section of underground coal mines producing less than 300 tons of coal per shift be provided with specified firefighting equipment and supplies. The equipment and supplies include two portable fire extinguishers, 240 pounds of rock dust in bags or other suitable containers, and at least 500 gallons of water and at least 3 pails of 10 quart capacity. The petitioner proposes to use portable fire extinguishers only, to replace existing requirements where rock dust, water cars, and other water storage equipped with three 10 quart pails are not practical. The petitioner states that equipping its small anthracite mine with two portable fire extinguishers near the slope bottom and an additional portable fire extinguisher within 500 feet of the working face will provide equivalent fire protection. The petitioner asserts that the proposed alternative method would provide at

least the same measure of protection as the existing standard.

Docket Number: M–2007–023–C.

Petitioner: Little Buck Coal Company, 57 Lincoln Road, Pine Grove, Pennsylvania 17963.

Mine: Bottom Split Slope Mine, (MSHA I.D. No. 36–09491), located in Schuylkill County, Pennsylvania.

Regulation Affected: 30 CFR 75.1200 (d) & (i) (Mine map).

Modification Request: The petitioner proposes to use cross-sections instead of contour lines through the intake slope at locations of rock tunnel connections between veins, and at 1,000 foot intervals of advance from the intake slope. In addition, the petitioner proposes to limit the required mapping of the mine workings above and below to those present within 100 feet of the vein being mined, except when veins are interconnected to other veins beyond the 100-foot limit through rock tunnels. The petitioner states that contours provide no useful information due to the steep pitch encountered in mining anthracite coal veins, and their presence would make portions of the map illegible. The petitioner further states that use of cross-sections in lieu of contour lines has been practiced since the late 1800's and provides critical information about the spacing between veins and the proximity to other mine workings, which fluctuate considerably. Additionally, the petitioner states that the mine workings above and below are usually inactive and abandoned, and therefore not subject to changes during the life of the mine. The petitioner states that all mapping for mines above and below are researched by its contract engineer for the presence of interconnecting rock tunnels between veins in relation to the mine and a hazard analysis is done when mapping indicates the presence of known or potentially flooded workings. The petitioner asserts that when evidence indicates that prior mining was conducted on a vein above or below and research exhausts the availability of mine mapping, the vein will be considered to be mined and flooded and appropriate precautions will be taken under 30 CFR 75.388, where possible. Where potential hazards exist and in-mine drilling capabilities limit penetration, petitioner will drill surface boreholes to intercept the mine workings and will analyze the results prior to mining in the affected area. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

Docket Number: M–2007–024–C.

Petitioner: Little Buck Coal Company, 57 Lincoln Road, Pine Grove, Pennsylvania 17963.

Mine: Bottom Split Slope Mine, (MSHA I.D. No. 36–09491), located in Schuylkill County, Pennsylvania.

Regulation Affected: 30 CFR 75.1202 and 30 CFR 75.1202–1(a) (Temporary notations, revisions, and supplements.

Modification Request: The petitioner requests a modification of the existing standard to permit the required interval of survey to be established annually in of lieu every 6 months. The petitioner proposes to update the mine map by hand notations on a daily basis, conduct subsequent surveys prior to commencing retreat mining, and when either a drilling program under 30 CFR 75.388 or plan for mining into accessible areas under 30 CFR 75.389 is required. The petitioner states that: (1) Low production and slow rate of advance in anthracite mining make surveying on 6 month intervals impractical and, in most cases, annual development is frequently limited to less than 500 feet of gangway advance with associated up-pitch development; (2) the majority of small anthracite mines are using non-mechanized, hand-loading mining methods; (3) development above the active gangway is designed to mine into the level above at designated intervals thereby maintaining sufficient control between both surveyed gangways; and (4) the available engineering/surveyor resources are very limited in anthracite coal fields which makes surveying difficult to achieve. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

Docket Number: M–2007–025–C.

Petitioner: Little Buck Coal Company, 57 Lincoln Road, Pine Grove, Pennsylvania 17963.

Mine: Bottom Split Slope Mine, (MSHA I.D. No. 36–09491), located in Schuylkill County, Pennsylvania.

Regulation Affected: 30 CFR 75.1400 (c) (Hoisting equipment; general).

Modification Request: The petitioner proposes to use the slope (gunboat) to transport persons in shafts and slopes using an increased rope strength/safety factor and secondary safety rope connection instead of using safety catches or other no less effective devices. The petitioner asserts that the proposed alternative method would provide at least the same measure of protection as the existing standard.

Docket Number: M–2007–026–C.

Petitioner: Blue Diamond Coal Company, P.O. Box 47, Slemp, Kentucky 41763.

Mine: Mine # 77, (MSHA I.D. No. 15–09636), located in Perry County, Kentucky.

Regulation Affected: 30 CFR 75.364(b)(2) (Weekly examination).

Modification Request: The petitioner requests a modification of the existing standard to permit check points to be established in nine (9) locations to examine certain areas of the return air course. The petitioner states that: (1) Due to hazardous roof and rib conditions, and the distance from active workings and the age of these workings, it is impractical to expose personnel to the roof and rib hazards in the affected areas; and (2) to ensure no lesser degree of safety for all personnel in the mine, ventilation check points will be established to measure the air in the affected areas. The petitioner proposes to: (1) Establish air measurement stations at locations that will allow effective evaluation of ventilation in the affected areas. The measurements will be conducted by a certified person on a weekly basis, and a sign will be posted designating the location of measuring stations; (2) all air measurement stations will be maintained in safe condition at all times; (3) the date, time and results of these measurements will be recorded in a book kept on the surface or on a date board provided at each measuring station, and made accessible to all parties; (4) signs will be posted in an adjacent travel entry that will indicate the safe travel route to each monitoring station; (5) evaluations will be conducted by a certified person at each of the monitoring stations on a weekly basis that will include the quantity and quality of air entering or exiting the monitoring station. The measurements will be made using the MSHA approved and calibrated hand-held multi-gas detectors to check for methane and oxygen gas concentrations and appropriate calibrated anemometers to check air flow volume; (6) a diagram maintained in legible condition will be posted at the monitoring stations that will show the normal direction of the air flow, and any change in the direction of the air flow will be reported to the mine foreman for immediate investigation; (7) the date, time, and examiner's initials, and the measured quantity and quality of air will be recorded in a book or on a date board and will be provided at the monitoring stations; (8) the monitoring station location(s) will be shown on the annually submitted mine ventilation map and the stations will not be moved to another location without prior approval by the District Manager as part

of the Ventilation Plan for the Bottom Split Slope Mine; and (9) all mine personnel will receive instructions on which areas they are not permitted to travel, and all other approaches will be fenced off or barricaded with ''DO NOT ENTER'' warning signs. Entry in the affected area will only be permitted to conduct investigations and to correct problems with the air flow that is detected through the monitoring process. This work will be done under the supervision of an authorized person. The petitioner has listed additional procedures in this petition that will be used to comply compliance to the proposed alternative method. Individuals may review a complete description of the procedures at the MSHA address listed in this notice. The petitioner asserts that this petition will provide no lesser degree of safety for the personnel at the Mine # 77.

Dated: June 1, 2007.

Jack Powasnik,

Acting Deputy Director, Office of Standards, Regulations, and Variances.

[FR Doc. E7–11131 Filed 6–7–07; 8:45 am]

BILLING CODE 4510–43–P

DEPARTMENT OF LABOR

Occupational Safety and Health Administration

[Docket No. OSHA–2007–0048]

Grantee Quarterly Progress Report; Extension of the Office of Management and Budget's (OMB) Approval of Information Collection (Paperwork) Requirements

AGENCY: Occupational Safety and Health Administration (OSHA), Labor.

ACTION: Request for public comment.

SUMMARY: OSHA solicits public comments concerning its proposal to extend OMB approval of the information collection requirements contained in the Grantee Quarterly Progress Report required by Section 21 of the Occupational Safety and Health Act of 1970 (the ''OSH Act'') (29 U.S.C. 670).

DATES: Comments must be submitted (postmarked, sent, or received) by August 7, 2007.

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

Electronically: You may submit comments and attachments electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal. Follow the instructions online for submitting comments.

Facsimile: If your comments, including attachments, are not longer than 10 pages, you may fax them to the OSHA Docket Office at (202) 693–1648.

Mail, hand delivery, express mail, messenger, or courier service: When using this method, you must submit three copies of your comments and attachments to the OSHA Docket Office, Docket No. OSHA–2007–0048, U.S. Department of Labor, Room N–2625, 200 Constitution Avenue, NW., Washington, DC 20210. 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 submissions must include the Agency name and OSHA docket number for this ICR (Docket No. OSHA–2007–0048). All comments, including any personal information you provide, are placed in the public docket without change, and may be made available online at *http://www.regulations.gov*. For further information on submitting comments see the ''Public Participation'' heading in the section of this notice titled **SUPPLEMENTARY INFORMATION.**

Docket: To read or download comments or other material in the docket, go to *http://www.regulations.gov* or the OSHA Docket Office at the address above. All documents in the docket (including this **Federal Register** notice) are listed in the *http://www.regulations.gov* index; however, some information (e.g., copyrighted material) is not publicly available to read or download through the Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. You also may contact Cynthia Bencheck at the address below to obtain a copy of the ICR.

FOR FURTHER INFORMATION CONTACT: Cynthia Bencheck, Division of Training and Educational Programs, OSHA Office of Training and Education, 2020 S. Arlington Heights Road, Arlington Heights, Illinois 60005; telephone: (847) 297–4810.

SUPPLEMENTARY INFORMATION:

I. Background

The Department of Labor, as part of its continuing effort to reduce paperwork and respondent (*i.e.*, employer) burden, conducts a preclearance consultation program to provide the public with an opportunity to comment on proposed and continuing information collection requirements in accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. 3506(c)(2)(A)). This program ensures that information is in the desired format, reporting burden (time and costs) is minimal, collection instruments are clearly understood, and OSHA's estimate of the information collection burden is accurate. The Occupational Safety and Health Act of 1970 (the OSH Act) authorizes information collection by employers as necessary or appropriate for enforcement of the OSH Act or for developing information regarding the causes and prevention of occupational injuries, illnesses, and accidents (29 U.S.C. 657).

Section 21 of the OSH Act (29 U.S.C. 670) authorizes OSHA to conduct directly, or through grants and contracts, education and training courses. These courses must ensure an adequate number of qualified personnel to fulfill the purposes of the OSH Act, provide them with short-term training, inform them of the importance and proper use of safety and health equipment, and train employers and employees to recognize, avoid, and prevent unsafe and unhealthful working conditions.

Under Section 21, OSHA awards training grants to nonprofit organizations to provide part of the required training. The Agency requires organizations that receive these grants to submit quarterly progress reports that provide information on their grant-funded training activities; these reports allow OSHA to monitor the grantee's performance and to determine if an organization is using grant funds as specified in its grant application. Accordingly, the Agency compares the information provided in the quarterly progress report to the quarterly milestones proposed by the organization in the work plan and budget that accompanied the grant application. This information includes: Identifier data (organization name and grant number); the date and location where the training occurred; the length of training (hours); the number of employees and employers attending training sessions provided by the organization during the quarter; a description of the training provided; a narrative account of grant activities conducted during the quarter; and an evaluation of progress regarding planned versus actual work accomplished. This comparison permits OSHA to determine if the organization is meeting the proposed program goals and objectives, and spending funds in the manner described in the proposed budget.

Requiring these reports on a quarterly basis enables OSHA to identify work plan, training, and expenditure discrepancies in a timely fashion so that

it can implement appropriate action. In addition, this information permits the Agency to assess an organization's ability to meet projected milestones and expenditures.

II. Special Issues for Comment

OSHA has a particular interest in comments on the following issues:

- Whether the proposed information collection requirements are necessary for the proper performance of the Agency's functions, including whether the information is useful;
- The accuracy of the Agency's estimate of the burden (time and costs) of the information collection requirements, including the validity of the methodology and assumptions used;
- The quality, utility, and clarity of the information collected; and
- Ways to minimize the burden on employers who must comply; for example, by using automated or other technological information collection and transmission techniques.

III. Proposed Actions

OSHA is requesting OMB to extend its approval of the information collection requirements contained in Grantee Quarterly Progress Report. The Agency will summarize the comments submitted in response to this notice, and will include this summary in the request to OMB.

Type of Review: Extension of a currently approved collection.

Title: Grantee Quarterly Progress Report.

OMB Number: 1218–0100.

Affected Public: Not-for-profit organizations.

Number of Respondents: 55.

Frequency: Quarterly.

Total Responses: 55.

Average Time per Response: 12 hours.

Estimated Total Burden Hours: 2,640 hours.

Estimated Cost (Operation and Maintenance): $0.

IV. Public Participation—Submission of Comments on This Notice and Internet Access to Comments and Submissions

You may submit comments in response to this document as follows: (1) Electronically at *http://www.regulations.gov,* which is the Federal eRulemaking Portal; (2) by facsimile; or (3) by hard copy. All comments, attachments, and other material must identify the Agency name and the OSHA docket number for this ICR (Docket No. OSHA–2007–0048). You may supplement electronic submissions by uploading document files electronically. If you wish to mail additional materials in reference to an electronic or a facsimile submission, you must submit them to the OSHA Docket Office (see the section of this notice titled **ADDRESSES**). The additional materials must clearly identify your electronic comments by your name, date, and docket number so the Agency can attach them to your comments.

Because of security procedures, the use of regular mail may cause a significant delay in the receipt of comments. For information about security procedures concerning the delivery of materials by hand, express delivery, messenger or courier service, please contact the OSHA Docket Office at (202) 693–2350 (TTY (877) 889–5627).

Comments and submissions are posted without change at *http://www.regulations.gov*. Therefore, OSHA cautions commenters about submitting personal information such as social security numbers and date of birth. Although all submissions are listed in the *http://www.regulations.gov* index, some information (e.g., copyrighted material) is not publicly available to read or download through this Web site. All submissions, including copyrighted material, are available for inspection and copying at the OSHA Docket Office. Information on using the *http://www.regulations.gov* Web site to submit comments and access the docket is available at the Web site's ''User Tips'' link. Contact the OSHA Docket Office for information about materials not available through the Web site, and for assistance in using the Internet to locate docket submissions.

V. Authority and Signature

Edwin G. Foulke, Jr., Assistant Secretary of Labor for Occupational Safety and Health, directed the preparation of this notice. The authority for this notice is the Paperwork Reduction Act of 1995 (44 U.S.C. 3506 *et seq.*) and Secretary of Labor's Order No. 5–2002 (67 FR 65008).

Signed at Washington, DC, on May 31, 2007.

Edwin G. Foulke, Jr.,

Assistant Secretary of Labor for Occupational Safety and Health.

[FR Doc. E7–11045 Filed 6–7–07; 8:45 am]

BILLING CODE 4510–26–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–08203]

Notice of Availability of Environmental Assessment and Finding of No Significant Impact for License Amendment to Byproduct Materials License No. 46–06377–04 for Unrestricted Release of the Department of Commerce, National Oceanic and Atmospheric Administration's Facility in Mukilteo, WA

AGENCY: Nuclear Regulatory Commission.

ACTION: Issuance of Environmental Assessment and Finding of No Significant Impact for License Amendment.

FOR FURTHER INFORMATION CONTACT: D. Blair Spitzberg, Ph.D., Chief, Fuel Cycle and Decommissioning Branch, Division of Nuclear Materials Safety, Region IV, U.S. Nuclear Regulatory Commission, Arlington, Texas 76011; telephone (817) 860–8191; fax number (817) 860–8188; or by e-mail: *dbs@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. Introduction

The U.S. Nuclear Regulatory Commission (NRC) is considering the issuance of a license amendment to Byproduct Material License No. 46–06377–04. This license is held by the United States Department of Commerce, National Oceanic and Atmospheric Administration, Northwest Fisheries Science Center (the Licensee). The license authorizes the Licensee to possess and use cadmium-109, lead-210, hydrogen-3, and carbon-14 at two locations for purposes of conducting research and development activities. At one of these locations—the Licensee's field office known as the Mukilteo Research Station (the Facility) in Mukilteo, Washington—licensed activities have ceased.

By letter dated November 21, 2005, the Licensee requested the NRC to authorize release of the Facility for unrestricted use, which would result in the removal of the Facility as a location of use from the NRC license.

NRC has prepared an Environmental Assessment (EA) in support of this proposed action in accordance with the requirements of Title 10, Code of Federal Regulations (CFR), Part 51 (10 CFR Part 51). Based on this EA, the NRC has concluded that a Finding of No Significant Impact (FONSI) is appropriate with respect to the proposed action. The amendment will

be issued to the Licensee following publication of this FONSI and EA in the **Federal Register**.

II. Environmental Assessment

Identification of Proposed Action

The proposed action would approve the Licensee's November 21, 2005, license amendment request, resulting in a license amendment which would release the Facility for unrestricted use. License No. 46–06377–04 was issued in the 1950's pursuant to 10 CFR part 30, and has been amended periodically since that time.

The Facility is situated on property located adjacent to Puget Sound and consists of a main research office building and several smaller support buildings in the yard. The main facility consists of laboratories and offices and is approximately 10,000 square feet (929 square meters) in size. Within the Facility, use of licensed material was confined to three specific laboratories totaling about 380 square feet (35 square meters) as well as a 350-square foot (28 square meter) portable shed located adjacent to the main research building. The Facility is located in a commercial district in Mukilteo, Washington.

The Licensee ceased licensed activities at the Facility in 1987. The licensee conducted a final status survey at the Facility in November 2004. Based on the Licensee's historical knowledge of the site and the conditions of the Facility, the Licensee determined that only routine decontamination activities, in accordance with their radiation safety procedures, were required. As allowed by Section 7.4 of NUREG–1757, ''Consolidated NMSS Decommissioning Guidance,'' Volume 1, the Licensee was not required to submit a decommissioning plan to the NRC. The Licensee conducted surveys of the Facility and provided information to the NRC to demonstrate that it meets the criteria in Subpart E of 10 CFR part 20 for unrestricted release.

Need for the Proposed Action

The Licensee has ceased licensed activities at the Facility and seeks the unrestricted use of its Facility.

Environmental Impacts of the Proposed Action

The historical review of licensed activities conducted at the Facility shows that such activities involved use of the following radionuclides with half-lives greater than 120 days: hydrogen-3, carbon-14, cadmium-109, and lead-210. Prior to performing the final status survey, the Licensee conducted decontamination activities, as necessary, in the areas of the Facility affected by these radionuclides.

In November 2004, the licensee conducted a final status survey, which covered the three laboratories, hallways outside the laboratories, and the adjacent storage shed. The final status survey report was attached to the Licensee's amendment request dated November 21, 2005. The Licensee elected to demonstrate compliance with the radiological criteria for unrestricted release as specified in 10 CFR 20.1402 by using the screening approach described in Appendix H to NUREG–1757, ''Consolidated NMSS Decommissioning Guidance,'' Volume 2.

The Licensee used guideline levels that were comparable to the derived concentration guideline levels (DCGLs) developed by the NRC which comply with the dose criterion in 10 CFR 20.1402. These DCGLs define the maximum amount of residual radioactivity on building surfaces, equipment, and materials and in soils that will satisfy the NRC requirements in Subpart E of 10 CFR part 20 for unrestricted release. The Licensee's final status survey results were below these DCGLs, and are thus acceptable.

Based on its review, the staff has determined that the affected environment and any environmental impacts associated with the proposed action are bounded by the impacts evaluated by the ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities'' (NUREG–1496) Volumes 1–3 (ML042310492, ML042320379, and ML042330385). Further, no incidents were recorded involving spills or releases of radioactive material at the Facility. Accordingly, there were no significant environmental impacts from the use of radioactive material at the Facility. The NRC staff reviewed the docket file records and the final status survey report to identify any non-radiological hazards that may have impacted the environment surrounding the Facility. No such hazards or impacts to the environment were identified.

The NRC staff finds that the proposed release of the Facility described above for unrestricted use is in compliance with 10 CFR 20.1402. The NRC has found no other activities in the area that could result in cumulative environmental impacts. Based on its review, the staff considered the impact of the residual radioactivity at the Facility and concluded that the proposed action will not have a significant effect on the quality of the human environment.

Environmental Impacts of the Alternatives to the Proposed Action

Alternatives to the proposed action discussed below are: (1) The no-action alternative; and (2) require the Licensee to take some alternate action.

1. *No-action Alternative:* As an alternative to the proposed action, the staff could leave things as they are by simply denying the amendment request. This no-action alternative is not feasible because it conflicts with 10 CFR 30.36(d), requiring that decommissioning of byproduct material facilities be completed and approved by the NRC after licensed activities have ceased. Additionally, this denial of the application would result in no change in current environmental impacts. The environmental impacts of the proposed action and the no-action alternative are therefore similar, and the no-action alternative is accordingly not further considered.

2. *Environmental Impacts of Alternative 2:* A second alternative to the proposed action would be to deny the Licensee's request and instead apply the 10 CFR 20.1403 criteria for restricted release of the Facility. However, restricted releases are not favored in cases where the requirements of 10 CFR 20.1402 for unrestricted release can be met, and the NRC's analysis of the Licensee's final status survey data confirmed that the Facility meets these requirements. Accordingly, the NRC finds that choosing this second alternative to the proposed action is not warranted, and this alternative is eliminated from further consideration.

Conclusion

The NRC staff has concluded that the proposed action is consistent with the NRC's unrestricted release criteria specified in 10 CFR 20.1402. Because the proposed action will not significantly impact the quality of the human environment, the NRC staff concludes that the proposed action is the preferred alternative.

Agencies and Persons Consulted

NRC provided a draft of this Environmental Assessment to the Washington Department of Health for review on October 13, 2006. On January 29, 2007, the Department of Health, Division of Radiation Protection, responded by e-mail. The State agreed with the conclusions of the EA, and otherwise had no comments.

The NRC staff has determined that the proposed action is of a procedural nature, and will not affect listed species

or critical habitat. Therefore, no further consultation is required under Section 7 of the Endangered Species Act. The NRC staff has also determined that the proposed action is not the type of activity that has the potential to cause effects on historic properties. Therefore, no further consultation is required under Section 106 of the National Historic Preservation Act.

III. Finding of No Significant Impact

The NRC staff has prepared this EA in support of the proposed action. On the basis of this EA, the NRC finds that there are no significant environmental impacts from the proposed action, and that preparation of an environmental impact statement is not warranted. Accordingly, the NRC has determined that a Finding of No Significant Impact is appropriate.

IV. Further Information

Documents related to this action, including the application for license amendment and supporting documentation, are available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html*. From this site, you can access the NRC's Agencywide Document Access and Management System (ADAMS), which provides text and image files of NRC's public documents. The documents related to this action are listed below, along with their ADAMS accession numbers.

1. **Federal Register** Notice, Volume 65, No. 114, page 37186, dated Tuesday, June 13, 2000, ''Use of Screening Values to Demonstrate Compliance With The Federal Rule on Radiological Criteria for License Termination'';

2. Title 10 Code of Federal Regulations, Part 20, Subpart E, ''Radiological Criteria for License Termination'';

3. Title 10, Code of Federal Regulations, Part 51, ''Environmental Protection Regulations for Domestic Licensing and Related Regulatory Functions'';

4. NUREG–1496, ''Generic Environmental Impact Statement in Support of Rulemaking on Radiological Criteria for License Termination of NRC-Licensed Nuclear Facilities,'' July 1997 (ML042310492, ML042320379, and ML042330385);

5. NUREG–1757, Volume 1, ''Consolidated NMSS Decommissioning Guidance,'' Revision 2, September 2006 (ML063000243);

6. NUREG–1757, Volume 2, ''Consolidated NMSS Decommissioning Guidance,'' Revision 1, September 2006 (ML063000252);

7. Varanasi, Usha, U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service, Northwest Fisheries Science Center, License Amendment Requests, November 21, 2005 (ML053460500);

8. Byar, Ann, U.S. Department of Commerce, National Oceanic and Atmospheric Administration, National Marine Fisheries Service facsimile, Supplemental Information for NOAA's Final Status Survey Report, August 2, 2006 (ML070850184); and

9. Frazee, Terry C., State of Washington email, Response to Request for Comments, January 29, 2007 (ML070800013).

If you do not have access to ADAMS, or if there are problems in accessing the documents located in ADAMS, contact the NRC Public Document Room (PDR) Reference staff at 1–800–397–4209, 301–415–4737, or by e-mail to *pdr@nrc.gov*. These documents may also be viewed electronically on the public computers located at the NRC's PDR, O 1 F21, One White Flint North, 11555 Rockville Pike, Rockville, MD 20852. The PDR reproduction contractor will copy documents for a fee.

Dated at Region IV Office this 31st day of May 2007.

For The Nuclear Regulatory Commission

D. Blair Spitzberg,

Chief, Fuel Cycle and Decommissioning Branch,Division of Nuclear Materials Safety, Region IV.

[FR Doc. E7–11107 Filed 6–7–07; 8:45 am]

BILLING CODE 7590–01–P

NUCLEAR REGULATORY COMMISSION

[Docket No. 030–36974]

Notice of Availability—Consideration of Terrorist Acts on the Proposed Pa'ina Hawaii, LLC Irradiator in Honolulu, HI

AGENCY: Nuclear Regulatory Commission.

ACTION: Notice of availability of opportunity to provide comments.

SUMMARY: Notice is hereby given that the U.S. Nuclear Regulatory Commission (NRC) is issuing a supplement to a recently published draft Environmental Assessment (EA) for the Pa'ina Hawaii, LLC license application, dated June 27, 2005. The draft EA was previously issued for public review and comment on December 28, 2006 (71 FR 78231) as part of the NRC's decision-making process on whether to issue a license to Pa'ina, pursuant to Title 10 of the U.S. Code of Federal Regulations Part 36, ''Licenses and Radiation Safety Requirements for Irradiators.'' This supplemental appendix to the draft EA presents the staff's consideration of terrorist acts at the proposed irradiator. The staff is also providing the public an opportunity to comment as described below. The draft EA and this supplement are available on the NRC's Web site: *http://www.nrc.gov/materials.html* by selecting ''Pa'ina Irradiator'' in the Quick Links box. Copies are also available by contacting Matthew Blevins as noted below.

DATES: The public comment period on this supplemental appendix to the draft EA begins with publication of this notice and continues until July 9, 2007. Written comments should be submitted as described in the **ADDRESSES** section of this notice. Comments submitted by mail should be postmarked by that date to ensure consideration. Comments received or postmarked after that date will be considered to the extent practical.

ADDRESSES: Members of the public are invited and encouraged to submit comments to the Chief, Rules Review and Directives Branch, Mail Stop T6-D59, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Please note Docket No. 030–36974 when submitting comments. Comments will also be accepted by e-mail at *NRCREP@nrc.gov* or by facsimile to (301) 415–5397, Attention: Matthew Blevins.

FOR FURTHER INFORMATION CONTACT: Matthew Blevins, Environmental Project Manager, Environmental and Performance Assessment Branch, Division of Waste Management and Environmental Protection, Mail Stop T7–J8, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone: (301) 415–7684; e-mail: *mxb6@nrc.gov.*

Dated at Rockville, Maryland this 1st day of June, 2007.

For the Nuclear Regulatory Commission.

Gregory Suber,

Chief, Environmental Review Branch, Division of Waste Management and Environmental Protection, Office of Federal and State Materials and Environmental Management Programs.

[FR Doc. E7–11108 Filed 6–7–07; 8:45 am]

BILLING CODE 7590–01–P

PEACE CORPS

Proposed Agency Information Collection Activities: OMB Control #0420–0531 Career Information Consultants Waiver Form (PC–DP–969.1.2)

AGENCY: Peace Corps.

ACTION: Notice of Reinstatement of OMB Control Number 0420–0531, with changes, of a previously approved collection for which extension approval of 11/30/07 will expire.

SUMMARY: Pursuant to the Paperwork Reduction Act of 1981 (44 U.S.C., Chapter 35), the Peace Corps has submitted to the Office of Management and Budget, a request for approval of Reinstatement of OMB Control Number 0420–0531, the Career Information Consultants Waiver Form (PC–DP–969.1.2). The purpose of this information collection is to gather and update contact information for individuals who volunteer to share information about their career field, their past or current employer(s), and their career and educational paths with current and returned Peace Corps Volunteers. The purpose of this notice is to allow for public comments on whether the proposed collection of information is necessary for the proper performance of the functions of the Peace Corps, including whether the information will have practical use; the accuracy of the agency's estimate of the burden of the proposed information collection, including the validity of the methodology and assumptions used; ways to enhance the quality, utility and the clarity of the information to be collected; and, ways to minimize the burden of the collection of information on those who are to respond, including through the use of automated collection techniques, when appropriate, and other forms of information technology. A copy of the information collection may be obtained from Ms. Tamara Webb, Peace Corps, Office of Domestic Programs, Returned Volunteer Services, 1111 20th Street, NW., Room 2132, Washington, DC 20526. Ms. Webb can be contacted by telephone at 202–692–1435 or 800–424–8580 ext. 1435. Comments on the form should be addressed to the attention of Ms. Tamara Webb, and should be received on or before August 7, 2007.

Need for and Use of This Information: The Career Information Consultants Waiver Form is used to gather contact information from individuals who have volunteered to serve as career resources for current Peace Corps Volunteers and Returned Peace Corps Volunteers. The form is distributed and collected by the Peace Corps Office of Domestic Programs, Returned Volunteer Services Division. The Returned Volunteer Services Division provides transition assistance to returning and recently-returned volunteers through the Career Information Consultants project and other career, educational, and readjustment activities. The purpose of this information collection is to gather and update contact information for the Career Information Consultants database and publication. There is no other means of obtaining the required data. The Career Information Consultants project supports the need to assist returned volunteers and enhance the agency's capability to serve this population as required by Congressional legislation.

Respondents: Professionals interested in supporting current and Returned peace Corps Volunteers.

Respondent's Obligation to Reply: Voluntary.

Burden on the Public:

a. Annual reporting burden: 208 hours.
b. Annual recordkeeping burden: 0 hours.
c. Estimated average burden per response: 5 minutes.
d. Frequency of response: annually.
e. Estimated number of likely respondents: 2500.
f. Estimated cost to respondents: $0.

At this time, responses will be returned by mail.

Dated: June 31, 2007.

Wilbert Bryant,

Associate Director for Management.

[FR Doc. 07–2842 Filed 6–7–07; 8:45 am]

BILLING CODE 6051–01–M

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55851; File No. SR–CBOE–2007–51]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Increase the Class Quoting Limit in Imergent Inc. and Neurochem, Inc. Options

June 4, 2007

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act''),[1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 29, 2007, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the CBOE. The Exchange has designated this proposal as one constituting a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule under Section 19(b)(3)(A)(i) of the Act,[3] and Rule 19b–4(f)(1) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

CBOE proposes to increase the class quoting limit in two option classes. The text of the proposed rule change is available on CBOE's Web site (www.cboe.com), at the CBOE's Office of the Secretary, and at the Commission's public reference room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, CBOE 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 CBOE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

CBOE Rule 8.3A, Maximum Number of Market Participants Quoting Electronically per Product, establishes class quoting limits (''CQLs'') for each class traded on the Hybrid Trading System.[5] A CQL is the maximum number of quoters that may quote electronically in a given product and the current levels are established from 25–40, depending on the trading activity of the particular product.

Rule 8.3A, Interpretation .01(c) provides a procedure by which the

[1] 15 U.S.C. 78s(b)(1).
[2] 17 CFR 240.19b–4.
[3] 15 U.S.C. 78s(b)(3)(A)(i).
[4] 17 CFR 240.19b–4(f)(1).
[5] *See* Rule 8.3A.01.

President of the Exchange may increase the CQL for a particular product. In this regard, the President of the Exchange may increase the CQL in exceptional circumstances, which are defined in the rule as ''substantial trading volume, whether actual or expected.'' [6] The effect of an increase in the CQL is procompetitive in that it increases the number of market participants that may quote electronically in a product. The purpose of this filing is to increase the CQL in the following two option classes:

Option Class	Current CQL	New CQL
Imergent Inc. (IIG)	30	40
Neurochem, Inc. (NRMX)	35	45

There has been substantial trading volume in these option classes recently. Increasing the CQL in these classes will enable the Exchange to enhance the liquidity offered, thereby offering deeper and more liquid markets.

2. Statutory Basis

CBOE believes the proposed rule change is consistent with the Act and the rules and regulations under the Act applicable to a national securities exchange and, in particular, the requirements of section 6(b) of the Act.[7] Specifically, the Exchange believes the proposed rule change is consistent with the Section 6(b)(5) [8] requirements that the rules of an exchange be designed to promote just and equitable principles of trade, to prevent fraudulent and manipulative acts and, in general, to protect investors and the public interest.

B. Self-Regulatory Organization's Statement on Burden on Competition

CBOE does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

The Exchange neither received nor solicited written comments on the proposal.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

The foregoing proposed rule change will take effect upon filing with the Commission pursuant to Section 19(b)(3)(A)(i) of the Act [9] and Rule 19b–4(f)(1) thereunder,[10] because it constitutes a stated policy, practice, or interpretation with respect to the meaning, administration, or enforcement of an existing rule.

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov.* Please include File Number SR–CBOE–2007–51 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–CBOE–2007–51. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (http://www.sec.gov/rules/sro.shtml). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of the CBOE. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All submissions should refer to File Number SR–CBOE–2007–51 and should be submitted on or before June 29, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–11080 Filed 6–7–07; 8:45 am]

BILLING CODE 8010–01–P

[6] ''Any actions taken by the President of the Exchange pursuant to this paragraph will be submitted to the SEC in a rule filing pursuant to Section 19(b)(3)(A) of the Exchange Act.'' Rule 8.3A.01(c).

[7] 15 U.S.C. 78(f)(b).

[8] 15 U.S.C. 78(f)(b)(5).

[9] 15 U.S.C. 78s(b)(3)(A)(i).

[10] 17 CFR 240.19b–4(f)(1).

[11] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–55852; File No. SR–NYSE–2007–47]

Self-Regulatory Organizations; New York Stock Exchange LLC; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Exchange Rules 103A and 103B

June 4, 2007.

Pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'') [1] and Rule 19b–4 thereunder,[2] notice is hereby given that on May 22, 2007, the New York Stock Exchange LLC (''NYSE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I and II below, which Items have

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

been substantially prepared by the Exchange. The Exchange has designated the proposed rule change as ''non-controversial'' under Section 19(b)(3)(A)(iii) [3] of the Act and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon filing with the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes a moratorium on the administration of the Specialist Performance Evaluation Questionnaire (''SPEQ'') pursuant to Exchange rule 103A and the use of the SPEQ pursuant to Rule 103B. In addition, the Exchange proposes that the use of SuperDot turnaround for orders received (''Order Reports'') and responses to administrative messages (''Administrative Responses'') not be used as objective measures in the assessment of specialist performance during the moratorium. The Exchange further proposes that the SPEQ and Order Reports/Administrative Responses no longer serve as criteria for a specialist performance improvement action during the moratorium.

The text of the proposed rule changes is available on the Exchange's Web site (*http://www.nyse.com*), at the Exchange's Office of the Secretary, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NYSE has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes an immediate moratorium on the administration and use of the SPEQ and Order Reports/Administrative Responses to commence on the date of publication in the **Federal Register** of the formal submission of the Rule 19b–4 filing by the NYSE to the Commission to amend Exchange Rules 103A and 103B and ending no later than December 31, 2007 (''Moratorium''). In addition, the Exchange proposes that the use of Order Reports/Administrative Responses not be used as objective measures in the assessment of specialist performance during the Moratorium pursuant to Exchange Rule 103B or used as criteria for a specialist performance improvement action pursuant to Exchange Rule 103A.

SPEQ

Pursuant to Exchange Rule 103A, on a quarterly basis, the Exchange distributes a twenty question survey known as the SPEQ to eligible Floor brokers [5] to evaluate specialist performance during the quarter immediately prior to the distribution of the SPEQ. Initially, this subjective feedback provided critical information to assist the Exchange in maintaining the quality of the NYSE market.

However, the current SPEQ no longer adequately allows the Floor broker to assess the electronic interaction between the specialist and the Floor broker. The Hybrid Market provided Floor brokers and specialists with electronic trading tools that have resulted in less personal and verbal contact between Floor brokers and specialists. Currently approximately 90% of the transactions executed on the Exchange are done through electronic executions.

In addition, the dramatic increase in transparency with respect to the Display Book through, among other things, Exchange initiatives like Exchange OPENBOOK™ [6] (''OPENBOOK'') has decreased the need for the Floor broker to obtain market information verbally from the specialist. This increased transparency gives all market participants, both on and off the Floor, a greater ability to see and react to market changes.

The questions on the SPEQ do not take into account the operation of the electronic tools available in the Hybrid Market. The SPEQ does not provide Floor brokers with a means to evaluate specialist performance under the current market model. As a result of the more electronic interaction between Floor brokers and specialists, Floor brokers are unable to assess specialist performance using the current SPEQ.

The questions posed to the Floor brokers on the SPEQ require Floor brokers to opine on the specialists' ability to offer single price executions and specialists' ability to provide notification to Floor brokers of market changes in particular stocks. In the current Hybrid Market, specialists are unable to offer single price executions and the relative speed of executions makes it virtually impossible for specialist to notify brokers of changes in a particular security.

Given the above, the SPEQ no longer serves as a meaningful measure of specialist performance. As such, the Exchange proposes an immediate Moratorium on the administration and use of the SPEQ in order to provide the Exchange with an opportunity to review its entire specialist allocation policy.

Objective Measures

The Exchange further requests that during the Moratorium, allocations of newly listed securities on the Exchange continue to be based on the objective measures identified in Exchange Rule 103B,[7] with the exception of SuperDot turnaround for orders received and response to administrative messages.

As a result of the Hybrid Market, SuperDot turnaround for orders received and response to administrative messages no longer provide meaningful objective standards to evaluate specialist performance. Specifically, in the current more electronic Hybrid Market, orders received by Exchange systems that are marketable upon entry are eligible to be immediately and

[3] 15 U.S.C. 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] The Exchange believed that conscientious participation in the SPEQ process was a critical element in the Exchange's program for evaluating the overall performance of its specialists. All eligible Floor brokers are required to participate in the process and evaluate from one to three specialist units each quarter. Floor brokers are selected to participate in the SPEQ process based on broker badge data submitted in accordance with audit trail requirements. Brokers who intentionally fail or refuse to participate in the SPEQ process may be subject to disciplinary action, including the imposition of a summary fine pursuant to Exchange Rule 476A.

[6] OPENBOOK Online Database is an Exchange online service that allows subscribers to view the contents of the specialist book for any stock at any given point in the day, or over a period of time. Results are returned in an Excel spreadsheet. OPENBOOK Online Database is a historical database with data stored online for a 12-month period.

[7] Pursuant to Exchange Rule 103B, specialist dealer performance is measured in terms of participation (TTV); stabilization; capital utilization, which is the degree to which the specialist unit uses its own capital in relation to the total dollar value of trading in the unit's stocks; and near neighbor analysis, which is a measure of specialist performance and market quality comparing performance in a stock to performance of stocks that have similar market characteristics. Additional objective measures pursuant to Exchange Rule 103B are those measures included in Exchange Rule 103A which are: (a) Timeliness of regular openings; (b) promptness in seeking Floor official approval of a non-regulatory delayed opening; (c) timeliness of DOT turnaround; and (d) response to administrative messages.

automatically executed by Exchange systems. As such, SuperDot turnaround no longer provides a meaningful objective measure of a specialist's performance. The Exchange therefore seeks to remove SuperDot turnaround as an objective measure of specialist performance during the Moratorium.

Furthermore, in the current Hybrid Market the Exchange system automatically responds to the majority of the administrative messages. Today, there are two administrative messages that require a manual response from specialists. These are messages that require the specialist to provide status information on market orders and stop orders. With regard to requests for the status of stop orders, the specialists are no longer capable of providing this information. In December 2006, following Commission approval,[8] the Exchange changed its stop order handling process. Stop orders are no longer visible to the part of the NYSE Display Book® that the specialist ''sees.'' When a transaction on the Exchange results in the election of a stop order that had been received prior to such transaction, the elected stop order is sent as a market order [9] to the Display Book and the specialist's system employing algorithms where it is handled in the same way as any other market order. The specialist therefore is unable to provide any information regarding the status of stop orders.

Currently, market orders are eligible to receive immediate and automatic execution on the Exchange. The immediate and automatic execution of market orders eliminates the need for the specialists to respond to the administrative request for the status of market orders. In practice, a customer that submits a market order will likely receive a report of execution before the administrative message requesting the status of the market order has been printed and read by the specialist.

The Exchange anticipates that this change will have a minimal impact on its customers. In the past few years, the average number of administrative messages received on a daily basis has steadily declined. The Exchange believes that immediate and automatic execution of orders will virtually eliminate administrative messages that require a manual response from a specialist. As a result, a specialist's ability to respond to administrative messages no longer provides a meaningful measure of specialists' performance during the Moratorium. The Exchange therefore seeks to remove the response to administrative messages as a measure of specialist performance during the Moratorium.

Given that SuperDot turnaround and responses to administrative messages no longer provide significant objective measures of specialists' performance in the Hybrid Market, the Exchange seeks to suspend the use of both measures as criteria used to access specialists' performance during the Moratorium.

Performance Improvement Actions

Similarly, during the Moratorium, the Exchange seeks to suspend the use of the SPEQ and Order Reports/Administrative Reports as criteria for the implementation of a performance improvement action pursuant to Exchange Rule 103A. Exchange Rule 103A(b) provides that:

> The Market Performance Committee shall initiate a Performance Improvement Action (except in highly unusual or extenuating circumstances, involving factors beyond the control of a particular specialist unit, as determined by formal vote of the Committee) in any case where a specialist unit's performance falls below such standards as are specified in the Supplementary Material to this rule. The objective of a Performance Improvement Action shall be to improve a specialist unit's performance where the unit has exhibited one or more significant weaknesses, or has exhibited an overall pattern of weak performance that indicates the need for general improvement.

The SPEQ and Order Reports/Administrative Reports are two criteria included in the standards specified in Exchange Rule 103A Supplementary Material. Given that SPEQ and Order Reports/Administrative Reports no longer provide significant objective measures of specialists' performance in the Hybrid Market, the Exchange seeks to suspend the use of both measures as criteria for the implementation of a performance improvement action during the Moratorium.

Creation of a New Process

During the Moratorium, the Exchange will analyze how specialists function in the Hybrid market in order to determine which objective standards accurately assess and measure the specialists' performance of its market-making function. Using newly identified objective measures, the Exchange will formally submit a proposal to the Commission, no later than August 1, 2007, to amend Exchange rules that govern the allocation of securities to specialist firms and other related rules.

The Exchange believes that the use of objective measures will provide for a more significant comparison of specialist performance. It is anticipated that the use of more objective and detailed measures will promote healthy competition between specialists firms and ultimately result in better market-making for Exchange customers.

2. Statutory Basis

The Exchange believes that the basis under the Act for this proposed rule change is the requirement under Section 6(b)(5) [10] that an Exchange have rules that are designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest. The proposed rule change also is designed to support the principles of Section 11A(a)(1) [11] in that it seeks to assure economically efficient execution of securities transactions, make it practicable for brokers to execute investors' orders in the best market and provide an opportunity for investors' orders to be executed without the participation of a dealer.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change would impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received from Members, Participants, or Others

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

Because the proposed rule change does not: (i) Significantly affect the protection of investors or the public interest; (ii) impose any significant burden on competition; and (iii) become operative for 30 days after the date of filing, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, the proposed rule change has become effective pursuant to Section 19(b)(3)(A) of the Act [12] and subparagraph (f)(6) of Rule 19b–4 thereunder.[13]

A proposed rule change filed under 19b–4(f)(6) normally may not become

[8] *See* Securities Exchange Act Release No. 54820 (November 27, 2006), 71 FR 70824 (December 6, 2006) (SR–NYSE–2006–65).

[9] As used herein, the term ''market order'' refers to market orders that are not designated as ''auction market orders.''

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78k–1(a)(1).

[12] 15 U.S.C. 78s(b)(3)(A).

[13] 17 CFR 240.19b–4(f)(6).

operative prior to 30 days after the date of filing.[14] However, Rule 19b–4(f)(6)(iii) [15] permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange has satisfied the five-day prefiling requirement.[16] In addition, the Exchange has requested that the Commission waive the 30-day pre-operative delay and designate the proposed rule change to become operative upon filing.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because it would allow the Exchange to immediately implement this proposal and thus the Exchange would not need to rely on factors that no longer provide significant objective measures of specialists' performance in the Hybrid Market. The Commission notes that the Exchange expects to file a proposed rule change under Section 19(b) of the Act [17] by August 1, 2007, which would amend Exchange rules that govern the allocation of securities to specialist firms and other related rules. The Commission designates the proposal to become effective and operative upon filing.[18]

At any time within 60 days of the filing of the proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in the furtherance of the purposes of the Act.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–NYSE–2007–47 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–2007–47. This file number should be included on the subject line if e-mail is used. To help the Commission process and review your comments more efficiently, please use only one method. The Commission will post all comments on the Commission's Internet Web site (*http://www.sec.gov/rules/sro.shtml*). Copies of the submission, all subsequent amendments, all written statements with respect to the proposed rule change that are filed with the Commission, and all written communications relating to the proposed rule change between the Commission and any person, other than those that may be withheld from the public in accordance with the provisions of 5 U.S.C. 552, will be available for inspection and copying in the Commission's Public Reference Room. Copies of such filing also will be available for inspection and copying at the principal office of 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–2007–47 and should be submitted on or before June 29, 2007.

For the Commission, by the Division of Market Regulation, pursuant to delegated authority.[19]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E7–11079 Filed 6–7–07; 8:45 am]

BILLING CODE 8010–01–P

[14] 17 CFR 240.19b–4(f)(6)(iii).

[15] *Id.*

[16] *Id.*

[17] 15 U.S.C. 78s(b).

[18] For purposes only of waiving the 30-day operative delay, the Commission has considered the impact of the proposed rule on efficiency, competition, and capital formation. 15 U.S.C. 78c(f).

[19] 17 CFR 200.30–3(a)(12).

SOCIAL SECURITY ADMINISTRATION

[DOCKET No: SSA–2007–0047]

Privacy Act of 1974, as Amended; Computer Matching Program SSA/ Department of Homeland Security (DHS) Match 1010

AGENCY: Social Security Administration (SSA).

ACTION: Notice of a renewed computer matching program, which is expected to begin August 1, 2007.

SUMMARY: In accordance with the provisions of the Privacy Act, as amended, this notice announces a computer matching program that SSA conducts with DHS.

DATES: SSA will file a report of the subject matching program with the Committee on Homeland Security and Governmental Affairs of the Senate, the Committee on Government Reform of the House of Representatives, and the Office of Information and Regulatory Affairs, Office of Management and Budget (OMB). The matching program will be effective as indicated below.

ADDRESSES: Interested parties may comment on this notice either by telefaxing to (410) 965–8582 or by writing to the Associate Commissioner, Office of Income Security Programs, 252 Altmeyer Building,6401 Security Boulevard, Baltimore, MD 21235–6401. All comments received will be available for public inspection at this address.

FOR FURTHER INFORMATION CONTACT: The Associate Commissioner for Income Security Programs as shown above.

SUPPLEMENTARY INFORMATION:

A. General

The Computer Matching and Privacy Protection Act of 1988 (Public Law (Pub. L.) 100–503), amended the Privacy Act (5 U.S.C. 552a) by describing the manner in which computer matching involving Federal agencies could be performed and adding certain protections for individuals applying for and receiving Federal benefits. Section 7201 of the Omnibus Budget Reconciliation Act of 1990 (Pub. L. 101–508) further amended the Privacy Act regarding protections for such individuals. The Privacy Act, as amended, regulates the use of computer matching by Federal agencies when records in a system of records are matched with other Federal, State, or local government records. It requires Federal agencies involved in computer matching programs to:

(1) Negotiate written agreements with the other agency or agencies participating in the matching programs;

(2) Obtain the approval of the matching agreement by the Data Integrity Boards (DIB) of the participating Federal agencies;

(3) Publish notice of the computer matching program in the **Federal Register**;

(4) Furnish detailed reports about matching programs to Congress and OMB;

(5) Notify applicants and beneficiaries that their records are subject to matching; and

(6) Verify match findings before reducing, suspending, terminating or denying an individual's benefits or payments.

B. SSA Computer Matches Subject to the Privacy Act

We have taken action to ensure that all of SSA's computer matching programs comply with the requirements of the Privacy Act, as amended.

Dated: May 21, 2007.

Manuel J. Vaz,

Acting Deputy Commissioner for Disability and Income Security Programs.

Notice of a Renewed Computer Matching Program, Social Security Administration (SSA) With the Department of Homeland Security (DHS).

A. Participating Agencies

SSA and DHS.

B. Purpose of the Matching Program

The purpose of this matching program is to establish conditions under which DHS agrees to the disclosure of information regarding certain aliens who may, as a result of their current or planned absences from the United States, be subject to nonpayment of benefits in programs administered by SSA. The disclosure will provide SSA with information useful in determining claim and benefit status under both title II and title XVI of the Social Security Act, governing Social Security Retirement, Survivors and Disability Insurance Benefits, and Supplemental Security Income, in that certain persons who are outside the United States, or similarly lack appropriate statutorily specified residency and citizenship/alienage status, may not be paid benefits under specific statutory provisions of those titles. Public Law (Pub. L.) No. 108–203 (The Social Security Protection Act of 2004), section 412, expands section 202(n) of the Social Security Act to prohibit payment of retirement or disability benefits to number holders removed from the United States under section 237(a) or under section 212(a)(6)(A) of the Immigration and Nationality Act of 1952 (INA), as amended.

C. Authority for Conducting the Matching Program

Legal authority for the relevant disclosures of this matching operation is contained in sections 202(n) of the Social Security Act, as amended by section 412 of Pub. L. 108–203, 1611(f), and 1614(a)(1) of the Social Security Act (42 U.S.C. 402(n) 1382(f) and 1382c(a)(1) (the Act) and 8 U.S.C. 1611 and 1612). Section 1631(e) (1) (B) of the Act, 42 U.S.C. 1383(e) (1) (B) requires SSA to verify declarations of applicants for, and recipients of, Supplemental Security Income (SSI) payments before making a determination of eligibility or payment amount. Section 1631(f) of the Act (42 U.S.C. 1383(f)) requires Federal agencies to provide SSA with information necessary to verify SSI eligibility or benefit amounts or to verify other information related to these determinations. In addition, section 202(n)(2) of the Act specifies that the ''Attorney General or the Secretary of the [Department of Homeland Security]'' notify the Commissioner of Social Security when certain individuals are removed under specified provisions of section 237(a) or under section 212(a)(6)(A) of the Immigration and Nationality Act (INA).

D. Categories of Records and Individuals Covered by the Matching Agreement

DHS will disclose to SSA two data files as described below:

1. Aliens Who Leave the United States Voluntarily

DHS will provide SSA with an electronic file from its Computer Linked Application Information Management System (CLAIMS) (Justice/INS 013 system of records, most recently published at 62 FR 59734, dated 11/04/97, which is electronically formatted for transmission to SSA). CLAIMS contains information on resident aliens who are SSI recipients and who have left or plan to leave the United States for any period of 30 consecutive days. SSA will then match the DHS CLAIMS data with Social Security number (SSN) applicant and holder information, maintained in SSA's Master Files of Social Security Number (SSN) Holders and SSN Applications, SSA/OEEAS 60–0058 (most recently published at 65 FR 66279, dated 11/03/2000); and SSA's Supplemental Security Income Record (SSR) and Special Veterans Benefits (SVB) (most recently published at 66 FR 11079 SSA/OEEAS 60–0103, dated 02/21/2001).

2. Aliens Who Are Removed From the United States

DHS will also provide SSA with an electronic file containing information on removed number holders from its Deportable Alien Control System (DACS) (Justice/INS–012, full text published at 65 FR 46738, dated 07/31/2000, modified at 66 FR 66712, dated 01/22/2001). Electronically formatted for transmission to SSA, DACS is scheduled to be replaced by the Enforce Removal Module (EREM). After such transition, EREM will be the system of records used in the match. SSA will then match the DHS EREM data with applicant and holder information maintained in SSA's Master Files of Social Security Number (SSN) Holders and SSN Applications SSA/OEES 60–0058, published at 65 FR 66279 (11/03/00), the Master Beneficiary Record SSA/OEEAS 60–0090, most recently published at 66 FR 11080, dated 02/21/2001); and the Supplemental Security Record.

E. Inclusive Dates of the Match

The matching program will become effective no sooner than 40 days after notice of the matching program is sent to Congress and OMB, or 30 days after publication of this notice in the **Federal Register**, whichever date is later. The matching program will continue for 18 months from the effective date and may be extended for an additional 12 months thereafter, if certain conditions are met.

[FR Doc. E7–11099 Filed 6–7–07; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF STATE

[Public Notice 5807]

Advisory Committee on Democracy Promotion (ACDP) Meeting Notice; Notice of Partially Closed Meeting

A meeting of the Advisory Committee on Democracy Promotion will be held on Monday, June 18, 2007 in Room 1107, U.S. Department of State, 2201 C Street, NW., Washington, DC. The meeting will be open to the public from 1:30 p.m.–3:15 p.m. up to the capacity of the meeting room. The Committee members will discuss various issues relating to strategies to promote democratic governance. Pursuant to section 10(d) of the Federal Advisory Committee Act, 5 U.S.C. app 2 10(d) and 5 U.S.C. 552b(c)(6), it has been determined that the meeting will be closed to the public from 3:30 p.m. to 4:30 p.m. because the Committee will be discussing sensitive information about the personal situation of human rights dissidents, disclosure of which would likely jeopardize the safety and welfare of these individuals and constitute a clearly unwarranted invasion of their personal privacy.

Entry to the main State Department building is controlled and will require advance arrangements. Members of the public wishing to attend this meeting should, by Thursday, June 14, 2007, notify Karen Chen in the Bureau of Democracy, Human Rights and Labor—

telephone: 202–647–4648—of their name, date of birth, valid government-issued ID number (see below), citizenship, and professional affiliation, including address and telephone number, in order to arrange admittance. This includes admittance for government employees as well as others.

All attendees must use the ''C'' Street entrance of the Department, after being screened through the exterior screening facilities, and arrive by 1 p.m. One of the following valid IDs will be required for admittance: Any U.S. driver's license with photo, a passport, or a U.S. Government agency ID. Because an escort is required at all times, attendees should expect to remain in the meeting throughout the open portion.

For more information, contact Paul Lettow, Senior Advisor to the Under Secretary for Democracy and Global Affairs, Department of State, Washington, DC 20520, *telephone:* (202) 647–1189.

Dated: May 25, 2007.

Barry F. Lowenkron,

Assistant Secretary of the Bureau of Democracy, Human Rights and Labor, Department of State.

[FR Doc. 07–2862 Filed 6–7–07; 8:45 am]

BILLING CODE 4710–18–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2007–28362]

Agency Information Collection Activities: Notice of Request for Extension of Currently Approved Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of request for extension of currently approved information collection.

SUMMARY: The FHWA invites public comments about our intention to request the Office of Management and Budget's (OMB) approval for renewal of an existing information collection that is summarized below under Supplementary Information. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by August 7, 2007.

ADDRESSES: You may submit comments identified by DOT DMS Docket Number FHWA–2007–28362 by any of the following methods:

- *Web Site: http://dms.dot.gov.* Follow the instructions for submitting comments on the DOT electronic docket site.
- *Fax:* 1–202–493–2251
- *Mail:* Docket Management Facility, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Hand Delivery:* U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* at any time or to U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Bobette Meads, 202–366–2881, Office of Budget and Finance, Federal Highway Administration, Department of Transportations, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 7:30 a.m. to 4:30 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Voucher for Federal-aid Reimbursements.

OMB Control #: 2125–0507.

Background: The Federal-aid Highway Program provides for the reimbursement to States for expenditure of State funds for eligible Federal-aid highway projects. The Voucher for Work Performed Under Provisions of the Federal Aid and Federal Highway Acts as amended (Form PR–20), is utilized by the States to provide project financial data regarding the expenditure of State funds and to request progress payments from the FHWA.

Respondents: 50 State Transportation Departments, the District of Columbia, Puerto Rico, Guam, American Samoa, and the Virgin Islands.

Estimated Average Annual Burden: The respondents electronically submit an estimated total of 12,900 vouchers each year. Each voucher requires an estimated average of 30 minutes to complete.

Estimated Total Annual Burden Hours: Total estimated average annual burden is 6450 hours.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burdens; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information. The agency will summarize and/or include your comments in the request for OMB's clearance of this information collection.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued On: June 4, 2007.

James R. Kabel,

Chief, Management Programs and Analysis Division.

[FR Doc. E7–11125 Filed 6–7–07; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

[Docket No. FHWA–2007–28310]

Agency Information Collection Activities: Request for Comments for New Information Collection

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice and request for comments.

SUMMARY: The FHWA has forwarded the information collection request described in this notice to the Office of Management and Budget (OMB) for approval of a new information collection. We published a **Federal Register** Notice with a 60-day public comment period on this information collection on March 9, 2007. We are required to publish this notice in the **Federal Register** by the Paperwork Reduction Act of 1995.

DATES: Please submit comments by July 9, 2007.

ADDRESSES: You may send comments within 30 days to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street., NW, Washington, DC 20503, or e-mail at *oira_submission@omb.eop.gov*, Attention DOT Desk Officer. You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for the FHWA's performance; (2) the accuracy of the estimated burden; (3) ways for the FHWA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized, including the use of electronic technology, without reducing the quality of the collected information.

All comments should include the Docket number FHWA–2007–28310.

FOR FURTHER INFORMATION CONTACT: For information regarding the Eisenhower Transportation Fellowship Program, contact Gwen Sutton, 703–235–0538, Office of Professional and Corporate Development, Federal Highway Administration, Department of Transportation, 4600 N. Fairfax Drive, Suite 800, Arlington, VA 22203. Office hours are from 8 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Dwight David Eisenhower Transportation Fellowship Program.

Background: The Dwight David Eisenhower Transportation Fellowship Program is authorized by Public Law 109–59, the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users of 2005 (SAFETEA-LU). The purpose of the fellowship is to advance transportation education and research, and attract qualified students to the field of transportation. The Eisenhower Transportation Fellowship allows for the collection and analysis of vital program information, also serving as a management tool to measure program performance and evaluate effectiveness in meeting Federal intent and workforce development common goals and objectives. An application form is used to collect basic information from the student to determine eligibility and qualifications for fellowship.

Respondents: Approximately 200 students submit applications each year.

Frequency: Annually.

Estimated Average Burden per Response: The estimated burden to complete the application is 3 hours.

Estimated Total Annual Burden Hours: Approximately 600 hours annually.

Electronic Access: Internet users may access all comments received by the U.S. DOT Dockets, Room PL–401, by using the universal resource locator (URL): *http://dms.dot.gov*, 24 hours each day, 365 days each year. Please follow the instructions online for more information and help.

Authority: The Paperwork Reduction Act of 1995; 44 U.S.C. Chapter 35, as amended; and 49 CFR 1.48.

Issued on: June 4, 2007.

James R. Kabel,

Chief, Management Programs and Analysis Division.

[FR Doc. E7–11127 Filed 6–7–07; 8:45 am]

BILLING CODE 4910–22–P

DEPARTMENT OF TRANSPORTATION

Federal Highway Administration

Notice of Final Federal Agency Actions on Proposed Highway in INDIANA

AGENCY: Federal Highway Administration (FHWA), DOT.

ACTION: Notice of Limitation on Claims for Judicial Review of Actions by FHWA and Other Federal Agencies.

SUMMARY: This notice announces action taken by the FHWA and Other Federal Agencies that are final within the meaning of 23 U.S.C. 139(l)(1). The actions relate to the proposed U.S. 31 Kokomo Corridor highway project, in the Counties of Howard and Tipton, State of Indiana. This action is the Record of Decision issued by FHWA for the U.S. 31 Kokomo Corridor Project.

DATES: By this notice, the FHWA is advising the public of final agency actions subject to 23 U.S.C. 139(l)(1). A claim seeking judicial review of the Federal agency actions on the highway project will be barred unless the claim is filed on or before December 5, 2007. If the Federal law that authorizes judicial review of a claim provides a time period of less than 180 days for filing such claim, then that shorter time period still applies.

FOR FURTHER INFORMATION CONTACT: Mr. Lawrence Heil, P.E., Air Quality/Environmental Specialist, Federal Highway Administration, Indiana Division, 575 North Pennsylvania Street, Room 254, 46204; telephone: (317) 226–7480; e-mail: *Larry.Heil@fhwa.dot.gov.*

SUPPLEMENTARY INFORMATION: Notice is hereby given that the FHWA has taken final agency action subject to 23 U.S.C. 139(l)(1) by approving the Record of Decision for the following highway project in the State of Indiana: U.S. 31 Kokomo Corridor, in Howard and Tipton Counties. The project provides for upgrading existing U.S. 31 between 2 miles south of SR 26 and one mile north of the U.S. 35 northern junction (approximately 12 miles) to a fully access controlled, grade-separated freeway. The proposed freeway will be on both new and existing alignment. The FHWA project reference number is Des. No. 0200094. The actions by FHWA are described in the Final Environmental Impact Statement (FEIS) for the project, approved on March 9, 2007 and in the FHWA Record of Decision (ROD) issued on May 14, 2007, and in other documents in the project record. The FEIS, ROD, and other documents in the FHWA project file are available by contacting the FHWA at the addresses provided above. The FEIS and ROD can be viewed and downloaded from the project Web site at *http://www.us31kokomo.com.* or viewed at public libraries in the project area.

This notice applies to all Federal agency decisions as of the issuance date of this notice and all laws under which such actions were taken, including but not limited to:

1. *General:* National Environmental Policy Act (NEPA) [42 U.S.C. 4321–4351]; Federal-Aid Highway Act [23 U.S.C. 109].

2. *Air:* Clean Air Act, 42 U.S.C. 7401–7671(q).

3. *Land:* Land and Water Conservation Fund (LWCF), 16 U.S.C. 4601–4604; Section 4(f) of the Department of Transportation Act of 1966 [49 U.S.C. 303]; Landscaping and Scenic Enhancement (Wildflowers), [23 U.S.C. 319]; National Forest Management Act (NFMA) of 1976 [16 U.S.C. 1600–1614].

4. *Wildlife:* Endangered Species Act [16 U.S.C. 1531–1544 and Section 1536], Marine Mammal Protection Act [16 U.S.C. 1361], Fish and Wildlife Coordination Act [16 U.S.C. 661–667(d)], Migratory Bird Treaty Act [16 U.S.C. 703–712].

5. *Historic and Cultural Resources:* Section 106 of the National Historic Preservation Act of 1966, as amended [16 U.S.C. 470(f) *et seq.*]; Archeological Resources Protection Act of 1977 [16 U.S.C. 470(aa)–11]; Archeological and Historic Preservation Act [16 U.S.C. 469–469(c)]; Native American Grave Protection and Repatriation Act (NAGPRA) [25 U.S.C. 3001–3013].

6. *Social and Economic:* Civil Rights Act of 1964 [42 U.S.C. 2000(d)–2000(d)(1)]; American Indian Religious Freedom Act [42 U.S.C. 1996]; Farmland Protection Policy Act (FPPA) [7 U.S.C. 4201–4209].

7. *Wetlands and Water Resources:* Safe Drinking Water Act (SDWA), 42 U.S.C. 300(f)–300(j)(6); Rivers and Harbors Act of 1899, 33 U.S.C. 401–406; Wild and Scenic Rivers Act, 16 U.S.C. 1271–1287; Emergency Wetlands Resources Act, 16 U.S.C. 3921, 3931; TEA–21 Wetlands Mitigation, 23 U.S.C. 103(b)(6)(m), 133(b)(11); Flood Disaster Protection Act, 42 U.S.C. 4001–4128.

8. *Executive Orders:* E.O. 11990 Protection of Wetlands; E.O. 11988 Floodplain Management; E.O. 12898, Federal Actions to Address Environmental Justice in Minority Populations and Low Income Populations; E.O. 11593 Protection and Enhancement of Cultural Resources; E.O. 13007 Indian Sacred Sites; E.O. 13287 Preserve America; E.O. 13175 Consultation and Coordination with Indian Tribal Governments; E.O. 11514

Protection and Enhancement of Environmental Quality; E.O. 13112 Invasive Species.

(Catalog of Federal Domestic Assistance Program Number 20.205, Highway Planning and Construction. The regulations implementing Executive Order 12372 regarding intergovernmental consultation on Federal programs and activities apply to this program.)

Authority: 23 U.S.C. 139(l)(1).

Issued on: June 4, 2007.

Robert F. Tally Jr.,

Division Administrator, Indianapolis, Indiana.

[FR Doc. E7–11090 Filed 6–7–07; 8:45 am]

BILLING CODE 4910–RY–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[FMCSA Docket No. FMCSA–2006–26601]

Qualification of Drivers; Exemption Applications; Diabetes

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice of final disposition.

SUMMARY: FMCSA announces its decision to exempt seventy-three individuals from its rule prohibiting persons with insulin-treated diabetes mellitus (ITDM) from operating commercial motor vehicles (CMVs) in interstate commerce. The exemptions will enable these individuals to operate CMVs in interstate commerce.

DATES: The exemptions are effective June 8, 2007. The exemptions expire on June 8, 2009.

FOR FURTHER INFORMATION CONTACT: Dr. Mary D. Gunnels, Chief, Physical Qualifications Division, (202) 366–4001, *fmcsamedical@dot.gov*, FMCSA, Room W64–224, Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Electronic Access

You may see all the comments online through the Document Management System (DMS) at: *http://dmses.dot.gov.*

Docket: For access to the docket to read background documents or comments received, go to *http://dms.dot.gov* and/or Room W12–140 on the West Building Ground Floor, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

Privacy Act: Anyone may search the electronic form of all comments received into any of DOT's dockets by the name of the individual submitting the comment (or of the person signing the comment, if submitted on behalf of an association, business, labor union, or other entity). You may review DOT's complete Privacy Act Statement in the **Federal Register** (65 FR 19477, Apr. 11, 2000). This statement is also available at *http://dms.dot.gov.*

Background

On March 16, 2007, FMCSA published a notice of receipt of Federal diabetes exemption applications from seventy-four individuals, and requested comments from the public (72 FR 12656). The public comment period closed on April 16, 2007 and two comments were received.

FMCSA has evaluated the eligibility of the seventy-four applicants and determined that granting the exemptions to seventy-two of these individuals would achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with the current regulation, 49 CFR 391.41(b)(3).

The Agency subsequently determined that two of the applicants did not meet the minimal age criteria outlined in 49 CFR 391.11(b)(1) which states that an individual must be at least 21 years old to operate a CMV in interstate commerce. The two applicants in question, Michael J. Guido and Cameron D. Hubbard will not be granted an exemption at this time. However, they can reapply for the exemption after they have satisfied the criteria discussed above. The Agency announces a correction regarding Robert A. Hartung, a Federal diabetes exemption applicant who was first published in a notice for comments on March 1, 2007 (72 FR 9402). There were no comments to the docket regarding granting him an exemption but he was omitted from the notice of final disposition that was published on April 30, 2007. Therefore, he will be granted an exemption with an effective date of April 30, 2007.

Diabetes Mellitus and Driving Experience of the Applicants

The Agency established the current standard for diabetes in 1970 because several risk studies indicated that diabetic drivers had a higher rate of crash involvement than the general population. The diabetes rule provides that ''A person is physically qualified to drive a commercial motor vehicle if that person has no established medical history or clinical diagnosis of diabetes mellitus currently requiring insulin for control'' (49 CFR 391.41(b)(3)).

FMCSA established its diabetes exemption program, based on the Agency's July 2000 study entitled ''A Report to Congress on the Feasibility of a Program to Qualify Individuals with Insulin-Treated Diabetes Mellitus to Operate in Interstate Commerce as Directed by the Transportation Act for the 21st Century.'' The report concluded that a safe and practicable protocol to allow some drivers with ITDM to operate CMVs is feasible.

The 2003 notice in conjunction with the November 8, 2005 (70 FR 67777) **Federal Register** Notice provides the current protocol for allowing such drivers to operate CMVs in interstate commerce.

These seventy-three applicants have had ITDM over a range of 1 to 38 years. These applicants report no hypoglycemic reaction that resulted in loss of consciousness or seizure, that required the assistance of another person, or resulted in impaired cognitive function without warning symptoms in the past 5 years (with one year of stability following any such episode). In each case, an endocrinologist has verified that the driver has demonstrated willingness to properly monitor and manage their diabetes, received education related to diabetes management, and is on a stable insulin regimen. These drivers report no other disqualifying conditions, including diabetes-related complications. Each meets the vision standard at 49 CFR 391.41(b)(10).

The qualifications and medical condition of each applicant were stated and discussed in detail in the March 16, 2007, **Federal Register** Notice (72 FR 12656). Therefore, they will not be repeated in this notice.

Basis for Exemption Determination

Under 49 U.S.C. 31136(e) and 31315, FMCSA may grant an exemption from the diabetes standard in 49 CFR 391.41(b)(3) if the exemption is likely to achieve an equivalent or greater level of safety than would be achieved without the exemption. The exemption allows the applicants to operate CMVs in interstate commerce.

To evaluate the effect of these exemptions on safety, FMCSA considered medical reports about the applicants' ITDM and vision, and reviewed the treating endocrinologist's medical opinion related to the ability of the driver to safely operate a CMV while using insulin.

Consequently, FMCSA finds that exempting these applicants from the diabetes standard in 49 CFR 391.41(b)(3)

is likely to achieve a level of safety equal to that existing without the exemption.

Conditions and Requirements

The terms and conditions of the exemption will be provided to the applicants in the exemption document and they include the following: (1) That each individual submit a quarterly monitoring checklist completed by the treating endocrinologist as well as an annual checklist with a comprehensive medical evaluation; (2) that each individual reports within 2 business days of occurrence, all episodes of severe hypoglycemia, significant complications, or inability to manage diabetes; also, any involvement in an accident or any other adverse event in a CMV or personal vehicle, whether or not they are related to an episode of hypoglycemia; (3) that each individual provide a copy of the ophthalmologist's or optometrist's report to the medical examiner at the time of the annual medical examination; and (4) that each individual provide a copy of the annual medical certification to the employer for retention in the driver's qualification file, or keep a copy in his/her driver's qualification file if he/she is self-employed. The driver must also have a copy of the certification when driving, for presentation to a duly authorized Federal, State, or local enforcement official.

Discussion of Comments

FMCSA received two comments in this proceeding. The comments are considered and discussed below.

An anonymous individual stated that Kenneth C. Michael should not receive a Federal diabetes exemption because he is both physically and cognitively unfit to be on the road due to frequent memory loss and debilitating illness.

Due to the fact that this comment was submitted by an anonymous individual and that the allegation of Mr. Michael having a ''debilitating illness'' was not specifically defined by the submitter presents challenges to the Agency in investigating the information submitted in the comment. FMCSA has re-evaluated his application and all supporting medical documents to determine if there was any information present to support the comment submitted. The documentation from his endocrinologist supports that he has stable control of his diabetes using insulin, and is able to drive a CMV safely. There is no indication that he has any other unresolved medical issues.

The Agency, at this time, has no evidence to support that the statement submitted into the docket is valid. The Federal diabetes exemption only exempts the individual from 49 CFR 391.41(b)(3), it is the responsibility of the medical examiner to determine if the individual meets all other physical qualification standards. Therefore, FMCSA will require Mr. Michael to submit to the Agency a copy of his medical examination certificate as well as a copy of his medical examination form as a condition of granting the exemption. FMCSA will review the results of that examination report to determine if there is any medical information present to support the action of revoking the exemption. FMCSA is also willing to evaluate any additional information submitted by the public pertaining to this driver's safety at any point in time.

Another anonymous individual feels that the process for the Federal diabetes exemption is too long; he also believes that the Agency is discriminatory towards drivers with diabetes.

With regard to the length of time required to obtain a Federal exemption, FMCSA is required to publish in the **Federal Register** the name of each eligible individual who applies for a diabetes exemption, and request public comment on the application

The Agency must then review all the comments received and determine whether granting the exemption would achieve a level of safety equivalent to, or greater than, the level of safety provided by compliance with the current diabetes standard. Depending on the complexity of the health issues discussed in the application, a final decision may take up to 180 days from the date we receive the completed application (49 U.S.C. 31136(e) and 31315). We recognize this potential 6-month waiting period may seem burdensome. However, we must carefully evaluate each applicant's request to assess his or her potential safety performance. FMCSA notifies all applicants in writing once a final decision is made. It is not the intention of FMCSA to impose hardship on commercial drivers. CMV drivers are held to a strict physical standard because of the extensive skill required to operate large trucks and buses and the potential harm these vehicles can cause to other motorists. Our safety regulations have a single goal—to reduce the number of CMV crashes and fatalities on the Nation's highways.

FMCSA's exemption process supports drivers with ITDM who seek to operate in interstate commerce. In addition, the Federal Motor Carrier Safety Regulations (FMCSRs) are not contrary to the Americans with Disabilities Act (ADA) of 1990. The mandates of the ADA do not require that FMCSA alter the driver qualification requirements contained in 49 CFR part 391. The Senate report on the ADA, submitted by its Committee on Labor and Human Resources, included the following explanation:

> With respect to covered entities subject to rules promulgated by the Department of Transportation regarding physical qualifications for drivers of certain classifications of motor vehicles, it is the Committee's intent that a person with a disability applying for or currently holding a job subject to these standards must be able to satisfy these physical qualification standards in order to be considered a qualified individual with a disability under Title I of this legislation. S. Rep. 101–116, at 27 (1989).

FMSCA relies on the expert medical opinion of the endocrinologist and the medical examiner, who are required to analyze individual ability to control and manage the diabetic condition, including the individual ability and willingness of the driver to monitor blood glucose level on an ongoing basis. Until the Agency issues a Final Rule, however, insulin-treated diabetic drivers must continue to apply for exemptions from FMCSA, and request renewals of such exemptions. FMCSA will grant exemptions only to those applicants who meet the specific conditions and comply with all the requirements of the exemption.

Conclusion

After considering the comments to the docket, and based upon its evaluation of the seventy-three exemption applications, FMCSA exempts, Jonathon L. Apuan, Oluwafemi A. Aruwajoye, Scott D. Baroch, David M. Beard, Andrew F. Behr, Brian G. Brianard, David A. Broughton, Kelly G. Burke, David R. Burton, Michael G. Cary, Esko G. Cate, Richard I. Chandler, Stephen R. Clemens, Johnny W. Corbin, Mark T. Cousins, Emory B. Duke, Mark K. Eaton, Chad L. Erickson, David E. Farvour, Brian A. Foss, Manuel A. Garcia, Marcus B. Garris, John M. Gladu, Sr., William H. Grambusch, Kenneth M. Harrelson, Allan R. Harrison, Robert A. Hartung, Kendal B. Heath, Randy A. Hicks, Jon D. Huntsinger, Kirk J. Janczak, Thomas E. Jannicelli, Curtis L. Jewett, Mark W. Johnson, Robbie L. Jones, Lucas J. Jordan, Murl R. Kimmel, Michael D. Landon, ?, Patrick B. Lavespere, Aaron W. Lawrence, Scott W. Loucks, Jesse J. Louris, Michael G. McIntosh, Gordon L. Mattocks, Kenneth C. Michael, David W. Mills, Ellis E. Murdock, Mark E. Murphy, Daniel D. Neale, Judith A. Neel, Richard J. Neeman, Danny E. Norment, Marvin H.

Patterson, John H. Pitts, Kurt L. Podjaski, Lee M. Powell, Samuel N. Prindle, Ronald R. Reineke, Marks W. Sadowski, Thomas M. Sandahl, Bruce G. Scheffert, Carl W. Smith, Theodore M. Smith, Gilbert E. Strickland, John R. Thomas, Everett Tolbert, Kenneth R. Walker, John L. Waite, Jr., Donald S. Welch, James W. Williams, Milton L. Worsley, John A. Yarde, and Anthony Ybarra from the ITDM standard in 49 CFR 391.41(b)(3), subject to the conditions listed under ''Conditions and Requirements'' above.

In accordance with 49 U.S.C. 31136(e) and 31315 each exemption will be valid for two years unless revoked earlier by FMCSA. The exemption will be revoked if: (1) The person fails to comply with the terms and conditions of the exemption; (2) the exemption has resulted in a lower level of safety than was maintained before it was granted; or (3) continuation of the exemption would not be consistent with the goals and objectives of 49 U.S.C. 31136(e) and 31315. If the exemption is still effective at the end of the 2-year period, the person may apply to FMCSA for a renewal under procedures in effect at that time.

Issued on: June 4, 2007.

Larry W. Minor,

Acting Associate Administrator, Policy and Program Development.

[FR Doc. E7–11120 Filed 6–7–07; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2007–28055]

Demonstration Project on NAFTA Trucking Provisions

AGENCY: Federal Motor Carrier Safety Administration (FMCSA).

ACTION: Notice; supplemental request for public comment.

SUMMARY: The FMCSA announces additional details about the initiation of a project to demonstrate the ability of Mexico-domiciled motor carriers to operate safely in the United States beyond the commercial zones along the U.S.-Mexico border. On May 1, 2007, FMCSA published a notice in the **Federal Register** announcing its plans to initiate the project as part of the Agency's implementation of the North American Free Trade Agreement (NAFTA) cross-border trucking provisions. In response to section 6901(b)(2)(B) of the ''U.S. Troop Readiness, Veterans'' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007,'' FMCSA provides for public comment certain additional details concerning the demonstration project. The FMCSA will carefully consider all comments received in response to the May 1, 2007, notice and this supplemental notice before further decisions are made concerning the implementation of the NAFTA trucking demonstration/pilot project.

DATES: Comments must be received on or before June 28, 2007.

ADDRESSES: You may submit comments identified by DOT DMS Docket Number FMCSA–2007–28055 by any of the following methods:

- Web Site: *http://dms.dot.gov*. Follow the instructions for submitting comments on the DOT electronic docket site. Please note that the web site will not be available for use from June 13 through June 17, 2007 (72 FR 28092; May 18, 2007). During this period the Department of Transportation will be relocating the computers that host the electronic dockets. The electronic docket will again be available to users beginning on June 18, 2007. While the electronic docket is down from June 13 through June 17, interested parties may submit comments by fax, mail, or hand delivery, as described below. However, staff will not begin to place documents received during this period into the electronic docket until the computer goes back on line June 18.
- Fax: 1–202–493–2251.
- Mail: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- Hand Delivery: U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington DC, 20590 between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays.
- Federal eRulemaking Portal: Go to *www.regulations.gov*. Follow the online instructions for submitting comments. Please note that submission of comments via this web site will be affected by the relocation of the Department's computers which host its electronic docket system.

Instructions: All submissions must include the Agency name and docket number for this notice. For detailed instructions on submitting comments and additional information, see the Public Participation heading below. Note that all comments received will be posted without change to *http://dms.dot.gov*, including any personal information provided. Please see the Privacy Act heading below.

Docket: For access to the Docket Management System (DMS) to read background documents or comments received, go to *http://dms.dot.gov* at any time or to the U.S. Department of Transportation, Docket Operations, M–30, West Building Ground Floor, Room W12–140, 1200 New Jersey Avenue, SE., Washington DC, 20590 between 9 a.m. and 5 p.m., e.t., Monday through Friday, except Federal holidays. The DMS is available electronically 24 hours each day, 365 days each year, except as noted above.

Privacy Act: 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 (65 FR 19477–78) or you may visit *http://dms.dot.gov*.

Public Participation: The DMS is available 24 hours each day, 365 days each year, except during the relocation period noted above. You can get electronic submission and retrieval help and guidelines under the ''help'' section of the DMS Web site. Comments received after the comment closing date will be included in the docket, and will be considered to the extent practicable.

FOR FURTHER INFORMATION CONTACT: Mr. Milt Schmidt. Telephone (202) 366–4049; E-mail: *milt.schmidt@dot.gov*.

SUPPLEMENTARY INFORMATION:

Background

On May 1, 2007, FMCSA announced the initiation of a project to demonstrate the ability of Mexico-based motor carriers to operate safely in the United States beyond the commercial zones along the U.S.-Mexico border (72 FR 23883). The demonstration project will allow up to 100 Mexico-domiciled motor carriers to operate throughout the United States for one year. Up to 100 U.S.-domiciled motor carriers will be granted reciprocal rights to operate in Mexico for the same period. Participating Mexican carriers and drivers must comply with all applicable U.S. laws and regulations, including those concerned with motor carrier safety, customs, immigration, vehicle emissions, vehicle registration and taxation, and fuel taxation. The Agency explained the safety performance of the participating carriers will be tracked closely by FMCSA and its State partners, a joint U.S.-Mexico monitoring

group, and an evaluation panel independent of the Department of Transportation (DOT). The FMCSA indicated the resulting data will be considered carefully before further decisions are made concerning the implementation of the NAFTA trucking provisions. The comment period for the notice ended on May 31.

On May 25, 2007, the President signed into law the U.S. Troop Readiness, Veterans' Care, Katrina Recovery, and Iraq Accountability Appropriations Act, 2007 (the Act), (Pub. L. 110–28). Section 6901 of the Act requires that certain actions be taken by the Department of Transportation (the Department) as a condition of obligating or expending appropriated funds to grant authority to Mexico-domiciled motor carriers to operate beyond United States municipalities and commercial zones on the United States-Mexico border. Section 6901(a) of the Act requires that granting of such authority be tested as part of a ''pilot program.'' The pilot program must comply with section 350 of the DOT and Related Agencies Appropriations Act for Fiscal Year 2002 (Pub. L. 107–87, 115 Stat. 833, at 864) and 49 U.S.C. 31315(c), concerning requirements for pilot programs.

Section 6901(a)—Fulfilling the Requirements of Section 350

Section 350 of the DOT Appropriations Act, 2002 (Pub. L. 107–87), prohibited FMCSA from using Federal funds to review or process applications from Mexico-domiciled motor carriers to operate beyond the border commercial zones until certain conditions and safety requirements were met. The requirements of section 350 have been reenacted in each subsequent DOT Appropriations Act since 2002. The rulemaking requirements of section 350 were met by a series of rules published on March 19, 2002 (67 FR 12652, 67 FR 12702, 67 FR 12758, 67 FR 12776) and a further rule published on May 13, 2002 (67 FR 31978).

In November 2002, Secretary of Transportation Norman Mineta certified, as required by section 350(c)(2), that authorizing Mexican carrier operations beyond the border commercial zones does not pose an unacceptable safety risk to the American public. Later that month, the President modified the longstanding moratorium to permit Mexico-domiciled motor carriers to provide cross-border cargo transportation beyond the border commercial zones. The Secretary's certification was made in response to the June 25, 2002, report of DOT's Office of Inspector General (OIG) on the implementation of safety requirements at the U.S.-Mexico border. In a January 2005 follow-up report, the OIG concluded that FMCSA had sufficient staff, facilities, equipment, and procedures in place to substantially meet all eight requirements under section 350 the OIG was required to review.

In consideration of the above OIG reports which are available in docket FMCSA–2007–28055, and FMCSA's May 1, 2007, announcement that participating carriers will be required to comply with all rules issued in response to section 350 (in addition to full compliance with all safety regulations applicable to U.S.-domiciled motor carriers), the Agency believes the provision in the 2007 supplemental appropriations act mandating that the demonstration project satisfy the requirements of section 350 has already been satisfied. The Agency requests public comment on this issue.

Section 6901(a)—Fulfilling the Requirements of 49 U.S.C. 31315

Section 4007 of the Transportation Equity Act for the 21st Century (TEA–21) amended 49 U.S.C. 31136(e) and 31315 concerning the Secretary of Transportation's authority to grant waivers from the Federal Motor Carrier Safety Regulations (FMCSRs) for those seeking regulatory relief from those requirements. With the enactment of TEA–21, FMCSA may grant a waiver or exemption that relieves a person from compliance in whole or in part with a regulation if the Agency determines that the waiver is in the public interest, and the waiver or exemption would be likely to achieve a level of safety equivalent to, or greater than, the level that would be achieved by complying with the applicable regulation. Section 4007 of TEA–21 also permits FMCSA to conduct pilot programs to evaluate alternatives to regulations relating to motor carrier, commercial motor vehicle (CMV), and driver safety.[1]

In a pilot program, the FMCSA collects specific data for evaluating alternatives to the regulations or innovative approaches to safety while ensuring that the safety performance goals of the regulations are satisfied. A pilot program may not last more than 3 years. The number of participants in a pilot program must be large enough to ensure statistically valid findings. Pilot programs must include an oversight plan to ensure that participants comply with the terms and conditions of participation, and procedures to protect the health and safety of study participants and the general public. As part of a pilot program, temporary regulatory relief from one or more FMCSR may be given to a person or class of persons subject to the regulations, or a person or class of persons who intend to engage in an activity that would be subject to the regulations. During the pilot program, these participants would be given an exemption from one or more sections or parts of the regulations.

The FMCSA believes the requirement that the demonstration project satisfy the pilot program statutory provision is satisfied through the May 1, 2007, notice, and the additional details contained in this notice. The Agency notes that during the demonstration project participating Mexico-domiciled motor carriers would not be provided with relief from any of the rules implementing section 350, or any of the safety regulations.

Section 6901(b)(2)(B) of the Act

Section 6901(b)(2)(B) of the Act provides that FMCSA must request public comment on five specific aspects of the demonstration project. For the convenience of the reader, these items are listed below. A complete copy of section 6901 is included in the docket FMCSA–2007–28055.

(1) Comprehensive data and information on the pre-authorization safety audits (PASAs) conducted before and after the date of enactment of this Act of motor carriers domiciled in Mexico that are granted authority to operate beyond the United States municipalities and commercial zones on the United States-Mexico border;

(2) Specific measures to be required to protect the health and safety of the public, including enforcement measures and penalties for noncompliance;

(3) Specific measures to be required to ensure compliance with section 391.11(b)(2) of title 49, CFR, concerning FMCSA's English language proficiency requirement, and section 365.501(b) of title 49, CFR, concerning FMCSA's prohibition against Mexico-domiciled drivers engaging in the transportation of domestic freight within the U.S.;

(4) Specific standards to be used to evaluate the pilot program and compare any change in the level of motor carrier safety as a result of the pilot program; and

(5) A list of Federal motor carrier safety laws and regulations, including the commercial driver's license (CDL) requirements, for which the Secretary of Transportation will accept compliance with a corresponding Mexican law or regulation as the equivalent to

[1] On August 20, 2004, FMSCA published a final rule implementing section 4007.

compliance with the United States law or regulation, including for each law or regulation an analysis as to how the corresponding United States and Mexican laws and regulations differ.

FMCSA Approach for Fulfilling the Requirements of Section 6901(b)(2)(B) of the Act

Comprehensive Data and Information on Pre-Authorization Safety Audits

As noted above, section 6901(b)(2)(B)(i) of the Act requires FMCSA to publish comprehensive data and information on the PASAs conducted before and after the date of enactment of this Act of motor carriers domiciled in Mexico that are granted authority to operate beyond the United States municipalities and commercial zones on the United States-Mexico border. No carriers have yet been granted authority to operate beyond the municipalities and commercial zones as part of this demonstration project. Consequently, at this time there is no requirement to publish data or information from any of the PASAs conducted. Nonetheless, FMCSA has chosen to go ahead and publish data and information relating to all PASAs conducted to date.

The FMCSA includes one table in the text of this notice and three additional tables at the end of this **Federal Register** notice. Table 1 below outlines the specific U.S. and Mexican regulations in the three areas where the Mexican regulations or processes are being accepted as meeting U.S. requirements.

Table 2 contains general information on the PASAs the Agency completed before the enactment of the Act, and any completed since then. Table 3 contains the results of each applicant's PASA, if applicable. Table 4 contains data about each applicant's PASA, if applicable. The first three columns of tables 2, 3, and 4 are the same in each table for the ease of the reader. The information for all three tables is in USDOT number order. Applicants who had not been issued a presumptive USDOT number as of May 31, 2007 are listed at the end of the table. Rows 1 through 107 on each of the three tables applies to the same motor carrier applicant. For example, row 6 contains information for David Klassen Peters, USDOT Number 556741 on tables 2, 3, and 4. A narrative description of each column heading contained within tables 2, 3, and 4 is provided below:

A. *Column A—Row:* Sequential number for ease of reading across tables 2, 3, and 4. Row 6 contains all the information for the same motor carrier split across the three tables. FMCSA has repeated this column on tables 2, 3, and 4.

B. *Column B—Name of Carrier:* The legal name of the Mexico-domiciled motor carrier that applied for authority to operate in the United States (U.S.) beyond the municipalities and commercial zones and was considered for participation in the cross border demonstration project. FMCSA has repeated this column on tables 2, 3, and 4.

C. *Column C—US DOT Number:* The identification number presumptively assigned to the Mexico-domiciled motor carrier and required to be displayed on each side of the power unit. If granted provisional operating authority, the Mexico domiciled motor carrier will be required to add the suffix ''X'' to the ending of its assigned U.S. DOT Number. FMCSA has repeated this column on tables 2, 3, and 4.

D. *Column D—PASA Scheduled:* The date the PASA was scheduled to be initiated.

E. *Column E—PASA Completed:* The date the PASA was completed.

F. *Column F—PASA Results:* The results upon completion of the PASA. The PASA undergoes a quality assurance review prior to approval. The quality assurance process involves a dual review by the FMCSA Division Office Supervisor of the Auditor assigned to conduct the PASA and the FMCSA Service Center New Entrant Specialist designated for the specific FMCSA Division Office. The dual review ensures the successfully completed PASA was conducted in accordance with FMCSA policy, procedures and guidance. Upon approval the PASA is uploaded into the FMCSA Motor Carrier Management Information System (MCMIS). The PASA information and results are then recorded in the Mexico-domiciled motor carrier's safety performance record in MCMIS.

1. ''Passed'' status refers to a motor carrier that has successfully completed the PASA and the quality assurance process and is listed as approved in MCMIS.

2. ''Pending'' status refers to a motor carrier that has successfully completed a PASA, but the results are pending FMCSA approval through the quality assurance review.

3. ''Failed'' status refers to a motor carrier for which FMCSA was unable to verify one or more of the five mandatory elements in Part 365, Subpart E, Appendix A, Section III; or a motor carrier that has inadequate basic safety management controls in three or more factors set forth in Part 365, Subpart E, Appendix A, Section IV(f).

4. ''Withdrew'' status refers to a motor carrier that, after being contacted by the Safety Auditor, has chosen to withdraw from participating in the cross border demonstration project, or has withdrawn its application required to obtain authority to operate beyond the municipalities and commercial zones.

5. ''Unable to contact'' status refers to a motor carrier that the assigned FMCSA Safety Auditor has been unable to contact based on the information submitted or filed by the motor carrier in its application.

G. *Column G—FMCSA Register:* The date the publication notice was generated in the FMCSA Register of a successfully completed PASA. The FMCSA Register notice advises interested parties that the application has been preliminarily granted and that protests to the application must be filed within 10 days of the publication date. Protests are filed with FMCSA Headquarters in Washington, DC. The FMCSA Register can be viewed by going to: *http://li-public.fmcsa.dot.gov/LIVIEW/pkg_html.prc_limain* and then selecting ''FMCSA Register'' from the drop-down box in the upper right corner of the screen. The notice in the FMCSA Register lists the following information:

1. Current registration number (e.g., MX–123456);

2. Date the notice was filed in the FMCSA Register;

3. The applicant name and address, and 4.Representative or contact information for the applicant.

H. *Column H—Drivers Identified Who Motor Carrier Intends to Operate in the United States:* The total number of drivers the motor carrier intends to operate in the United States.

I. *Column I—Vehicles Identified Which Motor Carrier Intends to Operate in the United States:* The total number of power units the motor carrier intends to operate in the United States.

J. *Column J—Passed Verification 5 Elements (Yes/No):* A Mexico-domiciled motor carrier will not be granted provisional operating authority if FMCSA cannot verify all of the following five mandatory elements. FMCSA must:

1. Verify a controlled substances and alcohol testing program consistent with 49 CFR part 40.

2. Verify a system of compliance with hours-of-service rules consistent with 49 CFR part 395, including recordkeeping and retention;

3. Verify proof of financial responsibility consistent with 49 CFR part 387;

4. Verify records of periodic vehicle inspections consistent with 49 CFR part 396; and

5. Verify the qualifications of each driver the carrier intends to use under such authority, as required by parts 383 and 391, including confirming the validity of each driver's Licencia Federal de Conductor.

K. *Column K—If Motor Carrier Failed Pre-Authorization Safety Audit, Which Element(s) Failed:* If FMCSA could not verify one of the five mandatory elements outlined in Part 365, Appendix A, Section III, this column will specify which mandatory element(s) could not be verified.

Please note that for columns L through P below and shown on table 3 at the end of this notice, during the PASA, after verifying the five mandatory elements discussed in column J above and also shown on table 3, FMCSA will gather additional information. The additional information FMCSA will gather is to review a motor carrier's compliance with ''acute and critical'' regulations of the FMCSRs and Hazardous Materials Regulations (HMRs). This is nearly identical to new entrant audits and compliance reviews of U.S.- and Canada-domiciled motor carriers, except for those statutory provisions unique to Mexico-domiciled motor carriers. Acute regulations are those where noncompliance is so severe as to require immediate corrective actions by a motor carrier regardless of the overall basic safety management controls of the motor carrier. Critical regulations are those where noncompliance relates to management and/or operational controls. These are indicative of breakdowns in a carrier's management controls. A list of acute and critical regulations is included in part 385, Appendix B, Section VII.

Parts of the FMCSRs and HMRs having similar characteristics are combined together into six regulatory areas called ''factors.'' The regulatory factors are intended to evaluate the adequacy of carrier's management controls.

Factor 5 relates to the transportation of hazardous materials and was omitted below, as Mexico-domiciled motor carriers that transport hazardous materials are not permitted to participate in the cross border demonstration project.

L. *Column L—Passed Phase 1, Factor 1:* A ''yes'' in this column indicates the carrier has successfully met Factor 1 (listed in Part 365, Subpart E, Appendix A, Section IV(f)). Factor 1 includes the General Requirements outlined in Parts 387 (Minimum Levels of Financial Responsibility for Motor Carriers) and 390 (Federal Motor Carrier Safety Regulations-General).

M. *Column M—Passed Phase 1, Factor 2:* A ''yes'' in this column indicates the carrier has successfully met Factor 2, which includes the Driver Requirements outlined in Parts 382 (Controlled Substances and Alcohol Use and Testing), 383 (Commercial Driver's License Standard; Requirements and Penalties) and 391 (Qualifications of Drivers and Longer Combination Vehicle (LCV) Driver Instructors).

N. *Column N—Passed Phase 1, Factor 3:* A ''yes'' in this column indicates the carrier has successfully met Factor 3, which includes the Operational Requirements outlined in Parts 392 (Driving of Commercial Motor Vehicles) and 395 (Hours of Service of Drivers).

O. *Column O—Passed Phase 1, Factor 4:* A ''yes'' in this column indicates the carrier has successfully met Factor 4, which includes the Vehicle Requirements outlined in Parts 393 (Parts and Accessories Necessary for Safe Operation) and 396 (Inspection, Repair and Maintenance) and vehicle inspection and out-of-service data for the last 12 months.

P. *Column P—Passed Phase 1, Factor 6:* A ''yes'' in this column indicates the carrier has successfully met Factor 6, which includes Accident History. This factor is the recordable accident rate per million miles traveled during the past 12 months. A recordable ''accident'' is defined in 49 CFR 390.5, and means an accident involving a commercial motor vehicle operating on a public road in interstate or intrastate commerce which results in: A fatality; a bodily injury to a person who, as a result of the injury, immediately received medical treatment away from the scene of the accident; or one or more motor vehicles incurring disabling damage as a result of the accident requiring the motor vehicle to be transported away from the scene by a tow truck or other motor vehicle.

Note: If the Mexico-domiciled motor carrier has successfully met all five mandatory elements, but the PASA reveals the motor carrier has inadequate basic safety management controls in at least three separate factors, the motor carrier will fail the PASA and not be granted provisional operating authority.

Q. *Column Q—Number of Vehicles Inspected Which Carrier Intends to Operate in the US:* The total number of vehicles (power units and trailers) the motor carrier intends to operate in the United States that received a vehicle inspection during the PASA. During a PASA, FMCSA inspected available vehicles that did not display a current Commercial Vehicle Safety Alliance (CVSA) inspection decal. This number reflects the vehicles that were inspected.

R. *Column R—Number of Vehicles Issued CVSA Decal During PASA Which Carrier Intends to Operate in the US:* The total number of inspected vehicles (power units and trailers) the motor carrier intends to operate in the United States that received a CVSA inspection decal as a result of an inspection during the PASA.

S. *Column S—Number of Vehicles Displaying Current CVSA Decal During PASA Which Carrier Intends to Operate in the US:* The total number of vehicles (power units and trailers) the motor carrier intends to operate in the United States that displayed a current Commercial Vehicle Safety Alliance (CVSA) inspection decal at the time of the PASA.

T. *Column T—Controlled Substances Collection:* Refers to the applicability and/or country of origin of the controlled substance and alcohol collection facility contracted to use/or will be used by a motor carrier who has successfully completed the PASA.

1. ''US'' means the controlled substance and alcohol collection facility is based in the United States.

2. ''MX'' means the controlled substance and alcohol collection facility is based in Mexico. Currently there are not any collection facilities certified in Mexico to collect controlled substance and alcohol specimens in accordance with 49 CFR part 40.

3. ''Non-CDL'' means that during the PASA, FMCSA verified that the motor carrier is not utilizing commercial motor vehicles subject to the commercial driver's license requirements as defined in 49 CFR 383.5 (Definition of Commercial Motor Vehicle).

Note: Any motor carrier that does not operate commercial motor vehicles as defined in § 383.5 is not subject to controlled substance and alcohol testing requirements.

U. *Column U—Name of Controlled Substances and Alcohol Collection Facility:* ''Name of Controlled Substances and Alcohol Collection Facility'' is the name and location of the U.S. drug and alcohol collection facility for a Mexico-domiciled motor carrier who has successfully completed the PASA.

Measures To Protect the Health and Safety of the Public

The FMCSA has developed an extensive oversight system to protect the health and safety of the public and FMCSA will apply it to Mexico-domiciled motor carriers. These measures are outlined in 49 CFR parts 350–396 and include providing grants to States for commercial vehicle enforcement activities, regulations

outlining the application procedures, regulations explaining how FMCSA will assess safety ratings and civil penalties as well as amounts of possible civil penalties, insurance requirements, drug and alcohol testing requirements, commercial driver's license (CDL) requirements, general operating requirements, driver qualification requirements, vehicle parts and maintenance requirements, and hours-of-service requirements. These requirements apply to Mexico-domiciled carriers operating in this demonstration project, just as they do to any commercial motor vehicle, driver, or carrier operating in the United States. The description below is limited to the main features of FMCSA's system to protect the health and safety of the public during this demonstration project, but is not intended to imply that all regulations outlined above do not apply at all times.

Application Process

The process begins with a 28-page application that gathers specific information about the carrier, its affiliations, its insurance, its safety programs, and its compliance with U.S. laws. In addition to providing general information, the carrier must complete up to 35 safety and compliance certifications and provide information regarding its systems for monitoring hours-of-service and accidents and complying with DOT drug and alcohol testing requirements.

Pre-Authorization Safety Audits

The next step in the oversight system is the PASA. Upon completion of the application and its review, FMCSA will then schedule a PASA. The PASA evaluation process developed by the FMCSA is used to evaluate safety management controls and determine if a Mexico-domiciled carrier and each driver is able to operate safely in the United States. It also identifies motor carriers and drivers that have safety problems and need to improve their compliance with the FMCSRs, before FMCSA grants the carrier's provisional authority to operate beyond the U.S. municipalities and commercial zones on the US-Mexico international border.

The PASA will be conducted at the carrier's principal place of business in Mexico in accordance with the procedures in Appendix A to Subpart E of Part 365. The carrier will not be granted provisional operating authority unless FMCSA can:

(1) Verify a controlled substances and alcohol testing program consistent with DOT requirements in 49 CFR part 40;

(2) Verify a system of compliance with FMCSA's hours-of-service rules in 49 CFR part 395, including recordkeeping and retention;

(3) Verify proof of financial responsibility;

(4) Verify records of periodic vehicle inspections; and

(5) Verify the qualifications of each driver the carrier intends to assign to operate under such authority, as required by 49 CFR parts 383 and 391, including confirming the validity of each driver's Licencia Federal de Conductor.

Upon verification of the five essential elements listed above, FMCSA will then:

(1) Verify performance data and safety management programs;

(2) Review data concerning the carrier's safety history, and other information necessary to determine the carrier's preparedness to comply with the Federal Motor Carrier Safety Regulations, 49 CFR parts 382 through 399,

(3) Inspect commercial motor vehicles to be used under provisional operating authority, if any of these vehicles do not display a current Commercial Vehicle Safety Alliance (CVSA) inspection decal required by 49 CFR 385.103(d);

(4) Evaluate the carrier's safety inspection, maintenance, and repair facilities or management systems, including verification of records of periodic vehicle inspections; and

(5) Interview carrier officials to review safety management controls and evaluate any written safety oversight policies and practices.

In addition to sampling records for compliance, FMCSA will also compile a list of vehicles and drivers the carrier intends to use in the U.S. and will conduct vehicle inspections of any trucks and trailers intended to be used in the U.S. which does not display a current CVSA inspection decal. Once all this information is collected and/or verified, it will then be evaluated according to the criteria set forth in Section IV of Appendix A to Subpart E of part 365. The results of the PASA are reviewed at the FMCSA Division Office where the auditor is assigned and the respective FMCSA Service Center for that Division office. Upon approval by the Division Office and Service Center, the PASA is uploaded into FMCSA's information system (MCMIS).

FMCSA Register—Public Comment

If the carrier has passed the PASA, FMCSA will publish the carrier's request for authority in the FMCSA Register. The FMCSA Register can be viewed by going to: *http://li-public.fmcsa.dot.gov/LIVIEW/pkg_html.prc_limain* and then selecting ''FMCSA Register'' from the drop-down box in the upper right corner of the screen. Any member of the public may, within ten days of publication in the FMCSA Register, protest the carrier's application before the Agency on the grounds that the carrier is not fit, willing, or able to provide the transportation services for which it has requested approval.[2] FMCSA will consider all protests before determining whether to grant provisional operating authority. Under FMCSA regulations, all motor carriers receive provisional operating authority for 18 months after receiving a USDOT number and are subject to enhanced safety scrutiny during the provisional operating period.

Financial Responsibility and Process Agent Filing Requirements

If FMCSA grants the carrier's application, it will not issue provisional operating authority until:

(1) An insurance company licensed in the United States files with FMCSA verification that the carrier maintains the legally required level of public liability insurance coverage; and

(2) The carrier provides FMCSA with a list of agents for the service of legal process for each State in which the carrier will operate.

Limitation on Authority

Carriers that successfully complete the PASA will receive provisional operating authority to provide long-haul transportation in the U.S. under this demonstration program. However, their authority will be limited in several ways compared to U.S.-domiciled carriers. They will not be permitted to transport hazardous materials or passengers, and they will not be permitted to provide point-to-point transportation while operating in the United States.

In addition, as a condition of participating in the demonstration program, Mexico-domiciled motor carriers must sign a form that allows FMCSA to revoke their authority.

Cross Border Monitoring

Any carrier that receives provisional operating authority to provide transportation outside the commercial zone will be subject to inspection each time it crosses the border. Because these vehicles will have a DOT number that ends in an ''X,'' they will be easily identifiable to FMCSA, State, or Customs and Border Protection staff. All

[2] See 49 CFR 365.201 through 365.207 on how to oppose requests for FMCSA provisional operating authority.

commercial motor vehicles used by a Mexican carrier with long-haul authority will be required to have current CVSA inspection decals at all times when operating in the U.S. The CVSA inspection decal is evidence that the vehicle passed a comprehensive 38-point inspection within the past 90 days. When crossing the border these trucks will, at a minimum, be checked to verify that the driver is properly licensed and that the vehicle displays a current CVSA inspection decal. If the vehicle lacks a current decal, the driver and vehicle will receive a comprehensive inspection and will not be permitted to proceed unless both the driver and vehicle pass this inspection.

License checks will be conducted through the Mexican LFIS (Licencias Federales de Conductor Information System) database and the FMCSA repository of Mexican driver convictions while in the U.S., known as the ''52nd State'' system. Any driver who is not properly licensed in the Mexican database will not be allowed to provide transportation in the U.S. In addition, any Mexican driver with traffic convictions in the U.S. that would have resulted in disqualification from driving a commercial motor vehicle under 49 CFR 383.51 will be prohibited from providing transportation in the U.S.

In addition to the check of the CVSA inspection decal and Mexican drivers' licenses described above, all vehicles used by a carrier with long-haul authority will be subject to more comprehensive driver inspections, walk-around inspections, or full vehicle inspections. During 2006, FMCSA and its State partners performed over 210,000 inspections of Mexican vehicles entering the U.S.

On-Going Monitoring

The FMCSA will be providing on-going performance monitoring of carriers participating in the demonstration project. Monitoring will include checking the carrier's compliance during cross-border and roadside inspections as well as any vehicle crashes that occur in the United States. The FMCSA will conduct a compliance review if the carrier is flagged as high-risk in FMCSA's SafeStat [3] system. In addition, 49 CFR 385.105 sets forth certain violations and conditions that, if discovered, will prompt FMCSA to conduct a compliance review or require the carrier to provide written response demonstrating corrective action. These conditions include:

- Using a driver not possessing or operating with a valid Licencia Federal de Conductor (an invalid Licencia Federal de Conductor includes one that is falsified, revoked, expired or missing a required endorsement),
- Operating vehicles that have been placed out of service for violations of the CVSA North American Standard Out-of-Service Criteria without making repairs,
- Using a driver who tests positive for controlled substances or alcohol or who refuses to submit to testing,
- Operating within the U.S. without valid insurance, or
- Having a driver or vehicle out-of-service rate of more than 50 percent based on at least three inspections occurring within a consecutive 90-day period.

Compliance Reviews

The FMCSA may conduct a compliance review on a motor carrier for a variety of reasons including but not limited to:

- The carrier is identified as being ''high-risk'' based on FMCSA's SafeStat system,
- The carrier is the subject of a non-frivolous complaint,
- FMCSA discovers one or more of 11 violations during a pre-authorization safety audit that requires a compliance review.

Carriers participating in the demonstration project will be subject to compliance reviews for the above conditions, as would any other carrier operating in the U.S.

The compliance review is an in-depth examination of a carrier's safety management practices. During the compliance review the FMCSA investigator will look at the carrier's compliance with all applicable regulations including driver qualifications, hours of service, drug and alcohol testing, insurance, maintenance, and operating authority. The compliance review will result in a safety rating based on five factors [4] as outlined in Appendix B to Part 385.

Penalties

Any Mexico-domiciled carrier operating as part of this demonstration program will immediately be subject to suspension and revocation of its registration if it receives an Unsatisfactory safety rating. Any Mexico-domiciled carrier that receives a Conditional safety rating as a result of a compliance review will have its authority revoked unless it can demonstrate corrective action within 30 days. In addition, any carrier in the demonstration project will have its authority suspended if it fails to maintain insurance on file with FMCSA. Any vehicles found operating in the United States by a carrier without active operating authority will be placed out of service.

In addition to loss of authority for less than satisfactory safety ratings or absence of insurance, drivers and carriers participating in the demonstration project, like all commercial motor vehicle drivers and motor carriers operating in the U.S., are subject to civil penalties for violations of the Federal Motor Carrier Safety Regulations. The amounts of the civil penalties are laid out in Appendices A and B to 49 CFR Part 386 and include:

- Up to $2,100 per violation for operating a vehicle after being placed out of service (driver),
- Up to $16,000 per violation for requiring or permitting a driver to operate a vehicle after being placed out of service (carrier),
- Up to $550 per day for each recordkeeping violation, up to $5,500,
- Up to $5,500 for knowingly falsifying documents,
- Up to $11,000 for each non-recordkeeping violation [5]
- Up to $3,750 for each violation of the CDL regulations,
- Up to $16,000 for each violation of financial responsibility (insurance) regulations.

Finally, FMCSA has the authority under 49 U.S.C. 521(b)(5) to shut down any vehicle, driver, or carrier operation, whether U.S., Canadian, or Mexican, whose regulatory violations are so serious that they constitute an imminent hazard.

Measures to Ensure Compliance with 49 CFR 391.11(b)(2) and 365.501(b)

English proficiency

Section 391.11(b)(2) requires drivers operating commercial motor vehicles, as defined in 49 CFR 390.5, in interstate commerce to be able to ''read and speak the English language sufficiently to converse with the general public, to understand highway traffic signs and signals in the English language, to respond to official inquiries, and to

[3] SafeStat (short for Motor Carrier Safety Status Measurement System) is an automated, data driven analysis system designed by FMCSA. For more information, see *http://ai.fmcsa.dot.gov/safestat/disclaimer.asp?RedirectedURL=/safestat/safestatmain.asp.*

[4] While there are 6 factors considered in determining a motor carrier's safety rating, only 5 will be applicable to carriers operating in the demonstration project because transportation of hazardous materials will not be authorized.

[5] Violations of the English proficiency and cabotage rules are both non-recordkeeping violations.

make entries on reports and records.'' CVSA recently adopted English proficiency as a part of its North American Standard Out-of-Service criteria; CVSA gave the States guidance on this matter.

FMCSA and its State partners will check each driver and vehicle entering the U.S. as part of this demonstration project. During that check, which will include verification of a current CVSA decal on the vehicle and the driver's Mexican CDL, inspectors will interact with the driver in English. If there appears to be a communication problem, the driver will be directed to a secondary inspection site where a full driver inspection will be conducted. If this inspection results in a finding the driver does not speak sufficient English to satisfy the regulation, the violation will be cited on the inspection report and the driver will be placed out-of-service. English proficiency will also be evaluated during any other vehicle inspections occurring in the U.S. and will likewise result in an out-of-service order if the driver can not meet the requirements of this section.

Prohibition Against Point-to-Point Transportation Services Within the U.S.

Section 365.501(b) requires that ''a Mexico-domiciled carrier may not provide point-to-point transportation services, including express delivery services, within the United States for goods other than international cargo.'' The transportation of domestic freight between points in the United States is known as ''cabotage.''

The provisional operating authority granted to a Mexican domiciled motor carrier to operate beyond the commercial zone is limited to the transportation of international freight. Therefore, a carrier providing point-to-point transportation services in the U.S. is operating beyond the scope of its operating authority and is in violation of 49 CFR 392.9a(a). Commercial vehicles found to be operating beyond the scope of the carrier's provisional operating authority will be placed out of service, and the motor carrier may be subject to penalties.

The FMCSA has trained all State truck inspectors in the enforcement of operating authority restrictions and conducted significant outreach to the law enforcement community to ensure they are aware of these provisions and that they will examine MX trucks to determine if they are violating these restrictions. Additionally, we have and will continue to provide training to State and local law enforcement agencies on conducting roadside vehicle/driver traffic stops and detecting cabotage violations during stops of commercial motor vehicles for traffic violations. This training, aimed at law enforcement agents who are not full-time truck inspectors, but may encounter a Mexican truck during a traffic stop, is being conducted in association with the International Association of Chiefs of Police.

The FMCSA's training on enforcement of operating authority has been successful. In 2006 the Southern border States (California, Arizona, New Mexico, and Texas) discovered 2,328 instances (from 951,229 inspections) where a Mexico-domiciled carrier was found to be operating outside the scope of its operating authority. While these carriers may have been operating outside the scope of their authority for reasons other than cabotage (i.e., operating beyond the commercial zones or having not received authority), this data shows State and Federal enforcement personnel are enforcing this regulation.

The Agency will also use records like logbooks and associated supporting documents, such as bills of lading, during compliance reviews to determine if a Mexican carrier has operated beyond the scope of its authority by engaging in cabotage.

Specific Standards to be Used to Evaluate the Pilot Program

The Secretary has appointed a panel of three transportation experts to assess the safety performance of Mexico-domiciled carriers operating beyond the border commercial zone in the United States. The team is Mortimer L. Downey III, former Deputy Secretary of Transportation, Kenneth M. Mead, former DOT Inspector General, and James T. Kolbe, former U.S. Congressman from Arizona. The FMCSA has entered into a Memorandum of Understanding (MOU) with the Research and Innovative Technology Administration's Transportation Safety Institute (TSI) to provide independent management of the project.

The evaluation will provide an assessment of whether the safety performance of Mexico-domiciled carriers operating beyond the border commercial zone in the U.S. differs from the performance exhibited by U.S.-domiciled carriers. Specifically, the evaluation will focus on answering the following five key safety questions:

- Are the available crash data for Mexico-domiciled carriers participating in the project statistically different from comparable U.S.-domiciled carriers?
- Do Mexico-licensed commercial drivers pose a greater risk to the traveling public than U.S. CDL holders in terms of demonstrated unsafe driving practices, such as speeding, improper lane changes, controlled substances use/alcohol misuse?
- Are the trucks operated by Mexico-domiciled motor carriers maintained at levels similar to those of U.S.-domiciled carriers, or do they have higher out-of-service rates?
- In the course of conducting PASAs, did FMCSA detect violations of the 11 critical safety regulations in any greater proportion than found in new entrant audits of U.S.-domiciled carriers?
- What other safety problems are being experienced by enforcement personnel and others in the course of implementing the demonstration project?

Crash Rate (Recordable Crashes Per Million Miles)

Consistent with the New Entrant Safety Assurance Process, the evaluation will consider whether the crash rate of a participating carrier is indicative of a carrier with inadequate basic safety management controls.

Driver Behavior (Violations for Unsafe Driving Practices)

The evaluation will assess the number of moving violations, such as excessive speed and unsafe lane changes, and for violations of regulations relating to licenses, hours of service, and controlled substances use/alcohol misuse, compared to the national average for U.S.-domiciled driver.

Violation/Driver Safety Compliance (Number of Out-of-Service Orders)

The evaluation will assess the number of times a motor carrier's drivers or vehicles are placed out of service for violations of the FMCSRs or compatible State laws and regulations, compared to the average for U.S. carriers.

Carrier Safety Compliance (Number of Pre-Authorization Safety Audit Violations)

Using carrier PASA data, the evaluation will assess the number of carriers that had violations of 11 critical safety regulations, compared to the average found for U.S. carriers. The FMCSA has determined that a violation of any of the following 11 critical regulations is so significant that it merits failure of the safety audit:

1. Failing to implement an alcohol and/or controlled substances testing program.

2. Using a driver who has refused to submit to an alcohol or controlled substances test required under 49 CFR part 382.

3. Using a driver known to have tested positive for a controlled substance.

4. Knowingly allowing, requiring, permitting, or authorizing an employee with a CDL which is suspended, revoked, or canceled by a State or who is disqualified to operate a commercial motor vehicle.

5. Knowingly allowing, requiring, permitting, or authorizing a driver to operate a commercial motor vehicle while the driver is disqualified.

6. Operating a commercial motor vehicle without having in effect the required minimum levels of financial responsibility.

7. Using a disqualified driver.

8. Using a physically unqualified driver.

9. Failing to require a driver to make a record of duty status.

10. Requiring or permitting the operation of a commercial motor vehicle declared ''out of service'' before repairs are made.

11. Using a commercial motor vehicle that has not been periodically inspected.

Carrier Safety Compliance (Number of Post-Authorization Safety Audit Violations)

The evaluation will consider the number of violations of critical safety regulations found when a safety audit is triggered by operating violations, compared to the average found for U.S. carriers. Following the PASA, few carriers are expected to be cited for violations. However, under 49 CFR 385.105, violations of six regulations, identified through roadside inspections or any other established means, may subject the Mexico-domiciled carrier to an expedited safety audit, compliance review, or submission of evidence of correcting the deficiency. The six violations include:

1. Using a driver without a valid license.

2. Using a vehicle that has been placed out of service without completing the required repairs.

3.Involvement in, due to an act or omission of the carrier, a hazardous materials incident within the U.S.

4.Using a driver who tests positive for controlled substances or alcohol or refuses to submit to required tests.

5.Operating in the U.S. without the required minimum levels of financial responsibility.

6.Having a driver or vehicle out-of-service rate of 50 percent or more, based on at least three inspections occurring within a 90 consecutive-day period.

List of Federal Motor Carrier Safety Laws and Regulations for Which FMCSA Will Accept Compliance With a Corresponding Mexican Law or Regulation

The Secretary of Transportation will accept only three areas of Mexican regulations as being equivalent to United States regulations. The first area is the regulations governing Mexican Commercial Driver's Licenses (CDL). The U.S. acceptance of a Mexican CDL, known as the Licencia Federal de Conductor, dates back to November 21, 1991, when the Federal Highway Administrator determined that the Mexican CDLs are equivalent to the standards of the U.S. regulations. Mexico will disqualify a driver's CDL for safety infractions or testing positive for the use of drugs. However, since Mexico's *disqualification* standards are not *identical* to U.S. standards, FMCSA, working with the States, has developed a system to monitor the performance of Mexican drivers while in the U.S. and take steps to disqualify these drivers if they incur violations that would result in a U.S. driver's license being suspended. Therefore, the U.S. is not relying solely on Mexico's disqualification standards, but is imposing its own standards in addition to any disqualifications that may be taken by the Mexican government.

Second, the Secretary of Transportation will also consider that physical examinations conducted by Mexican doctors and drug testing specimens collected by Mexican collection facilities are equivalent to examinations and test specimens conducted or collected in the United States. In Mexico, in order to obtain the Licencia Federal de Conductor a driver must meet the requirements established by the Ley de Caminos, Puentes y Autotransporte Federal (LCPAF or Roads, Bridges and Federal Motor Carrier Transportation Act) Article 36, and Reglamento de Autotransporte Federal y Servicios Auxiliares (RAFSA, or Federal Motor Carrier Transportation Act) Article 89, which state a Mexican driver must pass the medical exam performed by Mexico's Secretariat of Communications and Transportation (SCT), Directorship General of Protection and Prevention Medicine in Transportation (DGPMPT). This is the same medical exam performed on applicants in all modes of transportation (airline pilots, merchant mariners, and locomotive operators). It is conducted by government doctors instead of the private physicians performing the examination on U.S. drivers.

Third, controlled substances testing in Mexico is also conducted by personnel from Mexico's SCT. The U.S. DOT and SCT have a Memorandum of Understanding (MOU) under which Mexico has agreed to collect drug testing specimens using U.S. specimen collection procedures and U.S. collection forms. The U.S. DOT has translated its drug testing collection forms into Spanish as part of this MOU. While to date all Mexican carriers that have undergone a PASA from the FMCSA are sending their drivers to U.S. collection facilities, the Secretary of Transportation would accept a drug test using a specimen collected in Mexico using our forms and procedures.

Table 1 below outlines the specific U.S. and Mexican regulations in the three areas where the Mexican regulations or processes are being accepted as meeting U.S. requirements.

TABLE 1

Description	United States	Mexico
Drug and Alcohol Testing Procedures—Random Testing.	• 49 CFR Part 382	• Requires random drug testing by motor carrier at a 50 percent rate. • Reglamento del Servicio de Medicina Preventiva del Transporte. • Government conducts random drug testing at terminals, ports of entry, and specific areas along corridors.

TABLE 1—Continued

Description	United States	Mexico
Drug and Alcohol Testing Procedures—Collection of Samples.	49 CFR Part 40 ..... • Collection of procedures outlined and detailed description of the custody.	• Reglamento del Servicio de Medicina Preventiva del Transporte. • DGPMPT–IT–02–01; DGPMPT–PE–02–F–01. •–DGPMPT–PE–02. • DGPMPT–IT–02–01 thru 08. • Collection procedures have been ISO certified. • The U.S. and Mexico have a Memorandum of Understanding that Mexico will, when collecting samples to satisfy U.S. drug testing regulations, use U.S. collection procedures and forms. These forms have been translated into Spanish and provided to Mexico.
Drug and Alcohol Testing Procedures—Laboratory Testing.	• 49 CFR Part 40 ..... • Laboratories approved by the U.S. Department of Health and Human Services.	Reglamento del Servicio de Medicina Preventiva del Transporte. • DGPMPT–PE–01–IE–01. • Regulations and procedures are equivalent to U.S. standards. • Laboratory is not certified due to lack of proper equipment and other procedural requirements.
Commercial Driver's License—Issuance.	• 49 CFR Part 383 ..... • Outlines the knowledge, skills and testing procedures required to obtain a commercial driver's license.	• Ley de Caminos, Puentes y Autotransporte Federal. • Articlos 89 y 90, Reglamento de Autotransportes Federal y Servicio Auxilares. • Driver must provide proof of medical qualification, proof of address, and training(both skills and knowledge). • Must be renewed every 2 years.
Commercial Driver's License—Disqualifications.	• 49 CFR Part 383 ..... • Outlines CDL disqualifications for major and serious traffic violations.	• Ley de Caminos, Puentes y Autotransporte Federal. • Reglamento del Servicio de Medicina Preventiva del Transporte. • Provides for the disqualification of drivers for major and serious traffic violations. • License can be canceled by a judge. • License can be canceled for three speeding violations in a one year period. • License can be canceled for leaving the scene of an accident without notifyingthe closest authority or abandoning the vehicle. • License can be canceled for altering the license. • License can be canceled for failing to a drug test. • License cannot be obtained after failing a drug test without proof of success completion of a rehabilitation program. • License can be suspended for failing to provide accurate information on application. • Cancellation is valid for 10 years—cannot obtain a license for 10 years.
Medical Standards	• 49 CFR Part 391 ..... • US—Requires a comprehensive physical and psychological examination. • Medical examination is not part of the CDL issuance process.	Reglamento del Servicio de Medicina Preventiva del Transporte. MX—Requires a comprehensive physical and psychological examination. • Medical Medical examination is a pre-requisite to obtaining a Licencia de Federal de Conductor. • Medical examination may be required while the driver is "in operation" (on duty) to determine if the driver is still qualified to drive.

Request for Comments

In accordance with the Act, FMCSA requests public comment from all interested persons on the Agency's plan for fulfilling the requirements of sections 6901(a) and 6901(b)(2)(B)(i) through (v). All comments received before the close of business on June 28, 2007 will be considered and will be available for examination in the docket at the location listed under the address section of this notice. Comments received after the comment closing date will be filed in the public docket and will be considered to the extent practicable. In addition to late comments, the FMCSA will also continue to file, in the public docket, relevant information that becomes available after the comment closing date. Interested persons should continue to examine the public docket for new material.

Issued: June 5, 2007.

John H. Hill,

Administrator.

BILLING CODE 4910–EX–P

Table 2 - Pre-Authority Safety Audit (PASA) Information as of May 31, 2007 (see also Tables 3 and 4)

Column A - Row	Column B - Name of Carrier	Column C - US DOT Number	Column D - PASA Scheduled	Column E - PASA Completed	Column F - PASA Result	Column G - FMCSA Register	Column H - Drivers Identified Who Motor Carrier Intends to Operate In the United States	Column I - Vehicles Identified Which Motor Carrier Intends to Operate in the United States
1	JUAN MARTIN RAMIREZ AMEZ	264875	3/19/2007	3/29/2007	Passed	4/20/2007	15	16
2	GLORIA A VAZQUEZ ZAMORA	527794			Withdrew			
3	MIGUEL ANGEL ORTIZ SALCIDO	554750			Withdrew			
4	FERNANDO PAEZ TREVINO	555188	2/22/2007	2/22/2007	Passed	3/2/2007	2	2
5	AUTO TRANSPORTES SAHORA DE B.C.	556258			Withdrew			
6	DAVID KLASSEN PETERS	556741	3/14/2007	3/14/2007	Passed	5/7/2007	1	2
7	ISAIAS VENEGAS CABRAL	556751	3/27/2007	3/28/2007	Failed			
8	LUIS EUSEBIO SALGADO ESQUER	557042	3/6/2007	3/6/2007	Passed	4/5/2007	6	5
9	FRANZ KLASSEN PETERS	557912	3/29/2007		Withdrew			
0	COMERCIAL EXPORTADORA JASO S A DE C V	557934			Withdrew			
11	JORGE EDUARDO VALENZUELA MORENO	557969	3/28/2007	3/28/2007	Passed	4/18/2007	1	1
12	LUCIANO PADILLA MARTINEZ	557972	4/3/2007	4/4/2007	Passed	4/20/2007	3	3
13	FRANCISCA BURGOS VIZCARRA	558189	3/12/2007	3/15/2007	Passed	4/19/2007	12	10
14	BUSTILLOS BUSTILLOS TRINIDAD	558551			Withdrew			
15	PETER SAWATSKY REIMER	558944			Unable to contact			
16	RICARDO CESAR MARTINEZ MONTEMAYOR	559560	2/22/2007	2/22/2007	Passed	3/10/2007	4	1
17	ORLANDO NEVID LOPEZ HERNANDEZ	559947	3/16/2007	3/16/2007	Passed	4/20/2007	1	1
18	JOSE DAVID RUVALCABA ADAME	563815	Pending					
19	ALFREDO SOLORIO TOLENTINO	635221	3/13/2007	3/13/2007	Passed	4/18/2007	6	6
20	TRANSPORTES RAFA DE BAJA CALIFORNIA, S.A. DE C.V.	650383	3/26/2007	3/29/2007	Passed		3	2
21	CESAR CARLOS CARDENAS KENNEDY	650891			Withdrew			
22	RAUL SOLORIO ORTIZ	650954	5/22/2007	5/30/2007	Passed	PENDING	4	2
23	JESUS PIMENTEL JIMENEZ	667250	4/23/2007	4/23/2007	Failed			
24	FLETES GARIBAY S.A. DE C.V.	677669	3/14/2007	3/16/2007	Passed	4/18/2007	3	4
25	JESUS ACEVES VELIZ AND MARTHA ROSA LINN	677760			Withdrew			
26	MADERAS NAVACHISTE SA DE CV	683397	Pending					
27	AGROCOSTA DE BAJA CALIFORNIA, S.A. DE C.V.	689752			Withdrew			
28	MALDONADO NAVARRO RAMIRO GUILLERMO	689788			Unable to contact			
29	RICARDO CRUZ II & ELMER KING ACOSTA	689896			Withdrew			
30	EFREN MORA HUERTERO	701224			Withdrew			
31	MEX DOOR, S.A. DE C.V.	709569			Unable to contact			
32	GOMEZ GARCIA JOSE LUIS	710473			Withdrew			
33	HIGIENICOS Y DESECHABLES DEL BAJIO, S.A. DE C.V.	710491	4/17/2007	4/19/2007	Passed	5/7/2007	3	3
34	ALEJANDOR FAVELA DURAN & MARIA DEL ROCIO RAMIREZ	711129						
35	SERVICIOS DE TRANSPORTACION JAGUAR S.A.	721671	3/15/2007	3/15/2007	Passed	5/7/2007	18	42
36	RICARDO ULLOA ZEPEDA & PORFIRIO ARMENTA MEZA	762120			Unable to contact			
37	JUAN RAMON GONZALEZ RODRIGUEZ	762655			Withdrew			
38	ROSA MARIA CASAS GRIJALBA	764031			Withdrew			
39	HOMERO BELTRAN AND ALFONSO DEL REAL MONTOYA	777182	3/12/2007	3/14/2007	Passed	4/17/2007	3	4
40	EDUARDO GOMEZ MORENO	803899			Withdrew			

Table 2 - Pre-Authority Safety Audit (PASA) Information as of May 31, 2007 (see also Tables 3 and 4)

Column A - Row	Column B - Name of Carrier	Column C - US DOT Number	Column D - PASA Scheduled	Column E - PASA Completed	Column F - PASA Result	Column G - FMCSA Register	Column H - Drivers Identified Who Motor Carrier Intends to Operate In the United States	Column I - Vehicles Identified Which Motor Carrier Intends to Operate in the United States
41	RUBEN DIAZ SOTO AND FERNANDO SAN PEDRO	804420			Withdrew			
42	RAUL VELEZ CASIAN	808238			Withdrew			
43	PATRICIA AGUILERA GARCIA	812376			Withdrew			
44	MATEO CARDENAS ARROYO AND GUSTAVO VEGA	812869	4/17/2007	4/17/2007	Passed	5/7/2007	13	12
45	FRANCISCO ULLOA MONTANO	817872	4/2/2007	4/10/2007	Passed	4/25/2007	7	7
46	SISTEMAS DE RIEGO DEL NORTE SA DE CV	822291	3/27/2007	3/27/2007	Failed			
47	CLEMENTE SALVADOR GARCIA FLORES	826231			Pending			
48	UBALDO RUIZ LOPEZ & FERNANDO SOSA LEMAN	845577			Withdrew			
49	HECTOR OBETH PIMENTEL GUERRERO	845669	5/1/2007	5/4/2007	Passed	N/A	5	1
50	DANIEL BERBER MERENDON	873296			Withdrew			
51	MARTINEZ AND SON'S S. DE R.L. DE C.V.	878948			Withdrew			
52	TJ INTERNATIONAL TRANSPORT S DE RL DE CV	879429			Unable to contact			
53	JUAN MANUEL MALDONADO TOPETE	879793	4/3/2007	4/4/2007	Passed	5/29/2007	3	3
54	RICARDO BRAVO MAR AND JACK CLAYTON CASNER	880852	4/17/2007	4/18/2007	Passed	5/4/2007	5	5
55	LEONEL FRANCISCO CORRADO, LEONEL CORRADO CARDENAS &TELMA MACIE	881712			Withdrew			
56	JOSE DE JESUS MORENO ROMO/EVA SALINAS DE HERNANDEZ	882059			Withdrew			
57	GONZALEZ GOMEZ JUAN FRANCISCO	882651			Withdrew			
58	EPIGMENIO GUZMAN VEGA	886988			Withdrew			
59	RODOLFO GONZALEZ MARTINEZ	905680	Pending					
60	CARLOS ALONSO ANAYA GARCIA	910501			Withdrew			
61	AUTO PARTES 2 DE ABRIL, S.A. DE C.V.	915569	Pending					
62	ALMA AURORA VILLARREAL HUERTA	924237	Pending					
63	ADRIAN A. OLMOS VILLARINO & JANETTE LINDA OLMOS	943126			Unable To Contact			
64	ROBERTO MONTEMAYOR CRUZ	951134	3/27/2007	3/28/2007	Passed	PENDING	2	2
65	LUNA LOPEZ JOSE MARTIN	960672			Unable To Contact			
66	EL SECTOR DE MONTERREY, S.A. DE C.V.	998122	Pending					
67	LAX FREIGHT DE MEXICO S DE R L	999539			Withdrew			
68	CARLOS RAMIREZ ALVARADO & RODOLFO RAMIREZ RUIZ	1015536			Withdrew			
69	OMAR VILLARREAL VILLARREAL	1040237			Unable to contact			
70	LUIS ALONSO GALLEGO BRISENO	1040617			Withdrew			
71	SERVICIOS REFRIGERADOS INTERNACIONALES SA DE CV	1052546	3/22/2007	3/22/2007	Passed	5/7/2007	5	5
72	MEXICANA DE TRASLADOS CALDERON SA DE CV	1054803	3/20/2007	3/21/2007	Passed	5/7/2007	1	2
73	ANGEL MONROY SANCHEZ	1054914			Withdrew			
74	M&H EXPRESS LINE S.A. D.E. C.V.	1055052			Unable to contact			
75	MARIA DEL CARMEN LOPEZ ARMENTA	1055053	4/3/2007	4/4/2007	Passed	4/20/2007	1	1
76	TRANSPORTES MONTEBLANCO SA DE CV	1059694	3/13/2007	3/13/2007	Passed	5/7/2007	2	1
77	SYLVIA RIOS ROQUE	1063804	Pending					
78	EDMUNDO JESUS GUAJARDO BURSIAN	1068315	3/28/2007	3/28/2007	Passed	5/7/2007	1	1
79	RICARDO JAIDREL RODRIGUEZ BOGARIN & DANIEL CARRILLORODRIGUEZ	1068792	4/4/2007	4/5/2007	Passed	5/1/2007	4	4
80	BENJAMIN DE LA TORRE QUIRARTE	1069031	3/28/2007	3/28/2007	Failed			

Table 2 - Pre-Authority Safety Audit (PASA) Information as of May 31, 2007 (see also Tables 3 and 4)

Column A - Row	Column B - Name of Carrier	Column C - US DOT Number	Column D - PASA Scheduled	Column E - PASA Completed	Column F - PASA Result	Column G - FMCSA Register	Column H - Drivers Identified Who Motor Carrier Intends to Operate In the United States	Column I - Vehicles Identified Which Motor Carrier Intends to Operate in the United States
81	DAVID LOEWEN FRIESSEN	1071404			Withdrew			
82	JOSE ENRIQUE PRIETO PAREDES	1072344	4/30/2007		Withdrew			
83	TRANSPORTES ESPECIALIZADOS GCH SA DE CV	1073853	Pending					
84	JOSE ANAYA ROMERO	1080131	4/25/2007	4/25/2007	Passed		1	1
85	MARIA DEL SOCORRO VALERIO LIZCANO	1082863	3/6/2007	3/6/2007	Passed	5/7/2007	1	1
86	RAUL REVELES LOPEZ	1083103	3/22/2007	3/22/2007	Passed	5/7/2007	2	2
87	GILDARDO MENDOZA CASILLAS	1097021			Withdrew			
88	AARON MARTINEZ RODRIGUEZ	1106234	Pending					
89	TRANSPORTES DE CARGA SANTOYO SA DE CV	1106825	4/18/2007	4/20/2007	Passed	PENDING	3	3
90	JAVIER FIDEL FELIX CASTRO	1108305			Withdrew			
91	REYNALDO LERMA ELIZONDO	1114525			Withdrew			
92	ELIZABETH GARCIA ARREDONDO	1119926			Withdrew			
93	LA OTRA DEL OJINAGA SA DE CV	1159371	3/11/2007	3/13/2007	Failed			
94	DESIERTO NORTE SA DE CV	1161732			Withdrew			
95	RAFAEL AGUIRRE RAMOS	1192670			Withdrew			
96	MORALES GONZALEZ JOSE JESUS	1227541	4/16/2007	4/16/2007	Failed			
97	JUVENTINO SANTILLAN DE LEON	1289339	Pending					
98	MARCO VINICIO PINEDA VILLEGAS	1292413	4/24/2007	4/24/2007	Passed	5/29/2007	1	1
99	LUIS ANTONIO VARGAS COLMENARES	1304855			Withdrew			
100	JUAN CANO OROZCO		Pending					
101	NANCY ROCIO GARZA REYES		Pending					
102	JAVIER QUINTANILLA LICEA		Pending					
103	VIRGINIA NUNEZ NUNEZ		Pending					
104	CARLOS FERNANDEZ VILLARREAL		Pending					
105	TRANSPORTES SERVICIOS ADUANALES VILDOSOLA, S.C.		Pending					
106	SOUTHWEST TRADERS DE MEXICO S.A. DE C.V.		Pending					
107	COMERCIALIZACION Y SERVICIO DE NOGALES SA DE CV		Pending					
	Number of Drivers and Vehicles Which Mexico-Domiciled Motor Carriers Intend to Operate in the United States That Have Passed a Pre-Authority Safety Audit						142	155

Table 3 - Pre-Authority Safety Audit (PASA) Results as of May 31, 2007 (continuation of Table 2 Information)

Row	Name of Carrier	US DOT Number	Column J - Passed Verification 5 Elements (Yes/No)	Column K - If Motor Carrier Failed Pre-Authority Safety Audit, Which Element(s) Failed	Column L - Passed Phase 1 Factor 1	Column M - Passed Phase I Factor 2	Column N - Passed Phase I Factor 3	Column O - Passed Phase I Factor 4	Column P - Passed Phase I Factor 6
1	JUAN MARTIN RAMIREZ AMEZ	264875	YES		YES	YES	YES	YES	YES
2	GLORIA A VAZQUEZ ZAMORA	527794							
3	MIGUEL ANGEL ORTIZ SALCIDO	554750							
4	FERNANDO PAEZ TREVINO	555188	YES		YES	YES	YES	YES	YES
5	AUTO TRANSPORTES SAHORA DE B.C.	556258							
6	DAVID KLASSEN PETERS	556741	YES		YES	YES	YES	YES	YES
7	ISAIAS VENEGAS CABRAL	556751	NO	Footnote 3					
8	LUIS EUSEBIO SALGADO ESQUER	557042	YES		YES	YES	YES	YES	YES
9	FRANZ KLASSEN PETERS	557912							
0	COMERCIAL EXPORTADORA JASO S A DE C V	557934							
11	JORGE EDUARDO VALENZUELA MORENO	557969	YES		YES	YES	YES	YES	YES
12	LUCIANO PADILLA MARTINEZ	557972	YES		YES	YES	YES	YES	YES
13	FRANCISCA BURGOS VIZCARRA	558189	YES		YES	YES	YES	YES	YES
14	BUSTILLOS BUSTILLOS TRINIDAD	558551							
15	PETER SAWATSKY REIMER	558944							
16	RICARDO CESAR MARTINEZ MONTEMAYOR	559560	YES		YES	YES	YES	YES	YES
17	ORLANDO NEVID LOPEZ HERNANDEZ	559947	YES		YES	YES	YES	YES	YES
18	JOSE DAVID RUVALCABA ADAME	563815							
19	ALFREDO SOLORIO TOLENTINO	635221	YES		YES	YES	YES	YES	YES
20	TRANSPORTES RAFA DE BAJA CALIFORNIA, S.A. DE C.V.	650383	YES		YES	YES	YES	YES	YES
21	CESAR CARLOS CARDENAS KENNEDY	650891							
22	RAUL SOLORIO ORTIZ	650954	YES		YES	YES	YES	YES	YES
23	JESUS PIMENTEL JIMENEZ	667250	NO	Footnotes 1, 2, 4, and 5					
24	FLETES GARIBAY S.A. DE C.V.	677669			YES	YES	YES	YES	YES
25	JESUS ACEVES VELIZ AND MARTHA ROSA LINN	677760	NO						
26	MADERAS NAVACHISTE SA DE CV	683397							
27	AGROCOSTA DE BAJA CALIFORNIA, S.A. DE C.V.	689752							
28	MALDONADO NAVARRO RAMIRO GUILLERMO	689788							
29	RICARDO CRUZ II & ELMER KING ACOSTA	689896							
30	EFREN MORA HUERTERO	701224							
31	MEX DOOR, S.A. DE C.V.	709569							
32	GOMEZ GARCIA JOSE LUIS	710473							
33	HIGIENICOS Y DESECHABLES DEL BAJIO, S.A. DE C.V.	710491			YES	YES	YES	YES	YES
34	ALEJANDOR FAVELA DURAN & MARIA DEL ROCIO RAMIREZ	711129							
35	SERVICIOS DE TRANSPORTACION JAGUAR S.A.	721671	YES		YES	YES	YES	YES	YES
36	RICARDO ULLOA ZEPEDA & PORFIRIO ARMENTA MEZA	762120							
37	JUAN RAMON GONZALEZ RODRIGUEZ	762655							
38	ROSA MARIA CASAS GRIJALBA	764031							
39	HOMERO BELTRAN AND ALFONSO DEL REAL MONTOYA	777182	YES		YES	YES	YES	YES	YES
40	EDUARDO GOMEZ MORENO	803899							

Table 3 - Pre-Authority Safety Audit (PASA) Results as of May 31, 2007 (continuation of Table 2 Information)

Row	Name of Carrier	US DOT Number	Column J - Passed Verification 5 Elements (Yes/No)	Column K - If Motor Carrier Failed Pre-Authority Safety Audit, Which Element(s) Failed	Column L - Passed Phase 1 Factor 1	Column M - Passed Phase I Factor 2	Column N - Passed Phase I Factor 3	Column O - Passed Phase I Factor 4	Column P - Passed Phase I Factor 6
41	RUBEN DIAZ SOTO AND FERNANDO SAN PEDRO	804420							
42	RAUL VELEZ CASIAN	808238							
43	PATRICIA AGUILERA GARCIA	812376							
44	MATEO CARDENAS ARROYO AND GUSTAVO VEGA	812869	YES		YES	YES	YES	YES	YES
45	FRANCISCO ULLOA MONTANO	817872	YES		YES	YES	YES	YES	YES
46	SISTEMAS DE RIEGO DEL NORTE SA DE CV	822291	NO	Footnote 3					
47	CLEMENTE SALVADOR GARCIA FLORES	826231							
48	UBALDO RUIZ LOPEZ & FERNANDO SOSA LEMAN	845577							
49	HECTOR OBETH PIMENTEL GUERRERO	845669	YES		YES	YES	YES	YES	YES
50	DANIEL BERBER MERENDON	873296							
51	MARTINEZ AND SON'S S. DE R.L. DE C.V.	878948							
52	TJ INTERNATIONAL TRANSPORT S DE RL DE CV	879429							
53	JUAN MANUEL MALDONADO TOPETE	879793	YES		YES	YES	YES	YES	YES
54	RICARDO BRAVO MAR AND JACK CLAYTON CASNER	880852	YES		YES	YES	YES	YES	YES
55	LEONEL FRANCISCO CORRADO, LEONEL CORRADO CARDENAS & TELMA MACI	881712							
56	JOSE DE JESUS MORENO ROMO/EVA SALINAS DE HERNANDEZ	882059							
57	GONZALEZ GOMEZ JUAN FRANCISCO	882651							
58	EPIGMENIO GUZMAN VEGA	886988							
59	RODOLFO GONZALEZ MARTINEZ	905680							
60	CARLOS ALONSO ANAYA GARCIA	910501							
61	AUTO PARTES 2 DE ABRIL, S.A. DE C.V.	915569							
62	ALMA AURORA VILLARREAL HUERTA	924237							
63	ADRIAN A. OLMOS VILLARINO & JANETTE LINDA OLMOS	943126							
64	ROBERTO MONTEMAYOR CRUZ	951134			YES	YES	YES	YES	YES
65	LUNA LOPEZ JOSE MARTIN	960672							
66	EL SECTOR DE MONTERREY, S.A. DE C.V.	998122							
67	LAX FREIGHT DE MEXICO S DE R L	999539							
68	CARLOS RAMIREZ ALVARADO & RODOLFO RAMIREZ RUIZ	1015536							
69	OMAR VILLARREAL VILLARREAL	1040237							
70	LUIS ALONSO GALLEGO BRISENO	1040617							
71	SERVICIOS REFRIGERADOS INTERNACIONALES SA DE CV	1052546			YES	YES	YES	YES	YES
72	MEXICANA DE TRASLADOS CALDERON SA DE CV	1054803	YES		YES	YES	YES	YES	YES
73	ANGEL MONROY SANCHEZ	1054914							
74	M&H EXPRESS LINE S.A. D.E. C.V.	1055062							
75	MARIA DEL CARMEN LOPEZ ARMENTA	1055053	YES		YES	YES	YES	YES	YES
76	TRANSPORTES MONTEBLANCO SA DE CV	1059694	YES		YES	YES	YES	YES	YES
77	SYLVIA RIOS ROQUE	1063804							
78	EDMUNDO JESUS GUAJARDO BURSIAN	1068315			YES	YES	YES	YES	YES
79	RICARDO JAIDREL RODRIGUEZ BOGARIN & DANIEL CARRILLORODRIGUEZ	1068792	YES		YES	YES	YES	YES	YES
80	BENJAMIN DE LA TORRE QUIRARTE	1069031	NO	Footnotes 3 and 6					

Table 3 - Pre-Authority Safety Audit (PASA) Results as of May 31, 2007 (continuation of Table 2 Information)

Row	Name of Carrier	US DOT Number	Column J - Passed Verification 5 Elements (Yes/No)	Column K - If Motor Carrier Failed Pre-Authority Safety Audit, Which Element(s) Failed	Column L - Passed Phase 1 Factor 1	Column M - Passed Phase I Factor 2	Column N - Passed Phase I Factor 3	Column O - Passed Phase I Factor 4	Column P - Passed Phase I Factor 6
81	DAVID LOEWEN FRIESSEN	1071404							
82	JOSE ENRIQUE PRIETO PAREDES	1072344							
83	TRANSPORTES ESPECIALIZADOS GCH SA DE CV	1073853							
84	JOSE ANAYA ROMERO	1080131	YES		YES	YES	YES	YES	YES
85	MARIA DEL SOCORRO VALERIO LIZCANO	1082863	YES		YES	YES	YES	YES	YES
86	RAUL REVELES LOPEZ	1083103			YES	YES	YES	YES	YES
87	GILDARDO MENDOZA CASILLAS	1097021							
88	AARON MARTINEZ RODRIGUEZ	1106234							
89	TRANSPORTES DE CARGA SANTOYO SA DE CV	1106825	YES		YES	YES	YES	YES	YES
90	JAVIER FIDEL FELIX CASTRO	1108305							
91	REYNALDO LERMA ELIZONDO	1114525							
92	ELIZABETH GARCIA ARREDONDO	1119926							
93	LA OTRA DEL OJINAGA SA DE CV	1159371	NO	Footnote 3					
94	DESIERTO NORTE SA DE CV	1161732							
95	RAFAEL AGUIRRE RAMOS	1192670							
96	MORALES GONZALEZ JOSE JESUS	1227541	NO	Footnotes 2 and 4					
97	JUVENTINO SANTILLAN DE LEON	1289339							
98	MARCO VINICIO PINEDA VILLEGAS	1292413	YES		YES	YES	YES	YES	YES
99	LUIS ANTONIO VARGAS COLMENARES	1304855							
100	JUAN CANO OROZCO								
101	NANCY ROCIO GARZA REYES								
102	JAVIER QUINTANILLA LICEA								
103	VIRGINIA NUNEZ NUNEZ								
104	CARLOS FERNANDEZ VILLARREAL								
105	TRANSPORTES SERVICIOS ADUANALES VILDOSOLA, S.C.								
106	SOUTHWEST TRADERS DE MEXICO S.A. DE C.V.								
107	COMERCIALIZACION Y SERVICIO DE NOGALES SA DE CV								

Legend for Column K - If Motor Carrier Failed Pre-Authority Safety Audit, Which Element(s) Failed:

Footnote 1 - Annual Inspection of Motor Vehicles
Footnote 2 - Driver Qualifications
Footnote 3 - Controlled Substances and Alcohol Testing
Footnote 4 - Hours-of-Service of Drivers
Footnote 5 - Financial Responsibility (Insurance or Surety Bond)
Footnote 6 - Vehicle Maintenance Files

Table 4 - Pre-Authority Safety Audit (PASA) Data as of May 31, 2007 (continuation of Table 3 Results)

Row	Name of Carrier	US DOT Number	Column Q - Number of Vehicles Inspected Which Carrier Intends to Operate in the US	Column R - Number of Vehicles Issued CVSA Decal During PASA Which Carrier Intends to Operate in the US	Column S - Number of Vehicles Displaying Current CVSA Decal During PASA Which Carrier Intends to Operate in the US	Column T - Controlled Substances Collection	Column U - Name of Controlled Substances and Alcohol Collection Facility
1	JUAN MARTIN RAMIREZ AMEZ	264875	17	16	0	US	Behavior Research, San Diego CA
2	GLORIA A VAZQUEZ ZAMORA	527794					
3	MIGUEL ANGEL ORTIZ SALCIDO	554750					
4	FERNANDO PAEZ TREVINO	555188	4	4	0	US	In-House Random Selections-LabCorp, Houston TX
5	AUTO TRANSPORTES SAHORA DE B.C.	556258					
6	DAVID KLASSEN PETERS	556741	2	2	0	US	Access Drug Testing Inc, El Paso TX
7	ISAIAS VENEGAS CABRAL	556751					
8	LUIS EUSEBIO SALGADO ESQUER	557042	1	1	UNKNOWN	US	Behavior Research, San Diego CA
9	FRANZ KLASSEN PETERS	557912					
0	COMERCIAL EXPORTADORA JASO S A DE C V	557934					
11	JORGE EDUARDO VALENZUELA MORENO	557969	2	2	0	US	Ruiz & Associates, Imperial CA
12	LUCIANO PADILLA MARTINEZ	557972	0	0	6	US	Ruiz & Associates, Imperial CA
13	FRANCISCA BURGOS VIZCARRA	558189	2	0	8	US	USIS/UIS, Calexico CA
14	BUSTILLOS BUSTILLOS TRINIDAD	558551					
15	PETER SAWATSKY REIMER	558944					
16	RICARDO CESAR MARTINEZ MONTEMAYOR	559560	2	1	0	US	The Center of Industrial Rehabilitation Services, Mission TX
17	ORLANDO NEVID LOPEZ HERNANDEZ	559947	2	1	0	US	Ruiz & Associates, Imperial CA
18	JOSE DAVID RUVALCABA ADAME	563815					
19	ALFREDO SOLORIO TOLENTINO	635221	0	0	6	US	Valley Testing (TPA), En Centro CA
20	TRANSPORTES RAFA DE BAJA CALIFORNIA, S.A. DE C.V.	650383	9	7	3	US	Ruiz & Associates, Imperial CA
21	CESAR CARLOS CARDENAS KENNEDY	650891					
22	RAUL SOLORIO ORTIZ	650954	2	1	3	US	Ruiz & Associates, San Diego Ca
23	JESUS PIMENTEL JIMENEZ	667250					
24	FLETES GARIBAY S.A. DE C.V.	677669	1	1	8	US	Ruiz & Associates, Imperial CA
25	JESUS ACEVES VELIZ AND MARTHA ROSA LINN	677760					
26	MADERAS NAVACHISTE SA DE CV	683397					
27	AGROCOSTA DE BAJA CALIFORNIA, S.A. DE C.V.	689752					
28	MALDONADO NAVARRO RAMIRO GUILLERMO	689788					
29	RICARDO CRUZ II & ELMER KING ACOSTA	689896					
30	EFREN MORA HUERTERO	701224					
31	MEX DOOR, S.A. DE C.V.	709569					
32	GOMEZ GARCIA JOSE LUIS	710473					
33	HIGIENICOS Y DESECHABLES DEL BAJIO, S.A. DE C.V.	710491	3	0	0	US	Ruiz & Associates, Imperial CA
34	ALEJANDOR FAVELA DURAN & MARIA DEL ROCIO RAMIREZ	711129					
35	SERVICIOS DE TRANSPORTACION JAGUAR S.A.	721671	36	36	0	US	Laredo Urgent Care, Laredo TX
36	RICARDO ULLOA ZEPEDA & PORFIRIO ARMENTA MEZA	762120					
37	JUAN RAMON GONZALEZ RODRIGUEZ	762655					
38	ROSA MARIA CASAS GRIJALBA	764031					
39	HOMERO BELTRAN AND ALFONSO DEL REAL MONTOYA	777182	4	3	1	US	Ruiz & Associates, Imperial CA
40	EDUARDO GOMEZ MORENO	803899					

Table 4 - Pre-Authority Safety Audit (PASA) Data as of May 31, 2007 (continuation of Table 3 Results)

Row	Name of Carrier	US DOT Number	Column Q - Number of Vehicles Inspected Which Carrier Intends to Operate in the US	Column R - Number of Vehicles Issued CVSA Decal During PASA Which Carrier Intends to Operate in the US	Column S - Number of Vehicles Displaying Current CVSA Decal During PASA Which Carrier Intends to Operate in the US	Column T - Controlled Substances Collection	Column U - Name of Controlled Substances and Alcohol Collection Facility
41	RUBEN DIAZ SOTO AND FERNANDO SAN PEDRO	804420					
42	RAUL VELEZ CASIAN	808238					
43	PATRICIA AGUILERA GARCIA	812376					
44	MATEO CARDENAS ARROYO AND GUSTAVO VEGA	812869	0	0	9	US	Ruiz & Associates, Imperial CA
45	FRANCISCO ULLOA MONTANO	817872	3	2	0	US	Ruiz & Associates, Imperial CA
46	SISTEMAS DE RIEGO DEL NORTE SA DE CV	822291					
47	CLEMENTE SALVADOR GARCIA FLORES	826231					
48	UBALDO RUIZ LOPEZ & FERNANDO SOSA LEMAN	845577					
49	HECTOR OBETH PIMENTEL GUERRERO	845669	0	0	0	US	Valley Testing, El Centro CA
50	DANIEL BERBER MERENDON	873296					
51	MARTINEZ AND SON'S S. DE R.L. DE C.V.	878948					
52	TJ INTERNATIONAL TRANSPORT S DE RL DE CV	879429					
53	JUAN MANUEL MALDONADO TOPETE	879793	0	0	5	US	Ruiz & Associates, Imperial CA
54	RICARDO BRAVO MAR AND JACK CLAYTON CASNER	880852	4	4	6	US	Ruiz & Associates, Imperial CA
55	LEONEL FRANCISCO CORRADO, LEONEL CORRADO CARDENAS &TELMA MACIEL	881712					
56	JOSE DE JESUS MORENO ROMO/EVA SALINAS DE HERNANDEZ	882059					
57	GONZALEZ GOMEZ JUAN FRANCISCO	882651					
58	EPIGMENIO GUZMAN VEGA	886988					
59	RODOLFO GONZALEZ MARTINEZ	905680					
60	CARLOS ALONSO ANAYA GARCIA	910501					
61	AUTO PARTES 2 DE ABRIL, S.A. DE C.V.	915569					
62	ALMA AURORA VILLARREAL HUERTA	924237					
63	ADRIAN A. OLMOS VILLARINO & JANETTE LINDA OLMOS	943126					
64	ROBERTO MONTEMAYOR CRUZ	951134	4	4	0	US	A&C Drug & Alcohol Screening, Pharr TX
65	LUNA LOPEZ JOSE MARTIN	960672					
66	EL SECTOR DE MONTERREY, S.A. DE C.V.	998122					
67	LAX FREIGHT DE MEXICO S DE R L	999539					
68	CARLOS RAMIREZ ALVARADO & RODOLFO RAMIREZ RUIZ	1015536					
69	OMAR VILLARREAL VILLARREAL	1040237					
70	LUIS ALONSO GALLEGO BRISENO	1040617					
71	SERVICIOS REFRIGERADOS INTERNACIONALES SA DE CV	1052546	5	5	3	US	Ruiz & Associates, Imperial CA
72	MEXICANA DE TRASLADOS CALDERON SA DE CV	1054803	2	1	0	US	Analytical Group, Inc., Brownsville TX
73	ANGEL MONROY SANCHEZ	1054914					
74	M&H EXPRESS LINE S.A. D.E. C.V.	1055052					
75	MARIA DEL CARMEN LOPEZ ARMENTA	1055053	1	0	0	US	Ruiz & Associates, Imperial CA
76	TRANSPORTES MONTEBLANCO SA DE CV	1059694	2	2	0	US	Laredo Examiners Inc., Laredo TX
77	SYLVIA RIOS ROQUE	1063804					
78	EDMUNDO JESUS GUAJARDO BURSIAN	1068315	1	1	0	US	C.A.D. Services, Eagle Pass TX
79	RICARDO JAIDREL RODRIGUEZ BOGARIN & DANIEL CARRILLORODRIGUEZ	1068792	7	4	0	US	Behavior Research, San Diego CA
80	BENJAMIN DE LA TORRE QUIRARTE	1069031					

Table 4 - Pre-Authority Safety Audit (PASA) Data as of May 31, 2007 (continuation of Table 3 Results)

Row	Name of Carrier	US DOT Number	Column Q - Number of Vehicles Inspected Which Carrier Intends to Operate in the US	Column R - Number of Vehicles Issued CVSA Decal During PASA Which Carrier Intends to Operate in the US	Column S - Number of Vehicles Displaying Current CVSA Decal During PASA Which Carrier Intends to Operate in the US	Column T - Controlled Substances Collection	Column U - Name of Controlled Substances and Alcohol Collection Facility
81	DAVID LOEWEN FRIESSEN	1071404					
82	JOSE ENRIQUE PRIETO PAREDES	1072344					
83	TRANSPORTES ESPECIALIZADOS GCH SA DE CV	1073853					
84	JOSE ANAYA ROMERO	1080131	0	0	0	N/A	
85	MARIA DEL SOCORRO VALERIO LIZCANO	1082863	1	1	0	NON CDL*	
86	RAUL REVELES LOPEZ	1083103	Less than 10,001 lbs	0	0	NON CDL*	
87	GILDARDO MENDOZA CASILLAS	1097021					
88	AARON MARTINEZ RODRIGUEZ	1106234					
89	TRANSPORTES DE CARGA SANTOYO SA DE CV	1106825	0	0	5	US	Ruiz & Associates, Imperial CA
90	JAVIER FIDEL FELIX CASTRO	1108305					
91	REYNALDO LERMA ELIZONDO	1114525					
92	ELIZABETH GARCIA ARREDONDO	1119926					
93	LA OTRA DEL OJINAGA SA DE CV	1159371					
94	DESIERTO NORTE SA DE CV	1161732					
95	RAFAEL AGUIRRE RAMOS	1192670					
96	MORALES GONZALEZ JOSE JESUS	1227541					
97	JUVENTINO SANTILLAN DE LEON	1289339					
98	MARCO VINICIO PINEDA VILLEGAS	1292413	0	0	2	US	Ruiz & Associates, Imperial CA
99	LUIS ANTONIO VARGAS COLMENARES	1304855					
100	JUAN CANO OROZCO						
101	NANCY ROCIO GARZA REYES						
102	JAVIER QUINTANILLA LICEA						
103	VIRGINIA NUNEZ NUNEZ						
104	CARLOS FERNANDEZ VILLARREAL						
105	TRANSPORTES SERVICIOS ADUANALES VILDOSOLA, S.C.						
106	SOUTHWEST TRADERS DE MEXICO S.A. DE C.V.						
107	COMERCIALIZACION Y SERVICIO DE NOGALES SA DE CV						

NON CDL* - This acronym means the Mexico-domiciled drivers are not subject to controlled substances and alcohol testing requirements as required by 49 U.S.C. 31306. Such drivers are not subject to testing because the vehicles the Mexico-domiciled motor carrier intends to operate in the United States are not of a size or operating in such a manner requiring the operator to hold a commercial driver's license (CDL) as required by 49 U.S.C. 31301 et seq. The statute, 49 U.S.C. 31306, treats U.S.-, Canada-, and Mexico-domiciled motor carriers and drivers exactly the same way with respect to controlled substances and alcohol testing requirements for light- and medium-duty truck and truck tractor vehicles, if the drivers only operate vehicles not requiring a CDL to operate the vehicles.

[FR Doc. 07–2870 Filed 6–6–07; 9:09 am]
BILLING CODE 4910–EX–C

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA–2007–28428]

Agency Information Collection Activity Under OMB Review

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: The Federal Transit Administration invites public comments about our intention to request the Office of Management and Budget's (OMB) approval to renew the following information collection:

49 U.S.C. Section 5310—Capital Assistance Program for Elderly Persons and Persons with Disabilities and 49 U.S.C. Section 5311 Nonurbanized Area Formula Program.

The information to be collected is necessary to determine eligibility for financial assistance and compliance with statutory and administrative requirements. The information is also used to monitor approved projects. The **Federal Register** Notice with a 60-day comment period soliciting comments was published on March 26, 2007.

DATES: Comments must be submitted before July 9, 2007. A comment to OMB is most effective if OMB receives it within 30 days of publication.

FOR FURTHER INFORMATION CONTACT: Sylvia L. Marion, Office of Administration, Office of Management Planning, (202) 366–6680.

SUPPLEMENTARY INFORMATION:

Title: 49 U.S.C. Section 5310—Capital Assistance Program for Elderly Persons and Persons with Disabilities and 49 U.S.C. Section 5311 Nonurbanized Area Formula Program (*OMB Number: 2132–0500*).

Abstract: The Capital Assistance Program for Elderly Persons and Persons with Disabilities provides financial assistance for the specialized transportation service needs of elderly persons and persons with disabilities. The program is administered by the States and may be used in all areas, urbanized, small urban, and rural. The Nonurbanized Area Formula Program provides financial assistance for the provision of public transportation services in nonurbanized areas and this program is also administered by the States. 49 U.S.C. 5310 and 5311 authorize FTA to review applications for federal financial assistance to determine eligibility and compliance with statutory and administrative requirements. Information collected during the application stage includes the project budget, which identifies funds requested for project implementation; a program of projects, which identifies subrecipients to be funded, the amount of funding that each will receive, and a description of the projects to be funded; the project implementation plan; the State management plan; a list of annual certifications and assurances; and public hearings notice, certification and transcript. The applications must contain sufficient information to enable FTA to make the findings required by law to enforce the program requirements. Information collected during the project management stage includes an annual financial report, an annual program status report, and pre-award and post-delivery audits. The annual financial report and program status report provide a basis for monitoring approved projects to ensure timely and appropriate expenditure of federal funds by grant recipients.

Estimated Total Annual Burden: 11,370 hours.

ADDRESSES: All written comments must refer to the docket number that appears at the top of this document and be submitted to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725—17th Street, NW., Washington, DC 20503, Attention: FTA Desk Officer.

Comments Are Invited on: Whether the proposed collection of information is necessary for the proper performance of the functions of the Department, including whether the information will have practical utility; the accuracy of the Department's estimate of the burden of the proposed information collection; ways to enhance the quality, utility, and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology.

Issued on: June 5, 2007.

Ann M. Linnertz,

Acting Associate Administrator for Administration.

[FR Doc. E7–11115 Filed 6–7–07; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Federal Transit Administration

[FTA Docket No. FTA–2007–28427]

Notice of Request for a New Information Collection

AGENCY: Federal Transit Administration, DOT.

ACTION: Notice of request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, this notice announces the intention of the Federal Transit Administration (FTA) to request the Office of Management and Budget (OMB) to approve the following new information collection: Customer Service Surveys of FTA Grantees and Stakeholders.

DATES: Comments must be submitted before August 7, 2007.

ADDRESSES: All written comments must refer to the docket number that appears at the top of this document and be submitted to the United States Department of Transportation, Central Dockets Office, PL–401, 400 Seventh Street, SW., Washington, DC 20590. Comments may also be faxed to (202) 493–2251; or submitted electronically at *http://dms.dot.gov.* All comments should include the docket number in this notice's heading. All comments may be examined and copied at the above address from 9 a.m. to 5 p.m., Monday through Friday, except Federal holidays. If you desire a receipt, you must include a self-addressed envelope or postcard or, if you submit your comments electronically, you may print the acknowledgement page.

FOR FURTHER INFORMATION CONTACT: Rick Krochalis, FTA Region 10 Office, (206) 220–7954.

SUPPLEMENTARY INFORMATION: Interested parties are invited to send comments regarding any aspect of this information collection, including: (1) The necessity and utility of the information collection for the proper performance of the functions of the FTA; (2) the accuracy of the estimated burden; (3) ways to enhance the quality, utility, and clarity of the collected information; and (4) ways to minimize the collection burden without reducing the quality of the collected information. Comments submitted in response to this notice will be summarized and/or included in the request for OMB approval of this information collection.

Title: Customer Service Surveys of FTA Grantees and Stakeholders (*OMB Number: 2132–New*).

Background: Executive Order 12862, ''Setting Customer Service Standards,'' requires FTA to identify its customers and determine what they think about FTA's service. The surveys covered in this request will provide FTA with a means to gather data directly from its customers. The information obtained from the surveys will be used to assess how FTA's services are perceived by customers and stakeholders, determine opportunities for improvement and establish goals to measure results. The surveys will be limited to data

collections that solicit voluntary opinions and will not involve information that is required by regulations.

Respondents: State and local government, public and private transit operators, Metropolitan Planning Organizations (MPOs), transit constituents, and other stakeholders.

Estimated Annual Burden on Respondents: 1 hour for each of the 1,800 respondents.

Estimated Total Annual Burden: 1,800 hours.

Frequency: Annual.

Issued: June 5, 2007.

Ann M. Linnertz,

Associate Administrator for Administration.

[FR Doc. E7–11117 Filed 6–7–07; 8:45 am]

BILLING CODE 4910–57–P

DEPARTMENT OF TRANSPORTATION

Maritime Administration

Reports, Forms and Recordkeeping Requirements; Agency Information Collection Activity Under OMB Review

AGENCY: Maritime Administration, DOT.

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995, this notice announces that the Information Collection abstracted below has been forwarded to the Office of Management and Budget (OMB) for review and approval. The nature of the information collection is described as well as its expected burden. The **Federal Register** Notice with a 60-day comment period soliciting comments on the following collection of information was published on March 5, 2007. No comments were received.

DATES: Comments must be submitted on or before July 9, 2007.

FOR FURTHER INFORMATION CONTACT: Patricia Ann Thomas, Maritime Administration, 1200 New Jersey Avenue, SE, Washington, DC 20590. Telephone: (202) 366–2646; Fax: (202) 493–2180, or e-mail: *patricia.thomas@dot.gov.* Copies of this collection also can be obtained from that office.

SUPPLEMENTARY INFORMATION:

Maritime Administration (MARAD)

Title: Merchant Marine Medals and Awards.

OMB Control No.: 2133–0506.

Type of Request: Extension of currently approved collection.

Affected Public: Masters, officers and crew members of U.S. ships.

Forms: None.

Abstract: This information collection provides a method of awarding merchant marine medals and decorations to masters, officers, and crew members of U.S. ships in recognition of their service in areas of danger during the operations by the Armed Forces of the United States in World War II, Korea, Vietnam, and Operation Desert Storm.

Annual Estimated Burden Hours: 900 hours.

Addressee: Send comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 17th Street, NW., Washington, DC 20503, Attention: MARAD Desk Officer.

Comments are invited on: 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; the accuracy of the agency's estimate of the burden of the proposed information collection; ways to enhance the quality, utility and clarity of the information to be collected; and ways to minimize the burden of the collection of information on respondents, including the use of automated collection techniques or other forms of information technology. A comment to OMB is best assured of having its full effect if OMB receives it within 30 days of publication.

Dated: June 4, 2007.

Daron T. Threet,

Secretary, Maritime Administration.

[FR Doc. E7–11128 Filed 6–7–07; 8:45 am]

BILLING CODE 4910–81–P

DEPARTMENT OF TRANSPORTATION

Pipeline and Hazardous Materials Safety Administration

[Docket: PHMSA–98–4957]

Request for Public Comments and Office of Management and Budget Approval of Existing Information Collection Requirements (2137–0578 and 2137–0579)

AGENCY: Pipeline and Hazardous Materials Safety Administration (PHMSA), U.S. Department of Transportation (DOT).

ACTION: Notice and request for comments.

SUMMARY: In compliance with the Paperwork Reduction Act of 1995 (PRA), this notice requests public participation in the Office of Management and Budget (OMB) approval process for the renewal and extension of two information collection requirements: ''Reporting of Safety-Related Conditions on Gas, Hazardous Liquid, and Carbon Dioxide Pipelines and Liquefied Natural Gas Facilities'' and ''Drug and Alcohol Testing of Pipeline Operators.'' PHMSA invites the public to submit comments over the next 60 days on whether the collection of this information is necessary for the proper performance of the functions of DOT.

DATES: Submit comments on or before August 7, 2007.

ADDRESSES: Reference Docket PHMSA–98–4957 and submit comments in one of the following ways:

- *DOT Web Site: http://dms.dot.gov.* To submit comments on the DOT electronic docket site, click ''Comment/Submissions,'' click ''Continue,'' fill in the requested information, click ''Continue,'' enter your comment, then click ''Submit.''
- *Fax:* 1–202–493–2251.
- *Mail:* Docket Management System: U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Room W12–140, Washington, DC 20590.
- *Hand Delivery:* DOT Docket Management System; 1200 New Jersey Avenue, SE., West Building Ground Floor, Room W12–140, Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.
- *E-Gov Web Site: http://www.regulations.gov.* This site allows the public to enter comments on any **Federal Register** notice issued by any agency.

Instructions: Identify the docket number, PHMSA–98–4957, at the beginning of your comments. If you mail your comments, send two copies. To receive confirmation that PHMSA received your comments, include a self-addressed stamped postcard. Internet users may submit comments at *http://www.regulations.gov,* and may access all comments received by DOT at *http://dms.dot.gov* by performing a simple search for the docket number.

Note: PHMSA posts all comments without changes or edits to *http://dms.dot.gov,* including any personal information provided.

Privacy Act

Anyone can search the electronic form of all comments received in response to 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.). DOT's complete Privacy Act Statement was published in the **Federal Register** on

April 11, 2000 (65 FR 19477), and is on the Web at *http://dms.dot.gov.*

FOR FURTHER INFORMATION CONTACT: Roger Little at (202) 366–4569, or by e-mail at *roger.little@dot.gov.*

SUPPLEMENTARY INFORMATION: This notice identifies two existing information collection requirements PHMSA is submitting to OMB for renewal and extension. These collection requirements are in 49 CFR parts 192, 193, 195 and 199 of the pipeline safety regulations. PHMSA has revised the burden estimates, where appropriate, to reflect current reporting levels or adjustments based on changes made since the last OMB approvals. PHMSA is now requesting that OMB grant a three-year term of approval for each requirement.

Pursuant to 44 U.S.C. 3506(c)(2)(A) of the PRA, PHMSA invites comments on whether the renewal and extension of the existing information collection requirements are necessary for the proper performance of the functions of DOT. Information collection includes all work related to preparing and disseminating information related to this information collection requirements, including completing paperwork, gathering information, and conducting telephone calls. Comments may include (1) whether the information will have practical utility; (2) the accuracy of DOT's estimate of the burden of the proposed information collections; (3) ways to enhance the quality, utility, and clarity of the information collection; and (4) ways to minimize the burden of the information collection requirements on respondents, including the use of automated collection techniques or other forms of information technology.

OMB control No.	Regulation title	Number of respondents	Estimated total annual burden (hours)
2137–0578	Reporting of Safety-Related Conditions on Gas, Hazardous Liquid and Carbon Dioxide Pipelines and Liquefied Natural Gas Facilities.	127	762
2137–0579	Drug and Alcohol Testing of Pipeline Operators	2419	2,963

Title 49 of the United States Code § 60102 requires operators of gas, hazardous liquid, and carbon dioxide pipelines, or liquefied natural gas facilities to submit a written report on any safety-related conditions that cause a significant operational change or restriction that presents a hazard to life, property, or the environment. PHMSA uses this information to identify safety-related trends and take action to reduce pipeline accidents and incidents. Part 199 require pipeline operators to conduct drug and alcohol testing of employees who perform operation, maintenance, or emergency-response functions. PHMSA uses this information to reduce pipeline accidents and incidents by deterring and detecting illegal drug use and alcohol misuse in the pipeline industry.

Issued in Washington, DC on June 4, 2007.

Florence L. Hamn,

Director of Regulations, Office of Pipeline Safety.

[FR Doc. E7–11077 Filed 6–7–07; 8:45 am]

BILLING CODE 4910–60–P

DEPARTMENT OF TRANSPORTATION

Surface Transportation Board

[STB Finance Docket No. 34989]

Ozark Valley Railroad—Acquisition and Operation Exemption—The Kansas City Southern Railway Company

Ozark Valley Railroad (OVRR), a noncarrier, has filed a verified notice of exemption under 49 CFR 1150.31 to: (1) Acquire by purchase from The Kansas City Southern Railway Company (KCSR) and to operate a portion of the KCSR Fulton Branch between milepost 3.0 near Mexico, MO, and milepost 24.99 at Fulton, MO; [1] (2) lease from KCSR and to operate the portion of the Fulton Branch between milepost 0.0 and milepost 3.0; and (3) acquire from KCSR and to operate over incidental and overhead trackage rights to interchange over the portion of the KCSR Roodhouse Subdivision from milepost 321.0 near Arthur, MO, to milepost 329.0 near Mexico, including the connection with the Fulton Branch at milepost 326.3 at Mexico, and designated yard tracks at Mexico. The lines total of approximately 24.99 miles of acquired or leased line and approximately 8 miles of overhead or incidental trackage rights and are located in Audrain and Callaway Counties, MO.

KCSR certifies that its projected revenues as a result of this transaction will not exceed those that would qualify it as a Class III rail carrier, and further certifies that its projected annual revenues will not exceed $5 million.

The earliest this transaction may be consummated is June 24, 2007, the effective date of the exemption (30 days after the exemption was filed).

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 to stay must be filed no later than June 15, 2007 (at least 7 days before the exemption becomes effective).

An original and 10 copies of all pleadings, referring to STB Finance Docket No. 34989 must be filed with the Surface Transportation Board, 395 E Street, SW., Washington, DC 20423–0001. In addition, one copy of each pleading must be served on Charles H. Montange, 426 NW 162nd St., Seattle, WA 98177.

Board decisions and notices are available on our Web site at *http://www.stb.dot.gov.*

Decided: June 1, 2007.

By the Board, David M. Konschnik, Director, Office of Proceedings.

Vernon A. Williams,

Secretary.

[FR Doc. E7–11101 Filed 6–7–07; 8:45 am]

BILLING CODE 4915–01–P

[1] The transaction will also include acquisition and operation of the Arthur Industrial Spur (approximately 2.565 miles in length connecting to the KCSR Roodhouse Subdivision at the siding located at milepost 322.9 at Arthur, MO).

DEPARTMENT OF THE TREASURY

Submission for OMB Review; Comment Request

June 4, 2007.

The Department of the Treasury has submitted the following public information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Copies of the submission(s) may be obtained by calling the Treasury Bureau Clearance Officer listed. Comments regarding this information collection should be addressed to the OMB reviewer listed and to the Treasury Department Clearance Officer, Department of the

Treasury, Room 11000, 1750 Pennsylvania Avenue, NW., Washington, DC 20220.

Dates: Written comments should be received on or before July 9, 2007.

Internal Revenue Service (IRS)

OMB Number: 1545–1255.

Type of Review: Extension.

Title: INTL–870–89 (NPRM) Earnings Stripping (Section 163(j)).

Description: The data obtained by the IRS from the various elections and identifications is used to verify that taxpayers have, in fact, elected special treatment under section 163(j).

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 1,196 hours.

OMB Number: 1545–1165.

Type of Review: Extension.

Title: Tax Information Authorization.

Form: 8821.

Description: Form 8821 is used to appoint someone to receive or inspect certain tax information. Data are used to identify appointees and to ensure that confidential information is not divulged to unauthorized persons.

Respondents: Individuals or households.

Estimated Total Burden Hours: 140,300 hours.

OMB Number: 1545–1132.

Type of Review: Extension.

Title: INTL–5367–89 (Final) Registration Requirements with Respect to Certain Debt Obligations; Application of Repeal of 30 Percent Withholding by the Tax Reform Act of 1984.

Description: The Internal Revenue Service needs the information in order to ensure that purchasers of bearer obligations are not U.S. persons (other than those permitted to hold obligations under section 165(j) and to ensure that U.S. persons holding bearer obligations properly report income and gain on such obligations.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 852 hours.

OMB Number: 1545–1138.

Type of Review: Extension.

Title: INTL–955–86 (Final) Requirements for Investments to Qualify under Section 936(d)(4) as Investments in Qualified Caribbean Basin Countries.

Description: The collection of information is required by the Internal Revenue Service to verify that an investment qualifies under IRC section 936(d)(4). The recordkeepers will be possession corporations, certain financial institutions located in Puerto Rico, and borrowers of funds covered by this regulation.

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 1,500 hours.

OMB Number: 1545–1576.

Type of Review: Extension.

Title: Student Loan Interest Statement.

Form: 1098–E.

Description: Section 6050S(b)(2) of the Internal Revenue Code requires persons (financial institutions, governmental units, etc.) to report $600 or more of interest paid on student loans to the IRS and the students.

Respondents: Individuals or households.

Estimated Total Burden Hours: 1,051,357 hours.

OMB Number: 1545–2055.

Type of Review: Extension.

Title: Energy Efficient Appliance Credit.

Form: 8909.

Description: Form 8909, Energy Efficient Appliance Credit, was developed to carry out the provisions of new Code section 45M. This new section was added by section 1334 of the Energy Policy Act of 2005 (Pub. L. 109–58). The new form provides a means for the eligible manufacturer/taxpayer to compute the amount of, and claim, the credit.

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 80 hours.

OMB Number: 1545–1879.

Type of Review: Extension.

Title: Exempt Organization Declaration and Signature for Electronic Filing.

Form: 8453–EO.

Description: Form 8453–EO is used to authenticate an electronic Forms 990, 990–EZ, 1120–POL, or 8868 authorize the electronic return originator, and/or intermediate service provider, if any, to transmit via a third-party transmitter; and provide the organization's consent to directly deposit any refund and/or authorize an electronic funds withdrawal for payment of Federal taxes owed.

Respondents: Not-for-profit institutions.

Estimated Total Burden Hours: 1,046 hours.

OMB Number: 1545–1861.

Type of Review: Extension.

Title: Review Procedure 2004–19, Probable or Prospective Reserves Safe Harbor.

Description: This revenue procedure requires a taxpayer to file an election statement with the Service if the taxpayer wants to use the safe harbor to estimate the taxpayers' oil and gas properties' probable or prospective reserves for purposes of computing cost depletion under Sec. 611 of the Internal Revenue Code.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 50 hours.

OMB Number: 1545–1433.

Type of Review: Extension.

Title: CO–11–91 (Final) Consolidated Groups and Controlled Groups—Inter-Company Transactions and Related Rules; CO–24–95 (Final) Consolidated Groups-Inter-Company Transactions and Related Rules.

Description: The regulations require common parents that make elections under Section 1.1502–13 to provide certain information. The information will be used to identify and assure that the amount, location, timing and attributes of inter-company transactions and corresponding items are properly maintained.

Respondents: Businesses or other for-profit institutions.

Estimated Total Burden Hours: 1,050 hours.

OMB Number: 1545–1308.

Type of Review: Extension.

Title: PS–260–82 (Final) Election, Revocation, Termination, and Tax Effect of Subchapter S Status—TD 8449.

Description: Section 1–1362 through 1.1362–7 of the Income Tax Regulations provide the specific procedures and requirements necessary to implement section 1362, including the filing of various elections and statements with the Internal Revenue Service.

Respondents: Individuals or households.

Estimated Total Burden Hours: 322 hours.

OMB Number: 1545–2052.

Type of Review: Extension.

Title: U.S. Income Tax Return for Cooperative Associations.

Form: 1120–C.

Description: IRS Code section 1381 requires subchapter T cooperatives to file returns. Previously, farmers' cooperatives filed Form 990–C and other subchapter T coopeatives filed Form 1120. If the subchapter T cooperative does not meet certain requirements, the due date of their return is two and one-half months after the end of their tax year which is the same as the due date for all other corporations. The due date for income tax returns filed by subchapter T cooperatives who meet certain requirements is eight and one-half months after the end of their tax year. Cooperatives who filed their income tax returns on Form 1120 were considered

to be late and penalties were assessed since they had not filed by the normal due date for Form 1120. Due to the assessment of the penalties, burden was placed on the taxpayer and on the IRS employees to resolve the issue. Regulations (Reg–149436–04) published in the **Federal Register** (71 FR 43811), require that all subchapter T cooperatives will file Form 1120–C, U.S. Income Tax Return for Cooperative Associations.

Respondents: Businesses and other for-profit institutions.

Estimated Total Burden Hours: 430,400 hours.

OMB Number: 1545–1613.

Type of Review: Extension.

Title: REG–209446–82 (Final) Passthrough of Items of an S Corporation to its Shareholders.

Description: Section 1366 requires shareholders of an S corporation to take into account their pro rata share of separately stated items of the S corporation and non-separately computed income or loss. The regulations provide guidance regarding this regarding requirement.

Respondents: Busiensses or other for-profit institutions.

Estimated Total Burden Hours: 1 hour.

Clearance Officer: Glenn P. Kirkland (202) 622–3428, Internal Revenue Service, Room 6516, 1111 Constitution Avenue, NW., Washington, DC 20224.

OMB Reviewer: Alexander T. Hunt (202) 395–7316, Office of Management and Budget, Room 10235, New Executive Office Building, Washington, DC 20503.

Robert Dahl,

Treasury PRA Clearance Officer.

[FR Doc. 07–2860 Filed 6–7–07; 8:45am]

BILLING CODE 4830–01–M

DEPARTMENT OF THE TREASURY

Office of Foreign Assets Control

Additional Designations, Foreign Narcotics Kingpin Designation Act

AGENCY: Office of Foreign Assets Control, Treasury.

ACTION: Notice.

SUMMARY: The Treasury Department's Office of Foreign Assets Control (''OFAC'') is publishing the names of additional persons whose property and interests in property have been blocked pursuant to the Foreign Narcotics Kingpin Designation Act (21 U.S.C. 1901–1908, 8 U.S.C. 1182). In addition, OFAC is publishing a change to the listing of one individual previously designated pursuant to the Foreign Narcotics Kingpin Designation Act.

DATES: The designation by the Secretary of the Treasury of the twelve individuals and six entities identified in this notice pursuant to section 805(b) of the Kingpin Act is effective on May 17, 2007. In addition, the change to the listing of one individual previously designated pursuant to section 804(b) of the Kingpin Act is effective on May 17, 2007.

FOR FURTHER INFORMATION CONTACT: Assistant Director, Compliance Outreach & Implementation Office of Foreign Assets Control, Department of the Treasury, Washington, DC 20220, tel.: 202/622–2490.

SUPPLEMENTARY INFORMATION:

Electronic and Facsimile Availability

This document and additional information concerning OFAC are available on OFAC's Web site (*http://www.treas.gov/ofac*) or via facsimile through a 24-hour fax-on demand service, tel.: (202) 622–0077.

Background

The Foreign Narcotics Kingpin Designation Act (''Kingpin Act'') became law on December 3, 1999. The Kingpin Act establishes a program targeting the activities of significant foreign narcotics traffickers and their organizations on a worldwide basis. It provides a statutory framework for the President to impose sanctions against significant foreign narcotics traffickers and their organizations on a worldwide basis, with the objective of denying their businesses and agents access to the U.S. financial system and to the benefits of trade and transactions involving U.S. companies and individuals.

The Kingpin Act blocks all property and interests in property, subject to U.S. jurisdiction, owned or controlled by significant foreign narcotics traffickers as identified by the President. In addition, the Kingpin Act blocks the property and interests in property, subject to U.S. jurisdiction, of foreign persons designated by the Secretary of Treasury, in consultation with the Attorney General, the Director of Central Intelligence, the Director of the Federal Bureau of Investigation, the Administrator of the Drug Enforcement Administration, the Secretary of Defense, the Secretary of State, and the Secretary of Homeland Security who are found to be: (1) Materially assisting in, or providing financial or technological support for or to, or providing goods or services in support of, the international narcotics trafficking activities of a person designated pursuant to the Kingpin Act; (2) owned, controlled, or directed by, or acting for or on behalf of, a person designated pursuant to the Kingpin Act; or (3) playing a significant role in international narcotics trafficking.

On May 17, 2007, OFAC designated six additional entities and twelve additional individuals whose property and interests in property are blocked pursuant to section 805(b) of the Foreign Narcotics Kingpin Designation Act.

The list of additional designees follows:

Entities:

1. NUEVA INDUSTRIA DE GANADEROS DE CULIACAN S.A. DE C.V. (d.b.a. LECHERIA SANTA MONICA; a.k.a. DORA PASTEURIZA DE LECHE SANTA MONICA; f.k.a. INDUSTRIAS DE GANADEROS S.A. DE C.V.; a.k.a. SANTA MONICA DAIRY); Calle/Boulevard Doctor Mora 1230, Colonia Las Quintas, Culiacan, Sinaloa 80060, Mexico; Carretera los Mochis Topolobampo, KM. 5.2, Los Mochis, Sinaloa, Mexico; Avenida Francisco Villa Norte 135, Colonia Niños Heroes, Salvador Alvarado, Sinaloa 81400, Mexico; Carretera La Cruz KM 15 S/N, Colonia Arroyitos, La Cruz, Sinaloa 82700, Mexico; Chamizal S/N, La Cruz, Sinaloa 82700, Mexico; Carretera Internacional al Norte KM 1.5, # 1207, Colonia Ejido Venadillo, Mazatlan, Sinaloa 82129, Mexico; Plaza Azul S/N, Colonia Las Brisas, Tecuala, Nayarit, Mexico; Calle Prolongacion Morelos y Matamoros S/N, Colonia Benito Juarez, Escuinapa, Sinaloa 82400, Mexico; Matamoros 5, Escuinapa, Sinaloa 82478, Mexico; Carretera Internacional 1845, Bodega 8 y 10, Colonia Zona Industrial 2, Cuidad Obregon, Sonora 85065, Mexico; Calle Sauces 384, Colonia Del Bosque, Guasave, Sinaloa 81020, Mexico; Calle Federalismo 2000, Colonia Recursos Hidraulicos, Culiacan, Sinaloa 80060, Mexico; Carretera Augstin Olachea Local 30, Colonia Pericues, La Paz, Baja California Sur 23090, Mexico; Avenida Vallarta 2141, Colonia Centro, Culiacan, Sinaloa 80060, Mexico; Carretera A Navolato, Colonia Bachigualato, Culiacan, Sinaloa 80060, Mexico; Calle Tomate 10 Bodega 34Y5, Colonia Mercado Abastos, Culiacan, Sinaloa 83170, Mexico; Carretera A Topolobampo 5, Colonia Niños Heroes, Ahome, Sinaloa 81290, Mexico; Avenida Xicotencalth # 1795, Colonia Las Quintas, Culiacan, Sinaloa 80060, Mexico; Calle Central Local A10, Colonia Mercado Abastos, Cajeme, Sonora 85000, Mexico; Calle Jose Diego Abad 2923, Colonia Bachigualato, Culiacan, Sinaloa 80140, Mexico; R.F.C. # NIG–8802029–Y7 (Mexico); (ENTITY) [SDNTK].

2. JAMARO CONSTRUCTORES S.A. DE C.V., Culiacan, Sinaloa, Mexico; (ENTITY) [SDNTK]

3. ESTABLO PUERTO RICO S.A. DE C.V. (a.k.a. ESTABLO LECHERO PUERTO RICO); Carretera El Salado, Quila KM 4, Culiacan, Sinaloa, Mexico; Calle Indio De Guelatao Interior 20230, Colonia Miguel Hidalgo, Culiacan, Sinaloa, Mexico; Avenida Manuel Vallarta 2141, Colonia Centro, Culiacan, Sinaloa 80129, Mexico; R.F.C. # EPR–000322–UM9 (Mexico); (ENTITY) [SDNTK]

4. ESTANCIA INFANTIL NIÑO FELIZ S.C., Avenida Manuel Vallarta 2141, Colonia Centro, Culiacan, Sinaloa 80129, Mexico; (ENTITY) [SDNTK]

5. MULTISERVICIOS JEVIZ S.A. DE C.V. (a.k.a. JEVIZ); Carretera a El Dorado # 2501, Colonia Campo El Diez, Culiacan, Sinaloa 80155, Mexico; (ENTITY) [SDNTK]

6. ROSARIO NIEBLA CARDOZA A. EN P. (d.b.a. GASOLINERA ROSARIO); Avenida Manuel Vallarta 2141, Colonia Centro, Culiacan, Sinaloa 80129, Mexico; R.F.C. # NICR–461006–T36 (Mexico); (ENTITY) [SDNTK]

Individuals:

1. NIEBLA CARDOZA, Rosario, (a.k.a. NIEBLA CARDOSA, Rosario); c/o NUEVA INDUSTRIA DE GANADEROS DE CULIACAN S.A. DE C.V., Culiacan, Sinaloa, Mexico; c/o JAMARO CONSTRUCTORES S.A. DE C.V., Culiacan, Sinaloa, Mexico; c/o ESTABLO PUERTO RICO S.A. DE C.V., Culiacan, Sinaloa, Mexico; c/o ROSARIO NIEBLA CARDOZA A. EN P., Culiacan, Sinaloa, Mexico; Calle Ciudades de Hermanas # 277, Colonia Guadalupe, Culiacan, Sinaloa, Mexico; La Calle Jesus Clark Flores # 48, Octava Seccion, Fraccionamiento Chapultepec, Tijuana, Baja California, Mexico; Avenida Paseo Lomas De Mazatlan 6, Lomas De Mazatlan, Mazatlan, Sinaloa 82110, Mexico; Calle Ciudad Victoria 1168, Las Quintas, Culiacan, Sinaloa 80060, Mexico; S Madre Occidental 1323, Culiacan, Sinaloa 80178, Mexico; Avenida Manuel Vallarta 2141, Colonia Centro, Culiacan, Sinaloa 80129, Mexico; Calle Ciudad de Hermosillo # 1168, Fraccionamiento Las Quintas, Culiacan, Sinaloa 80060, Mexico; DOB 06 Oct 1946; POB Culiacan, Sinaloa, Mexico; Citizen Mexico; Nationality Mexico; C.U.R.P. NICR461006MSLBRS09 (Mexico); R.F.C. # NICR–461006–T36 (Mexico); (INDIVIDUAL) [SDNTK].

2. ZAMBADA NIEBLA, Maria Teresa, c/o NUEVA INDUSTRIA DE GANADEROS DE CULIACAN S.A. DE C.V., Culiacan, Sinaloa, Mexico; c/o JAMARO CONSTRUCTORES S.A. DE C.V., Culiacan, Sinaloa, Mexico; c/o ESTABLO PUERTO RICO S.A. DE C.V., Culiacan, Sinaloa, Mexico; c/o ESTANCIA INFANTIL NIO FELIZ S.C., Culiacan, Sinaloa, Mexico; Calle Ciudad de Hermosillo # 1168, Fraccionamiento Las Quintas, Culiacan, Sinaloa, Mexico; Calle Rio Quelite 210, Colonia Guadalupe, Culiacan, Sinaloa 80220, Mexico; Avenida Universidad No. 1900, Colonia Copilco, Coyoacan, Distrito Federal 04350, Mexico; Calle Cerro de la Campana 649, Colonia Colinas de San Miguel, Culiacan, Sinaloa 80060, Mexico; DOB 17 Jun 1969; POB Culiacan, Sinaloa, Mexico; Alt. POB Sonora; Citizen Mexico; Nationality Mexico; C.U.R.P. ZANT690617MSLMBR01 (Mexico); R.F.C. # ZANT–690617–B73 (Mexico); Passport 97040021870 (Mexico); (INDIVIDUAL) [SDNTK].

3. ZAMBADA NIEBLA, Midiam Patricia, (a.k.a. ZAMBADA NIEBLA, Midian Patricia; a.k.a. ZAMBADA NIEBLA, Miriam; a.k.a. LOPEZ LANDEY, Midian Patricia); c/o NUEVA INDUSTRIA DE GANADEROS DE CULIACAN S.A. DE C.V., Culiacan, Sinaloa, Mexico; c/o JAMARO CONSTRUCTORES S.A. DE C.V., Culiacan, Sinaloa, Mexico; c/o ESTABLO PUERTO RICO S.A. DE C.V., Culiacan, Sinaloa, Mexico; Calle Gabino Vazquez # 1206, Colonia Los Pinos, Culiacan, Sinaloa, Mexico; Calle Ciudad de Hermosillo # 1168, Fraccionamiento Las Quintas, Culiacan, Sinaloa, Mexico; Calle Lago Cuitzeo 1394, Colonia Las Quintas, Culiacan, Sinaloa 80060, Mexico; DOB 04 Mar 1971; POB Culiacan, Sinaloa, Mexico; Citizen Mexico; Nationality Mexico; C.U.R.P. ZANM710304MSLMBD14 (Mexico); C.U.R.P. ZANM710304MSLMBD06 (Mexico); R.F.C. # ZANM–710304–RN2 (Mexico); Passport 97040022206 (Mexico); (INDIVIDUAL) [SDNTK],

4. ZAMBADA NIEBLA, Monica del Rosario, (a.k.a. ZAMBADA NIEBLA, Monica del Rocio); c/o NUEVA INDUSTRIA DE GANADEROS DE CULIACAN S.A. DE C.V., Culiacan, Sinaloa, Mexico; c/o JAMARO CONSTRUCTORES S.A. DE C.V., Culiacan, Sinaloa, Mexico; c/o ESTABLO PUERTO RICO S.A. DE C.V., Culiacan, Sinaloa, Mexico; Calle Ciudad de Hermosillo # 1168, Fraccionamiento Las Quintas, Culiacan, Sinaloa, Mexico; Calle Ciudad de Puebla 1254, Colonia Las Quintas, Culiacan, Sinaloa, Mexico; DOB 02 Mar 1980; Alt. DOB 02 Apr 1980; POB Culiacan, Sinaloa, Mexico; Citizen Mexico; Nationality Mexico; C.U.R.P. ZANM800402MSLMBN02 (Mexico); R.F.C. # ZANM–800402 (Mexico); Passport 040037016 (Mexico); Alt. Passport 95040018272 (Mexico); (INDIVIDUAL) [SDNTK],

5. ZAMBADA NIEBLA, Modesta, c/o NUEVA INDUSTRIA DE GANADEROS DE CULIACAN S.A. DE C.V., Culiacan, Sinaloa, Mexico; c/o JAMARO CONSTRUCTORES S.A. DE C.V., Culiacan, Sinaloa, Mexico; c/o ESTABLO PUERTO RICO S.A. DE C.V., Culiacan, Sinaloa, Mexico; Calle Ciudad de Hermosillo # 1168, Fraccionamiento Las Quintas, Culiacan, Sinaloa 80060, Mexico; DOB 22 Nov 1982; POB Culiacan, Sinaloa, Mexico; Citizen Mexico; Nationality Mexico; R.F.C. # ZANM–821122–H87 (Mexico); C.U.R.P. ZANM821122MSLMBD07 (Mexico); Passport 95040018273 (Mexico); (INDIVIDUAL) [SDNTK].

6. PEREGRINA TOBOADA, Jose Antonio, (a.k.a. PEREGRINA TOBOADO, Jose Antonio); c/o NUEVA INDUSTRIA DE GANADEROS DE CULIACAN S.A. DE C.V., Culiacan, Sinaloa, Mexico; c/o JAMARO CONSTRUCTORES S.A. DE C.V., Culiacan, Sinaloa, Mexico; Calle Pirul # 439, Privada Balcones de San Miguel, Culiacan, Sinaloa, Mexico; DOB 05 Aug 1958; POB Culiacan, Sinaloa, Mexico; Citizen Mexico; Nationality Mexico; C.U.R.P. PETA580805HSLRBN09 (Mexico); (INDIVIDUAL) [SDNTK].

7. BUENO GARCIA, Santos, c/o NUEVA INDUSTRIA DE GANADEROS DE CULIACAN S.A. DE C.V., Culiacan, Sinaloa, Mexico; c/o ESTABLO PUERTO RICO S.A. DE C.V., Culiacan, Sinaloa, Mexico; Calle Granate 816, Culiacan, Sinaloa 80015, Mexico; Calle Rio Fuerte 581, Culiacan, Sinaloa 80220, Mexico; DOB 27 Mar 1964; POB Sinaloa, Mexico; Citizen Mexico; Nationality Mexico; C.U.R.P. BUGS640327MSLNRN01 (Mexico); Passport 040035868 (Mexico); (INDIVIDUAL) [SDNTK].

8. LOPEZ DIAZ, Jesus Alfonso, c/o ESTABLO PUERTO RICO S.A. DE C.V., Culiacan, Sinaloa, Mexico; Avenida Const. Pedro L Zavala 1957, Colonia Libertad, Culiacan, Sinaloa 80180, Mexico; DOB 30 Sep 1962; POB Sinaloa, Mexico; Citizen Mexico; Nationality Mexico; C.U.R.P. LODJ620930HSLPZS09 (Mexico); R.F.C. # LODJ–620930 (Mexico); (INDIVIDUAL) [SDNTK].

9. ARAUJO LAVEAGA, Carmen Amelia, c/o ESTANCIA INFANTIL NIO FELIZ S.C., Culiacan, Sinaloa, Mexico; DOB 29 Jan 1967; POB Sinaloa, Mexico; C.U.R.P. AALC670129MSLRVR00 (Mexico); (INDIVIDUAL) [SDNTK].

10. TORRES FELIX, Javier, (a.k.a. FELIX TORRES, Javier; a.k.a. TAMAYO TORRES, Horacio; a.k.a. ''El JT''; a.k.a. ''Compadre''); Calle Paseo La Cuesta # 1550, Apt 6, Colonia Lomas De

Guadalupe, Culiacan Rosales, Sinaloa, Mexico; DOB 19 Oct 1960; POB Mexico; Citizen Mexico; Nationality Mexico; (INDIVIDUAL) [SDNTK].

11. ZAMBADA NIEBLA, Vicente, (a.k.a. ZAMBADA NIEBLA, Jesus Vicente; a.k.a. ZAMBADA NIEBLA, Vincente; a.k.a. SOTELO GUZMAN, Vicente; a.k.a. ''El Mayito''); c/o NUEVA INDUSTRIA DE GANADEROS DE CULIACAN S.A. DE C.V., Culiacan, Sinaloa, Mexico; c/o ESTABLO PUERTO RICO S.A. DE C.V., Culiacan, Sinaloa, Mexico; 4852 Palma Cocotera, Colonia Las Palmas, Culiacan, Sinaloa, Mexico; Calle Ciudad de Hermosillo # 1168, Fraccionamiento Las Quintas, Culiacan, Sinaloa 80060, Mexico; DOB 24 Mar 1975; POB Sinaloa, Mexico; Citizen Mexico; Nationality Mexico; R.F.C. # ZANV–750324–NY5 (Mexico); Passport 97040021871 (Mexico); (INDIVIDUAL) [SDNTK].

12. BORBOA ZAZUETA, Zynthia (a.k.a. BORBOA ZAZUETA, Cinthia; a.k.a. BORBOA DE ZAMBADA, Zynthya); c/o MULTISERVICIOS JEVIZ S.A. DE C.V., Culiacan, Sinaloa, Mexico; Calle Miguel Hidalgo PTE 348, Centro, Culiacan, Sinaloa, Mexico; Manuel Bonilla 1166, Guadalupe, Culiacan, Sinaloa, Mexico; Lago Maracaibo 3121, Lago Azul y Ave Lago Azul, Lomas De Boulevard, Culiacan, Sinaloa, Mexico; DOB 30 Jan 1975; POB Sinaloa, Mexico; C.U.R.P. BOZC750130MSLRZN09 (Mexico); R.F.C. # BOZZ-750130–LK4 (Mexico); Passport 04040046165 (Mexico); (INDIVIDUAL) [SDNTK].

In addition, OFAC has made a change to the following listing of one individual previously designated pursuant to the Kingpin Act:

1. ZAMBADA GARCIA, Ismael (a.k.a. GARCIA HERNANDEZ, Javier; a.k.a. HIGUERA RENTERIA, Ismael; a.k.a. LOAIZA AVENDANO, Jesus; a.k.a. ZAMBADA GARCIA, Ismael Mario; a.k.a. ZAMBADA, El Mayo); DOB 1 January 1948; POB Sinaloa, Mexico (individual) [SDNTK].

The listings now appear as follows:

1. ZAMBADA GARCIA, Ismael (a.k.a. GARCIA HERNANDEZ, Javier; a.k.a. HIGUERA RENTERIA, Ismael; a.k.a. LOAIZA AVENDANO, Jesus; a.k.a. ZAMBADA GARCIA, Ismael Mario; a.k.a. LOPEZ LANDEROS, Jeronimo; ''El Mayo Zambada''); Calle Presa Humaya # 104, Fraccionamiento Las Quintas, Culiacan, Sinaloa, Mexico; PTE 4 49 2212, Cuchilla Del Tesoro, Delegacion Gustavo A Madero, Distrito Federal, Mexico; Calle Juan Jose Rios, Culiacan, Sinaloa, Mexico; Bahia de San Ignacio #1921, Colonia Nuevo Culiacan, Culiacan, Sinaloa, Mexico; DOB 1 Jan 1948; Alt. DOB 6 Dec 1952; Alt. DOB 3 Sep 1951; POB Sinaloa, Mexico; Alt. POB Costa Rica, Sinaloa, Mexico; Alt. POB El Salado, Sinaloa, Mexico; Alt. POB Guadalajara, Jalisco, Mexico; R.F.C. # ZAGI–500130 (Mexico); Alt. R.F.C. # GAHJ–521206 (Mexico); Alt. R.F.C. # LOLJ510903 (Mexico); Driver's License No. N36064231 (Distrito Federal, Mexico); (INDIVIDUAL) [SDNTK]/

Dated: May 17, 2007.

Adam J. Szubin,

Director, Office of Foreign Assets Control.

[FR Doc. E7–11187 Filed 6–7–07; 8:45 am]

BILLING CODE 4811–42–P

Federal Register

Friday,
June 8, 2007

Part II

Department of Energy

10 CFR Parts 820 and 835
Procedural Rules for DOE Nuclear Activities and Occupational Radiation Protection; Final Rule

DEPARTMENT OF ENERGY

10 CFR Parts 820 and 835

[Docket No. EH–RM–02–835]

RIN 1901–AA95

Procedural Rules for DOE Nuclear Activities and Occupational Radiation Protection

AGENCY: Office of Health, Safety and Security, Department of Energy.

ACTION: Final rule.

SUMMARY: The Department of Energy (DOE) today amends its Procedural Rules for DOE Nuclear Activities, and its Occupational Radiation Protection requirements. The amendments to 10 CFR part 820, the Procedural Rules for DOE Nuclear Activities, update its provisions to take into account the establishment of the National Nuclear Security Administration (NNSA). The amendments to 10 CFR part 835, the Occupational Radiation Protection requirements, update its provisions to account for lessons learned since the initial adoption of these regulations, comments from the Defense Nuclear Facilities Safety Board (DNFSB) and members of the public, new recommendations from the International Commission on Radiological Protection (ICRP), and the establishment of the NNSA.

DATES: This rule is effective July 9, 2007.

FOR FURTHER INFORMATION CONTACT: Mr. Peter V. O'Connell, U. S. Department of Energy, Office of Worker Safety and Health Policy (HS–11), 1000 Independence Avenue, SW., Washington, DC 20585; (301) 903–5641.

SUPPLEMENTARY INFORMATION:

I. Background of 10 CFR Part 820
II. Discussion of Changes to 10 CFR Part 820
III. Background of 10 CFR Part 835
IV. Discussion of Changes to 10 CFR Part 835
V. Regulatory Review
  A. Review Under Executive Order 12866
  B. Review Under Executive Order 12988
  C. Review Under Executive Order 13132
  D. Review Under Regulatory Flexibility Act
  E. Review Under the Paperwork Reduction Act of 1995
  F. Review Under the National Environmental Policy Act
  G. Review Under the Unfunded Mandates Reform Act
  H. Review Under Executive Order 13211
  I. Review Under the Treasury and General Government Appropriations Act, 1999
  J. Review Under the Treasury and General Government Appropriations Act, 2001
  K. Congressional Notification
VI. Approval of the Office of the Secretary

I. Background of 10 CFR Part 820

Part 820 sets forth the procedural rules relating to DOE nuclear safety requirements. Among other matters, 10 CFR part 820 sets forth the process for granting exemptions from nuclear safety requirements and the process for issuing civil penalties for violations of nuclear safety requirements. DOE proposed 10 CFR part 820 on December 9, 1991 (56 FR 64290) and issued a clarification on May 15, 1992 (57 FR 20796). DOE published 10 CFR part 820 as a final rule on August 17, 1993 (58 FR 43680) and amended it on October 8, 1997 (62 FR 52479), on March 22, 2000 (65 FR 15218), and on November 28, 2006 (71 FR 68727).

DOE proposed its latest amendments to 10 CFR part 820 on August 10, 2006 (71 FR 45996). Today's final rule modifies 10 CFR part 820 by:

(1) Formalizing the use of enforcement letters; and

(2) Making explicit the role of NNSA in giving direction to NNSA contractors pursuant to 10 CFR part 820.

As discussed in this notice of final rulemaking, this final rule was developed after consideration of comments received during a public hearing and through written and electronic public comments on the notice of proposed rulemaking (NOPR).

II. Discussion of Changes to 10 CFR Part 820

The National Nuclear Safety Administration Act (NNSA Act) (Title XXXII of Pub. L. 106–65, 50 U.S.C. 2401 *et seq.*) established the NNSA. The Act contains provisions that affect 10 CFR part 820. In particular, non-NNSA DOE personnel, other than the Secretary and Deputy Secretary, are prohibited from giving direction to NNSA contractors. On November 28, 2006, DOE published a final rule that amended the Code of Federal Regulations to address the fact that several Assistant Secretaries and the Deputy Assistant Secretary for Naval Reactors positions were converted into NNSA Deputy Administrator positions by the NNSA Act (71 FR 68727–38).

A. Definition of ''Secretarial Officer''

The November 28, 2006 final rule revised the definition of ''Secretarial Officer'' in 10 CFR 820.2 to mean an individual who is appointed to a position in the Department of Energy by the President of the United States with the advice and consent of the Senate or the head of a departmental element who is primarily responsible for the conduct of an activity under the Atomic Energy Act of 1954, as amended. The revised definition in the final rule also states that with regard to activities and facilities covered under E.O. 12344, 42 U.S.C. 7158 note, pertaining to Naval nuclear propulsion, Secretarial Officer means the Deputy Administrator for Naval Reactors.

B. Investigations

DOE adds two new subsections to § 820.21 to codify current practices. The final rule adds section 820.21(g), which recognizes the use of enforcement letters to communicate expectations during an investigation into a possible violation of a nuclear safety requirement. It also adds section 820.21(h), which provides that the Director may sign, issue and serve subpoenas during an investigation. These changes were in the proposal and DOE received no comments on them.

C. Direction of NNSA Contractors

The NNSA Act provides at 50 U.S.C 2410(b) that non-NNSA DOE personnel (other than the Secretary and Deputy Secretary) are prohibited from giving direction to NNSA contractors. Since the establishment of the NNSA, the NNSA and other elements of DOE, including the Office of Enforcement, have worked together to ensure 10 CFR part 820 operates in a manner consistent with section 2410(b). New § 820.13 codifies current practices and makes clear that NNSA is responsible for signing, issuing and serving actions that give direction to NNSA contractors. These changes were in the proposal and DOE received no comments on them.

D. Appendix on Enforcement Policy

DOE updates the Appendix on Enforcement Policy to reflect the changes this final rule makes to 10 CFR part 820. These changes were in the proposal and DOE received no comments on them.

III. Background of 10 CFR Part 835

Part 835 of title 10 of the CFR sets forth the nuclear safety requirements that provide radiological protection for DOE workers and members of the public in a controlled area at a DOE facility. DOE proposed 10 CFR part 835 on December 9, 1991 (56 FR 64334) and published it as final on December 14, 1993 (58 FR 65458). DOE amended 10 CFR part 835 on November 4, 1998 (63 FR 59662) and on November 28, 2006 (71 FR 68727).

DOE proposed its latest amendment to 10 CFR part 835 on August 10, 2006 (71 FR 45996). Today's final rule amends 10 CFR part 835 by:

(1) Clarifying those requirements in 10 CFR part 835 which apply to radioactive material transportation;

(2) Excluding from the scope of 10 CFR part 835 material, equipment, and real property approved for release in accordance with DOE approved authorized limits which have been approved by a Secretarial Officer in consultation with the Chief Health, Safety and Security Officer. (Note: At the time of DOE's proposed amendment, August 10, 2006, this function was to be accomplished by the Office of the Assistant Secretary for Environment, Safety and Health. After publication of the NOPR, DOE reorganized the Office of Environment, Safety and Health into the Office of Health, Safety and Security. Under this reorganization the Secretarial Officer responsible for environment, safety and health matters is the Chief Health, Safety and Security Officer);

(3) Updating the dosimetric models and dose terms to be consistent with newer recommendations from ICRP, including use of updated tissue and radiation weighting factors and updated derived air concentration (DAC) values;

(4) Establishing DAC values for Special Tritium Compounds (STCs);

(5) Lowering the maximum amount of radioactive material which need not be labeled;

(6) Allowing use of thresholds for recording occupational exposures;

(7) Establishing DAC default values for radionuclides not listed in the rule; and

(8) Revising values in Appendix E to be consistent with newer dosimetric models and adding values for STCs.

These final amendments were developed after consideration of input received during a public hearing and through written and electronic public comments on the NOPR.

The schedule for achieving compliance with the amendments to 10 CFR part 835 is as follows. As provided at § 835.101(g)(3), updated radiation protection programs must be submitted to DOE within 180 days following the effective date of this final rule or January 4, 2008. Changes that do not decrease the effectiveness of the radiation protection program (RPP) may be implemented prior to DOE approval. Changes that decrease the effectiveness of the RPP require DOE approval prior to implementation. As provided at § 835.101(i), an update of the RPP shall be considered approved 180 days after its initial submission unless rejected by DOE at an earlier date. Consistent with the proposal, today's final rule, at § 835.101(f), requires that RPPs include plans, schedules, and other measures for achieving compliance with regulations of this part such that full compliance with the regulatory changes is achieved within three years of the effective date of the final rule, which is July 9, 2007.

IV. Discussion of Changes to 10 CFR Part 835

DOE is amending 10 CFR part 835 for a number of reasons. In some cases, an analysis of the operating experience with 10 CFR part 835 indicated that DOE's needs could be met more effectively if there was a change. In other cases, the DNFSB staff or members of the public have suggested changes. In addition, the ICRP has issued newer recommendations on areas covered by 10 CFR part 835.

DOE received several comments proposing new changes, not related to proposed changes in the NOPR. DOE has decided there is no need to consider these proposed changes now and, if it were to do so, it would be required by section 553 of the Administrative Procedures Act (5 U.S.C. 553) to engage in further notice and comment proceedings. DOE is not making any new changes that are unrelated to the proposed changes in the NOPR.

A. Scope of 10 CFR Part 835

1. *U.S. Nuclear Regulatory Commission (NRC) Regulated Activity Exclusion.* One comment noted that the exclusion in 10 CFR 835.1(b)(1) refers to activities regulated through a license by the NRC, or a State under an agreement with the NRC, including activities certified by the NRC under section 1701 of the Atomic Energy Act. The exclusion is limited by 10 CFR 835.1(c) which indicates that occupational doses received as a result of excluded activities shall be considered when determining compliance with DOE's occupational dose limits. The preamble to the proposed rule indicates that ICRP Publication 68, *Dose Coefficients for Intakes of Radionuclides by Workers*, will be the basis for the rule's terminology and methodology. Under certain circumstances, when a DOE worker conducts multiple activities involving both excluded and un-excluded activities under 10 CFR 835.1(b)(1), clarification is needed as to how the rule would be applied when using different dose coefficients and weighting factors to calculate the overall cumulative total effective dose for the worker. DOE agrees with this comment and will provide guidance (see discussion of 10 CFR part 835.2).

2. *Material, Equipment, and Real Property Exclusion.* DOE proposed to amend § 835.1 (Scope) by inserting a new paragraph (b)(6) which would exclude radioactive material on or within material, equipment, and real property that is approved for release when the radiological conditions of the material, equipment, and real property have been documented to comply with the criteria for release set forth in a DOE authorized limit that has been approved by a Secretarial Officer in consultation with the Office of the Assistant Secretary for Environment, Safety and Health. The NOPR explained that under DOE O 5400.5, *Radiation Protection of the Public and the Environment*, real property on a DOE site and material and equipment from a DOE site may be released for unrestricted or restricted use by members of the public in accordance with a process to determine the risk to an individual from the residual radioactive material remaining on or within the material, equipment, or property. Such material, equipment, or real property may sometimes contain contaminated surfaces which exceed the surface contamination levels in 10 CFR part 835 appendix D. The appendix D values trigger application of occupational radiological controls for contaminated areas.

Accordingly, prior to today's final rule, even though DOE may have determined that this material, equipment, or property posed a minimal risk to individuals, if DOE activities were still associated with the material, equipment, or property, then certain radiological controls in 10 CFR part 835, such as those for access control, posting and training, would apply to portions of this material, equipment, or property.

To eliminate this potential inconsistency, DOE proposed a new § 835.1(b)(6) that would exclude from the scope of 10 CFR part 835 radioactive material on or within material, equipment, and real property which has been approved by DOE for release.

In this final rule, DOE modifies the language in the new § 835.1(b)(6) to exclude radioactive material on or within material, equipment, and real property which is approved for release when the radiological conditions of the material, equipment, and real property have been documented to comply with the criteria for release set forth in a DOE authorized limit which has been approved by a Secretarial Officer in consultation with the Chief Health, Safety and Security Officer. As previously noted, the functions of the Office of the Assistant Secretary for Environment, Safety and Health have been transferred to the Chief Health, Safety and Security Officer and the final rule reflects that change.

DOE recognizes that, depending on the potential exposure, requiring approval at the Secretarial Officer, level may be a higher level of approval than required by DOE O 5400.5. However,

this level of approval is consistent with other provisions of 10 CFR part 835 for which there are alternative means of compliance, such as alternatives to the DOELAP, use of planned special exposures, and exemptions from specified provisions of 10 CFR part 835. The requirement for consultation with the Chief Health, Safety and Security Officer would be satisfied by providing copies of a Secretarial Officer's approved authorized limits and supporting documentation to the cognizant office within the Office of Health, Safety and Security (currently the Office of Nuclear Safety and Environment (HS–20)) for review and comment. The Office of Nuclear Safety and Environment will coordinate the review and comment with the Office of Worker Safety and Health Policy (HS–11). After comments have been resolved, the consultation process is complete. The intent for this change is to allow for the exclusion to apply for material, equipment, or real property regardless of whether the property has been released from DOE control. The Department also expects the material, equipment, or real property to which this exclusion is applied will be released from DOE control according to a specified time interval.

DOE received several comments that the proposed change would be beneficial and may promote better harmony between DOE occupational radiation protection and environmental protection requirements.

DOE also received a comment requesting clarification of the applicability of this exclusion to real property which has been remediated under the criteria and conditions specified in an approved Record of Decision under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA). The process for determining CERCLA remediation criteria and conditions is analogous to the process for determining an authorized limit pursuant to the requirements of DOE O 5400.5. Accordingly, for the purpose of excluding real property from the scope of 10 CFR part 835, approved CERCLA remediation criteria may be considered equivalent to an authorized limit if the DOE site office has determined that the criteria meet DOE requirements for authorized limits and provided that the use of these criteria as DOE authorized limits is documented and approved as would be an authorized limit, i.e., by a Secretarial Officer or designee in consultation with the Chief Office of Health, Safety, and Security Officer.

3. *Radioactive Material Transportation.* DOE proposed revising § 835.1 to clarify which requirements in 10 CFR part 835 apply to the transportation of radioactive material by or on behalf of the DOE. Specifically, DOE proposed to delete existing § 835.1(b)(4) and replace it with a new § 835.1(d) that would state clearly that subparts F (Entry Control Program) and G (Posting and Labeling) do not apply to radioactive material transportation conducted by a DOE individual or DOE contractor, when the radioactive material is under the continuous observation and control of an individual who is knowledgeable of and implements required exposure control measures. This proposed change was not intended to affect the application of requirements to radioactive material transportation in the other subparts of 10 CFR part 835.

The proposal stated that DOE did not intend 10 CFR part 835 to apply to transportation by the U. S. Postal Service or a commercial carrier, such as Fedex or UPS, which transport radioactive material as part of their normal operations. A company or subsidiary of a corporation that operates a DOE facility would not be considered a commercial carrier—even if such an organization transports radioactive material as part of its contractual agreement with DOE. This position is consistent with NRC practice. See, for example, 10 CFR 30.13, 40.12, and 70.12. DOE requested comments as to whether there should be an explicit exclusion of these carriers from the scope of 10 CFR part 835.

DOE also proposed changes to the definition of ''radioactive material transportation'' in § 835.2(a) to improve the regulatory language. The NOPR stated that these proposed changes were not intended to affect the existing scope of this definition, which excludes activities related to transportation such as the preparation of material or packagings for transportation, storage of material awaiting transportation, or application of markings and labels required for transportation.

DOE received comments requesting guidance on the new exclusion, particularly the proposed ''continuous observation'' provision. One commenter noted that, if the radioactive material ceases to be under ''continuous observation'' the requirements of subparts F and G should apply because to do otherwise, could result in potential exposure of workers or the public. DOE agrees with this comment. However, DOE recognizes that there are some cases when it may be impractical to maintain ''continuous observation.'' To address this situation and still provide adequate warning to workers and members of the public, DOE adds a provision to § 835.1(d) to allow exception from subparts F and G for transportation by DOE and DOE contactors for radioactive material transportation conducted in accordance with Department of Transportation (DOT) regulations or DOE orders that govern such movements. For radioactive material transportation that is not subject to DOT regulations or DOE transportation orders (for situations where DOE and a contractor had not included such orders in the contract), the conditions for the exception from subparts F and G would be met by conducting the transportation activity per DOT regulations or DOE orders whether or not these are regulatory or contractually required for the transportation activity. DOE believes that the provisions at § 835.1(d) fulfill its intentions with regard to protection of workers and the public.

Another commenter noted that material staged for some period on DOE property was still technically in transit and requested guidance for continuous observation for such material. DOE disagrees with this comment, and the definition of ''radioactive material transportation'' does not include preparation of material or packagings for transportation or storage of material awaiting transportation such as what might occur when material is staged on DOE property. In accordance with the definition of ''radioactive material transportation,'' the exclusion applies while the material is in the process of undergoing movement, including nominal stoppages such as for traffic considerations or refueling activities.

Another commenter stated that this change should lead to cost savings for DOE laboratories. A commenter also requested a definition of ''radioactive material'' be added to the rule.

DOE also received a comment that there should be a specific exclusion for a ''company or subsidiary of a corporation that operates a DOE facility.'' At most DOE facilities the prime contractor transports radioactive materials as part of routine facility operations. DOE disagrees with the comment that its contractors conducting radioactive material transportation should be excluded from all the provisions of 10 CFR part 835. While DOE agrees that, at most DOE facilities, the prime contractor commonly transports radioactive materials as part of routine facility operations, it is the Department's position that all DOE occupational exposures to ionizing radiation to DOE and DOE contractor employees should, to the extent practicable, be subject to the provisions

of 10 CFR part 835. For example, provisions in 10 CFR part 835 that should apply to workers involved in radioactive material transportation, are qualification and training requirements, necessary radiation exposure monitoring, and As Low As is Reasonably Achievable (ALARA) requirements.

The NOPR stated DOE's intention that 10 CFR part 835 not apply to transportation by the U.S. Postal Service or a commercial carrier, such as Fedex or UPS, which transport radioactive material as part of their normal operations. DOE adds a provision to § 835.1(b) explicitly excluding all radioactive material transportation from the scope of 10 CFR part 835 that is not performed by DOE or a DOE contractor. This change clarifies the applicability of the transportation exclusion by making it an explicit regulatory provision.

There may be situations where DOE or DOE contractor personnel also perform radioactive material transportation activities for other than DOE related purposes (such as DOE or DOE contractor personnel performing work for a commercial transportation company after normal work hours). This situation is comparable to that where a DOE individual or a DOE contractor works part-time at an NRC regulated facility. Occupational exposure resulting from working at a NRC regulated facility (*i.e.*, an excluded activity) is considered when evaluating compliance with the dose limits. Accordingly, DOE is including in 10 CFR 835.1(c) a provision that occupational doses received as a result of radioactive material transportation performed by other than the DOE or a DOE contractor, be considered to the extent practicable when determining compliance with the occupational dose limits.

One commenter suggested imposing a time limit on the radioactive material transportation exclusion. The commenter noted that there is already a time-based exception for posting radiological areas when there is a knowledgeable person controlling access to the area, for up to eight hours (§ 835.604(a)). A comparable approach was suggested for radioactive material transportation. DOE believes this is an impractical approach for the radioactive material transportation exclusion due to the wide variation in shipment circumstances (including variable time periods) expected to be encountered across the DOE complex.

This final rule includes the changes to the radioactive material transportation provisions in the NOPR with the following additional changes: Section 835.1(b)(7) is added excluding radioactive material transportation not performed by the DOE or a DOE contractor. Section 835.1(c) is modified such that occupational doses received as a result of radioactive material transportation performed by other than the DOE or a DOE contractor, must be considered to the extent practicable when determining compliance with the occupational dose limits.

Section 835.1(4) is added excluding radioactive material transportation not performed by the DOE or a DOE contractor. Section 835.1(d) is modified to exclude DOE and DOE contractors performing radioactive material transportation from subpart G and F if such transportation is conducted under the continuous observation and control of an individual who is knowledgeable of and implements required exposure control measures or if the transportation is conducted in accordance with DOT regulations or DOE orders that govern such movements.

B. Definitions in 10 CFR Part 835

DOE proposed to change most of the dosimetric terms used in 10 CFR part 835 to reflect the recommendations for assessing dose and associated terminology from ICRP Publication 60, *1990 Recommendations of the ICRP on Radiological Protection*, and ICRP Publication 68, *Dose Coefficients for Intakes of Radionuclides by Workers*. DOE proposed this change mainly because these recommendations are based on updated scientific models and more accurately reflect the occupational doses to workers than the models currently used by DOE. DOE currently uses models that were used in developing *Radiation Protection Guidance to Federal Agencies for Occupational Exposures*, published by the Environmental Protection Agency (52 FR 2822, January 27, 1987), which are based upon 1977 recommendations from the ICRP. In the NOPR, DOE noted that other federal agencies, including the Environmental Protection Agency (EPA), the Food and Drug Administration (FDA), and the National Institute of Occupational Safety and Health (NIOSH), have already adopted parts of the current ICRP recommendations related to dosimetry in recent guidance documents and requirements. NIOSH uses the newer recommendations in performing DOE worker dose assessments under the Energy Employees Occupational Illness Compensation Program Act of 2000, which is contained in the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (Pub. L. 106–398). EPA has adopted the recommendations in Federal Guidance Report Number 13, *Cancer Risk Coefficients for Environmental Exposure to Radionuclides*. In addition, recommendations published by the National Council on Radiation Protection and Measurements for the past several years, as well as several standards issued by the American National Standards Institute, have used the newer dosimetric quantities and units endorsed by the ICRP.

Internal doses would still be calculated based on a 50-year committed dose. The following ''cross-walk'' was provided in the NOPR to show the new terms DOE proposed and the terms that would be replaced:

Current dosimetric terms	Proposed dosimetric terms
Committed effective dose equivalent.	Committed effective dose.
Committed dose equivalent.	Committed equivalent dose.
Cumulative total effective dose equivalent.	Cumulative total effective dose.
Deep dose equivalent	Deep equivalent dose.
Dose equivalent	Equivalent dose.
Effective dose equivalent.	Effective dose.
Lens of the eye dose equivalent.	Lens of the eye equivalent dose.
Quality factor	Radiation weighting factor.
Shallow dose equivalent.	Shallow equivalent dose.
Weighting factor	Tissue weighting factor.
Total effective dose equivalent.	Total effective dose.

Note: Throughout the text of the NOPR, the above terms were proposed to be revised.

In addition, DOE proposed revising the following definitions: Annual limit on intake, Derived air concentration, Radiation area, Radiological worker, Dose, External dose or exposure, and Internal dose or exposure. Also, consistent with ICRP Publication 60, the table of weighting factors for neutrons would no longer list a column for neutron flux density.

DOE recognized that the proposed changes to most of the dosimetric terms used in 10 CFR part 835 to reflect the recommendations for assessing dose and associated terminology from ICRP Publications 60 and 68 would require revising many site documents and updating training materials. Although in June 2004 and again in June 2006, the ICRP released a draft of updated recommendations, which included some adjustment of Tissue Weighting Factors and Radiation Weighting Factors, DOE expressed its belief that

this was still an opportune time to make these changes rather than waiting for the draft recommendations to be finalized. It may be several years before the ICRP finalizes and issues the revised recommendations and accompanying dose conversion factors. DOE evaluated the effect of the June 2004 proposed revisions to Tissue Weighting Factors on derivation of dose conversion factors used in ICRP Publication 68. The evaluation found, for radionuclides of most interest to DOE, that the ICRP proposed Tissue Weighting Factors revisions would have minimal impact on the ICRP Publication 68 derived secondary limits (*i.e.*, the DACs and Sealed Radioactive Source Accountability values). The ICRP's June 2006 proposed revisions to Tissue Weighting Factors will also have minimal impact. Any future need by DOE to revise weighting factors should have minimal administrative impact for such activities as revising procedures and training materials. It is envisioned that, over time, updated recommendations to make revisions to dosimetry calculation models will periodically be made by national and international consensus groups. Given that fact, and the significant financial and resource impact, DOE recognizes that historical doses, recorded and reported to individuals prior to the effective implementation date of this proposed amendment, should still be considered to be the official doses of record. Barring some unforeseen reason or factor (e.g., discovery of a site or vendor specific miscalculation in assigned doses), DOE would not require the updating of historical doses to reflect these changes. DOE considered several options for amending part 835 including:

- Allowing sites to choose either converting to the newer dosimetric terminology and Tissue and Radiation Weighting Factors or retaining the existing requirements;
- Not specifying in part 835 a specific set of Tissue and Radiation Weighting Factors, but requiring sites to specify in their DOE approved Radiation Protection Program the weighting factors to be used and the technical basis for that determination;
- Updating the Tissue and Radiation Weighting Factors to reflect the newer research without revising the dose terminology;
- Updating the Tissue and Radiation Weighting Factors to reflect the newer research and revising the dose terminology; and
- Converting to the newer dosimetric terminology and Tissue and Radiation Weighting Factors and not updating the DAC values (appendices A and C to part 835) and appendix E to part 835 values.

DOE considered the best approach, which it proposed, was to convert all terminology and methodology, including the appendices A, C and E to part 835 values, to reflect ICRP Publications 60 and 68. DOE solicited comments on all of these different options.

DOE recognized in the NOPR that the proposed dosimetric changes would result in the need to update numerous site documents and proposed a three-year implementation schedule to alleviate the burden of making the changes. Therefore, DOE considered that many of the changes can be made during the regularly scheduled document updating processing. An extended implementation date also was proposed because DOE recognized that the benefit of updating documents to reflect the dosimetric changes may not justify the cost at sites nearing closure. The NOPR stated that DOE would allow sites to use the exemption process in 10 CFR part 820 to request relief, if appropriate, for closure sites which are scheduled to continue operation beyond the implementation date for the proposed changes. In the proposal, DOE requested input on any other constructive ways to reduce the costs of implementing this proposed change.

DOE received several comments supporting DOE's proposed changes to reflect the recommendations for assessing dose and associated terminology from ICRP Publications 60 and 68. Comments noted that there would be associated costs and appreciated DOE's three-year implementation schedule to meeting this change. The same comments applied to the updates to appendices A, C and E to part 835 to reflect ICRP Publications 60 and 68 methodologies.

One commenter stated that DOE should be aware that some difficulties in communications with radiation workers and perhaps even members of the public will likely linger for many years, and there did not appear to be an identifiable benefit in terms of worker protection to be gained from this change.

Comments were also received stating that DOE should not incorporate draft ICRP recommendations into this revision of 10 CFR part 835. DOE is not incorporating draft ICRP recommendations into this revision of 10 CFR part 835. DOE agrees that this action would be premature.

DOE agrees that these changes will have some impact on site operations, particularly in updating site documents and training of workers on the new terminology. Accordingly, to lessen the impact, DOE proposed and is adopting in § 835.101 a three-year implementation schedule. DOE intends to provide revised guidance documents during this time period to facilitate site implementation of these changes.

Comments were received that DOE should consult with the NRC and other federal agencies and not make these changes unless the NRC makes these changes. In preparing the NOPR, DOE did consult with the NRC and, as a member of the Interagency Scientific Committee on Radiation Standards, consulted with other federal agencies having radiation protection responsibilities. No significant objections were raised prior to publication of the proposed rule. Other federal agencies, including EPA, FDA, and NIOSH, have already adopted dosimetric aspects of the current ICRP recommendations in recent guidance documents and requirements. The NRC was the only federal agency who submitted public comments on the proposed rule. The NRC recommended postponing updating the dosimetric models and terms.

A review of significant unplanned radiation exposures at DOE facilities over the past several years reflects that, at DOE facilities, significant unplanned radiation exposures have been from internal exposures, resulting from intakes of radioactive material. As the owner and regulator of these facilities, DOE believes it is prudent and warranted to assess these exposures using dose assessment methods more current than those in the current rule. DOE notes that the NRC has authorized selected fuel cycle facilities to use this approach. DOE continues to believe that, for DOE facilities, these changes are an improvement.

DOE received a comment that, under certain circumstances, when an individual conducts multiple activities involving both activities under 10 CFR 835.1(b)(1) and excluded activities (*e.g.*, activities involving NRC licensed activities) it is ambiguous as to how the rule would be applied when using different dose coefficients and weighting factors to calculate the total effective dose for the worker from both activities. DOE agrees that guidance is needed for this provision. For the purpose of compliance with 10 CFR 835.1(b)(1), DOE considers the following terms to be equivalent:

Dosimetric term as defined by excluded activity cognizant regulator	DOE amended dosimetric term
Committed effective dose equivalent.	Committed effective dose.
Committed dose equivalent.	Committed equivalent dose.
Cumulative total effective dose equivalent.	Cumulative total effective dose.
Deep dose equivalent	Equivalent dose to the whole body.
Dose equivalent	Equivalent dose.
Effective dose equivalent.	Effective dose.
Lens of the eye dose equivalent.	Equivalent dose to the lens of the eye.
Quality factor	Radiation weighting factor.
Shallow dose equivalent.	Equivalent dose to the skin or Equivalent dose to any extremity.
Weighting factor	Tissue weighting factor.
Total effective dose equivalent.	Total effective dose.

In response to another comment, DOE replaces the term ''nonstochastic'' with the term ''deterministic.''

One commenter stated that there did not appear to be significant benefit to changing the dosimetric methodologies. DOE disagrees with the comment and, to the contrary, believes that using more up-to-date models for assessing worker dose is beneficial. Under the 10 CFR part 820 exemption process, DOE already authorizes the Y–12 and Savannah River Site facility to use ICRP Publications 60 and 68 methodologies for assessing doses. The contractors requested the change and noted that the improved accuracy in determining worker doses would be beneficial. Similarly, as noted previously, the NRC authorized selected fuel cycle facilities to use this approach.

DOE also received a comment that DOE should move the phrase ''(1 rem = 0.01 sieverts)'' to the end of the definition for ''annual limit on intake,'' rather than with the definition of ''committed equivalent dose,'' because this would be the first use of the term ''Sievert.''

DOE makes these editorial changes, with the exception that the phrase ''(1 rem = 0.01 Sv)'' is included in the definition of ''annual limit on intake,'' the first usage of the term ''Sievert'' in 10 CFR part 835.

One commenter noted that the definition of ''absorbed dose'' should refer to energy imparted and not energy absorbed. DOE agrees with this comment and changes the definition. One commenter requested the addition of several additional dosimetric terms/operational quantities in the rule such as ''ambient dose'' and ''personal dose equivalent.'' DOE agrees that these quantities are important because they are the operational quantities that have been recommended by ICRP for use in assessing compliance with the numerical dose criteria for external exposure specified in this part. However, DOE does not believe it is necessary to define or revise additional dosimetric terms, such as ''ambient dose,'' and ''personal dose equivalent.'' Definitions of such terms are best left in supporting documents, such as implementation guides for 10 CFR part 835 and the technical standards for the DOELAP. For clarification, DOE provides a discussion of this topic in section U of this part.

One commenter requested that DOE not use the terms ''deep equivalent dose,'' ''lens of the eye equivalent dose'' and ''shallow equivalent dose'' because these terms are not defined in the referenced ICRP publications. DOE agrees with this comment and replaces these terms with ''equivalent dose to the whole body,'' ''equivalent dose to the lens of the eye,'' ''equivalent dose to the skin,'' or ''equivalent dose to the extremity,'' as appropriate, in §§ 835.202, 835.205, 835.402, 835.502, and 835.702. DOE adds the following sentence to the definition of ''equivalent dose'' in § 835.2(b) ''For external dose, the equivalent dose to the whole body is assessed at a depth of 1 cm in tissue; the equivalent dose to the lens of the eye is assessed at a depth of 0.3 cm in tissue, and the equivalent dose to the extremity and skin is assessed at a depth of 0.007 cm in tissue.''

DOE received a comment that it should clarify the definition of ''committed effective dose'' to assure consistency with the equations of Section 6 of ICRP Publication 68 and the methodology for calculating the ''remainder'' dose. DOE agrees with these comments and revises the definition of ''committed effective dose'' and footnote number 1 under the table of Tissue Weighting Factors to be consistent with ICRP Publication 68.

One commenter pointed out that footnote 2 to the table on radiation weighting factors in the definition of ''radiation weighting factor'' in § 835.2(b) did not provide information on the radiation weighting factor for Auger electrons emitted by radioactive atoms incorporated into DNA and requested either deletion of the exclusion or clarification on the appropriate radiation weighting factor.

After reevaluation of this topic, DOE has determined that from a regulatory perspective, the benefits of this footnote to worker health and safety may be outweighed by difficulties in complying with the footnote. The reasons are: (1) This footnote only applies to dose received by the DNA of a cell and, thus, is a very small fraction of the dose received by the entire tissue; (2) assessment of doses and risks will require information on the distribution of radionuclides within tissues and cells which may not be readily available, and which will depend on the chemical form involved; and (3) except for accidents, most exposures of this type are therapeutic and would not be covered by provisions of 10 CFR part 835. Accordingly, footnote 2 to the table on radiation weighting factors in § 835.2(b) from the proposed rule is not included in the final rule and DOE will develop guidance to address the infrequent situations and complex dosimetry resulting from incorporation of Auger electron emitters in DNA.

DOE received a comment recommending DOE permit sites to choose to either convert to the newer tissue and radiation weighting factors or remain with the existing requirements. Another option suggested by the commenter was for DOE to not include tissue weighting factors, radiation weighting factors, and DACs in the rule. Rather, this information may be placed into a set of guidance documents and incorporated by reference in the rule. After considering all the comments DOE has received, DOE still considers the best approach to be to convert all terminology and methodology, including the appendices A, C and E values, to reflect ICRP Publications 60 and 68. DOE did not propose excluding tissue weighting factors, radiation weighting factors, and DACs from the rule and is not making this change.

DOE received a comment that the dose methodology in the proposed 10 CFR part 835 is not consistent with DOE's requirements for the protection of the public. The commenter believed that the standards for the public and environment and the standard for DOE workers should be revised at the same time to avoid situations where some DOE standards are based on new ICRP recommendations and some standards are based on older ICRP recommendations. DOE does not agree with this comment. DOE has already initiated adoption of the more recent ICRP recommendations as demonstrated by its guidance on radiation risk estimation (endorsing Federal Guidance Report Number 13, which is consistent with ICRP Publication 60). DOE sees no conflict in making this change at this time and no benefit in waiting until all

of its environmental policy and guidance is updated.

As part of DOE's response to a comment regarding application of appendix D surface contamination values to areas of fixed contamination consisting of special tritium compounds (STCs), DOE is adding a definition of ''special tritium compound.'' The definition is from DOE technical standard, *Radiological Control Programs for Special Tritium Compounds*, DOE–HDBK–1184–2004.

One commenter requested clarification of the term ''personal property'' which is used in the definition of ''real property.'' DOE revised the definition of ''real property'' to not include the term ''personal property.''

DOE received a comment that a definition of ''activity median aerodynamic diameter'' (AMAD) should be included in the rule. DOE agrees with is comment and has added a definition, based on ICRP Publication 66, *Human Respiratory Tract Model for Radiological Protection*, for AMAD. DOE also clarifies, in the appendix A notes, that AMAD is the appropriate particle size value.

DOE received a comment that, because of the uncertainties in the biological effect of high energy radiation and difficulties in measuring radiation at such levels, DOE should insert a binding statement in 10 CFR part 835 requiring DOE contractors to evaluate and justify the radiation weighting factors used for photon and particle energies above 10 MeV.

DOE agrees that at high energies, such as those above 10 MeV, the biological impact of particles on human tissue may be more uncertain than at other energies and that monitoring of workplaces and individuals exposed to particles with these energies may be very challenging. However, other challenging radiological conditions exist in the DOE complex that are not explicitly addressed in 10 CFR part 835. Moreover, radiation fields consisting of particles greater than 10 MeV do not occur extensively within the DOE complex. When such conditions are identified, efforts should be focused on significantly limiting exposure to these types of radiation fields through the application of engineered and administrative controls. If doses to workers result from exposure to such radiation fields, provisions in subpart E of 10 CFR part 835 require that instruments and equipment used for monitoring individuals and workplaces be appropriate for the types, levels and energies of the radiations encountered, and that monitoring be performed to detect changes in radiological conditions. Finally, DOE notes that the purpose of radiation weighting factors is to establish dose limits, set up other dose dependent criteria for protection purposes, and plan radiological work. They are not for the purpose of measuring radiation fields and individual doses. Accordingly, DOE does not believe there is a need to include a specific provision in the final rule specifying evaluation and justification of the radiation weighting factors used for photon and particle energies above 10 MeV. DOE, however, will include in guidance a recommendation to evaluate and document the technical bases for the equivalent dose response of instruments and equipment used to monitor workplaces and individuals exposed to photon and particle energies above 10 MeV.

A commenter proposed that neutron flux to dose conversion factors be added as conversion factors in 10 CFR part 835 and that DOE sites be permitted to use different values if they could defend their position.

DOE believes that if the neutron energy spectrum is known in sufficient detail to permit the use of more radiation weighting factors than are currently provided in the proposed amendment to 10 CFR part 835, a more detailed set of radiation weighting factors would be appropriate. Such an approach was used in the previous versions of 10 CFR part 835 which included a table containing mean quality factors for 21 values of neutron energy. Accordingly, the formula recommended in ICRP Publication 60 relating to neutron energy and radiation weighting factors is added to footnote 3 of the radiation weighting factors table in the definition of ''radiation weighing factor.''

DOE will not provide neutron fluence to dose conversion factors, as proposed by the commenter, because they are a function of many more factors than the relationship between neutron energy and radiation weighting factors and would not be as widely applicable throughout the DOE complex.

Regarding a comment to permit DOE sites to use different neutron fluence to dose conversion factors, DOE's decision to include the formula relating neutron energy and radiation weighting factors obviates the need for such a change to the final rule. As long as the neutron fluence to dose conversion factors incorporate the radiation weighting factors permitted by 10 CFR part 835, DOE sites may use conversion factors appropriate to local conditions to relate neutron fluence to equivalent dose and effective dose.

Note that the radiation weighting factors are only for use in calculating equivalent dose, effective dose, committed effective dose, and total effective dose. The operational radiation dose quantities used in the measurement of radiation dose use other modifiers of absorbed dose, such as quality factors, to account for the biological impact of the radiation type. However, to ensure compliance with the dose quantities specified in 10 CFR part 835, the operational radiation dose quantities must provide a dose estimate equal to or greater than the dose quantities specified in 10 CFR part 835.

In summary, DOE makes the proposed changes to the dosimetric terms used in 10 CFR part 835 to reflect the recommendations for assessing dose and associated terminology from ICRP Publications 60 and 68. DOE revises the definition ''nonstochastic effects'' to read ''deterministic effects.'' As previously discussed, DOE revises the definitions of ''committed effective dose,'' ''committed equivalent dose,'' and ''absorbed dose.'' DOE adds definitions for ''activity median aerodynamic diameter'' and ''special tritium compound.'' DOE deletes the proposed definitions of ''deep equivalent dose,'' ''lens of the eye equivalent dose,'' ''shallow equivalent dose,'' and footnote 2 to the table on radiation weighting factors in § 835.2(b) that addresses the radiation weighting factor for Auger electrons emitted by radioactive atoms incorporated into DNA.

DOE adds the following formula to the definition of ''radiation weighting factor (w_R):''

$$w_R = 5 + 17 \exp\left[\frac{-\left(\ln\left(2E_n\right)\right)^2}{6}\right] \text{ Where } E_n \text{ is the neutron energy in MeV.}$$

DOE revises 10 CFR 835.2(c) to state that terms defined in the Atomic Energy Act of 1954 or in 10 CFR part 820 and not defined in this part are used consistent with the meanings given in the Atomic Energy Act of 1954 or in 10 CFR part 820. Accordingly DOE removes the definitions of ''Contractor'' and ''Secretarial Officer'' from 10 CFR part 835 and uses the terms as defined in 10 CFR part 820.

C. Radiological Units in 10 CFR Part 835

DOE proposed to revise the text of § 835.4 to allow use of additional units, such as dpm, mass units, μCi/cc, and dpm/100cm^2 in records required by this part. The original intent of this provision was to preclude the exclusive use of the SI units of becquerel, gray (Gy) and sievert (Sv). As stated in the NOPR, the intent was not to preclude use of other conventional units, such as those previously listed. The proposed change was intended to achieve the original intent of this section. DOE received comments that the allowance for the additional units of measurement should prove to be beneficial and the continued preclusion of the exclusive use of the SI units is beneficial and appreciated. The final rule makes the changes as proposed in the NOPR.

D. Radiation Protection Programs

DOE proposed to add a new sentence at the end of § 835.101(f) that would provide that unless otherwise specified in part 835, compliance with the amendments made by this final rule shall be achieved no later than three years following the effective date of the final rule. The reasons DOE proposed an extended implementation date are the same as those discussed in connection with the changes to the dosimetric terms.

DOE received several comments that given the extensive changes proposed, the proposed three-year implementation period would be beneficial. One commenter believed that the three-year implementation period was excessive and could cause confusion at sites with multiple contractors where each contractor may implement the amendments at different times. DOE will provide guidance for this situation. One commenter believed that the three-year implementation time period may not be adequate for all sites. DOE believes that the three-year period is reasonable. Contractors still have the option of requesting an extension of the implementation date through the 10 CFR part 820 exemption process, on a case by case basis. The final rule makes the changes as proposed in the NOPR.

E. Occupational Dose Limits for General Employees

DOE proposed amending § 835.202 by revising the dosimetric terms to be consistent with the revised definitions. One commenter noted that the phrase ''for external exposures'' was redundant because that phrase was already included in the definitions of ''deep equivalent dose' and ''shallow equivalent dose.'' As discussed previously, DOE is not including in the final rule definitions for ''deep equivalent dose'' or ''shallow equivalent dose.'' The term ''for external exposures'' is no longer redundant in § 835.202(a)(2). DOE makes the following changes: § 835.202(a)(2) is rewritten as ''The sum of the equivalent dose to the whole body for external exposures and the committed equivalent dose to any organ or tissue other than the skin or the lens of the eye''; § 835.202(a)(3) is rewritten as an ''equivalent dose to the lens of the eye''; and § 835.202(a)(4) is rewritten as ''The sum of the equivalent dose to the skin or to any extremity for external exposures and the committed equivalent dose to the skin or to any extremity.''

F. Combining Internal and External Equivalent Doses

DOE proposed amending § 835.203 by revising the dosimetric terms to be consistent with the revised definitions. DOE received a comment requesting clarification on the proposed change to § 835.203(b) by specifying that the radiation weighting factor values, in addition to the tissue weighting factor values, provided in § 835.2 shall be used in determining effective dose. Although the definition of ''radiation weighting factor'' already specifies the factors to be used, DOE agrees that the additional words in § 835.203(b) will clarify the requirement. DOE makes the changes as proposed in the NOPR with the exception that the phrase ''radiation and'' is added before the phrase ''tissue weighting factor.''

G. Occupational Dose Limits for Minors

DOE proposed amending § 835.207 by revising the dosimetric terms to be consistent with the revised definitions. DOE received a comment that the term ''equivalent'' in the first line on the proposed change to section 835.207 was incorrect. As stated, the sentence contradicts the revised definitions in the NOPR. DOE agrees and makes the changes as proposed in the NOPR with the exception that the word ''equivalent'' is deleted from the first sentence.

H. General Requirements for Monitoring Individuals and Areas in 10 CFR Part 835

DOE proposed amending § 835.401(a)(5) by revising the text ''engineering and process controls'' to read ''engineering and administrative controls.'' This change was proposed in order to make the use of the terms consistent with DOE Policy 450.4 ''Safety Management System Policy.'' DOE considered the terms to be equivalent. DOE received comments that the proposed change to § 835.401(a)(5) was a beneficial clarification. One commenter recommended that wherever the term ''engineering control(s)'' is used in the rule that it be changed to ''engineered control(s).'' This is primarily a matter of clarity in meaning. ''Engineering control'' can have several meanings. ''Engineered control'' is less ambiguous. DOE agrees with this editorial comment and makes this change throughout the rule.

I. Monitoring of Packages Containing Radioactive Material in 10 CFR Part 835

DOE proposed amending § 835.405(c)(2) by changing ''unless the package contains less than a Type A quantity'' to ''if the package contains a Type B quantity.'' DOE received comments that the proposed change in the requirements pertaining to Type A quantities is a useful clarification and should have insignificant associated costs. DOE received a comment that its proposed change to the definition of ''radioactive material transportation,'' by removing the text ''when such movement is subject to DOT regulations or DOE orders that govern such movements,'' creates ambiguity as to when receipt surveys are required under § 835.405. The commenter provided an example: If material is transported on-site via a cart, receipt surveys would not be required; however, if the same package was transported in a truck (*i.e.*, a ''highway vehicle''), surveys would be required. While DOE agrees that there is ambiguity in the requirement, DOE does not agree that keeping the text ''when such movement is subject to Department of Transportation regulations or DOE orders that govern such movements'' in the rule addresses this ambiguity.

Section 835.405(d) requires, in part, that packages received from radioactive material transportation, which meet the criteria of § 835.405(b), be monitored as soon as practicable following receipt of the package. The purpose of this monitoring is to verify the radiological condition of the package (*e.g.*, contamination levels and/or radiation

levels). The verification is needed because, other than the visual indications listed in § 835.405(b)(3), the recipient typically has no knowledge of the physical rigors the package was subject to while in transit. Monitoring is needed to ensure protective actions for subsequent package handlers as well as notifying the transporter if unexpected radiological conditions are identified.

The exclusion in § 835.1(d) applies to radioactive material transportation conducted by a DOE employee or DOE contractor employee, when the radioactive material is under the continuous observation and control of an individual who is knowledgeable of and implements required exposure control measures. For situations meeting this exclusion, DOE sees no benefit in post-transit monitoring of the packages to verify the radiological condition of the package (*e.g.*, contamination levels and/or radiation levels). The verification is not needed because a DOE employee or DOE contractor employee had the package under continuous observation and is knowledgeable of the physical rigors the package was subject to while in transit.

Accordingly, DOE adds a new § 835.405(e) to reflect that receipt monitoring is not required for packages transported on a DOE site which have remained under the continuous observation and control of a DOE employee or DOE contractor employee who is knowledgeable of and implements required exposure control measures. The final rule makes the other changes as proposed in the NOPR.

J. Exception for Labeling Requirements in 10 CFR Part 835

DOE proposed to establish an upper limit of 0.1 Ci for a quantity of radioactive material which would be excepted from the labeling requirement in § 835.606(a)(2). After the establishment of the radioactive material labeling requirements in the 1998 amendment to 10 CFR part 835, DOE noted that the exception to labeling requirements for radioactive materials appeared excessive for certain isotopes. DOE currently exempts from labeling items and containers if a quantity of radioactive material is less than one tenth of the values specified in appendix E of 10 CFR part 835. For some isotopes this quantity is significant. For example, a container of tritiated water need not be labeled ''Caution, Radioactive Material'' as long as there is less than 16 Ci of tritiated water in the container. While the basis for this exception, as discussed in the preamble to the 1998 amendment to 10 CFR part 835, is technically defensible, DOE believes that it is prudent to establish an upper limit for the labeling exception. The approach DOE proposed is similar to that taken by the NRC, except that the NRC upper limit is 0.001 Ci. DOE believes that the proposed 0.1 Ci upper limit in § 835.606 would provide an acceptable level of protection, based on the exposure scenario discussed in the preamble to the 1998 amendment (63 FR 59672–73, November 4, 1998), and still provides for sufficient operational flexibility in not being overly restrictive in the labeling requirements.

DOE received comments that the proposed change to establish an upper limit of 0.1 Ci for a quantity of radioactive material which would be excepted from the labeling requirement provides an acceptable level of protection in harmony with operational flexibility. Anticipated costs for compliance would be negligible.

The final rule makes the changes as proposed in the NOPR.

K. Individual Monitoring Records Requirements in 10 CFR Part 835

DOE proposed to revise § 835.702(b) to give sites the option of not assessing and recording any internal dose monitoring result estimated to be less than 10 millirems committed equivalent dose. This change was proposed in response to concerns that, under the current requirements, there is no threshold for positive internal dose monitoring results which need not be assessed and a dose recorded. DOE stated in the NOPR that this flexibility would likely be of most benefit for routine bioassay results from tritium and uranium operations. For tritium, under the current rule, positive bioassay results could result in the need to determine and record doses that are less than one millirem. DOE proposed the revision to allow some relief from the need to perform a dose assessment and to record these very small doses. DOE envisioned that this would most easily be achieved through the development and use of default values, below which no further dose assessment or recording would be required. Establishing a dose threshold for any single bioassay and/or air monitoring result would make the DOE requirements consistent with nationally accepted standards as discussed in ''American National Standard for Design of Internal Dosimetry Programs'' (ANSI/HPS N13.39–2000). The proposed provision would still require the maintenance of bioassay and/or air monitoring results in case they are needed by DOE in the future.

The NOPR also stated that DOE's policy has been that the current monitoring threshold of 100 millirems should not be interpreted as an objective for internal dose monitoring. DOE fully recognizes that routine internal dose monitoring is not capable of detecting doses at the monitoring threshold for some radionuclides. Consistent with that policy, DOE stated that the proposed threshold values for assessing internal dose should not be construed as the establishment of thresholds for internal dose monitoring.

As stated in the NOPR, the proposed revision would provide flexibility for assessing and recording doses for any single bioassay and/or air monitoring result. It also included an annual limit for doses that need not be assessed or recorded based on 50 percent of the applicable monitoring threshold at § 835.402(c)(1) through (4). DOE recognized that sites wishing to invoke the flexibility offered by this proposed change would need to develop and implement a program to track bioassay results to ensure that dose constraints are not exceeded without recording the doses. DOE stated its intention to provide guidance on acceptable implementation methods.

DOE received several comments supportive of the proposed change. DOE also received a comment recommending changing § 835.702(b) such that the annual threshold dose which must be assessed and recorded as a result of internal monitoring be increased from 50 percent to 100 percent of the applicable monitoring threshold. DOE agrees with this comment and adopts this recommendation.

A few commenters were opposed to the proposed change to 10 CFR 835.702(b). Reasons stated included: A belief that any dose should be assessed when there is monitoring data available; the change would cause more trouble than relief; DOE might be accused of making the change in order to lower DOE's collective dose; not reporting dose when bioassay samples have been taken may lead to litigation and require dose reconstruction for former workers; and a more effective change might be to raise the monitoring threshold to 500 millirems instead of 100 millirems. One commenter suggested an alternative approach of assigning a minimum dose to all non-monitored workers.

DOE believes that, consistent with ANSI/HPS N13.39–2000 recommendations, it is acceptable to only assess and record doses exceeding 10 millirems, provided that the monitoring data are maintained. DOE continues to believe that the change is beneficial, and the change is supported

by several commenters. DOE anticipates a slight drop in the collective dose as a result of this change. According to DOE's 2004 REMS Report, approximately 31 rems collective dose was from individual exposures of less than 100 millirems. This is approximately 3 percent of the collective dose. As DOE has done in the past, DOE will ensure that the reason for this slight decrease is clearly explained in DOE's REMS report. DOE does not believe that this change will lead to extensive litigation because the individual monitoring results must still be maintained, and they will be available. DOE already conservatively maintains an internal exposure monitoring threshold of 100 millirems, which contrasts with the NRC's value of 500 millirems, and requires maintenance of the individual monitoring results. DOE believes this approach should suffice to avoid future expensive dose reconstruction efforts and supports DOE's continuance of the 100 millirems monitoring threshold. DOE sees no benefit in assigning a minimum dose to all workers, monitored or not.

One comment stated that, in order to be consistent with ANSI/HPS N13.39–2000, one of the stated objectives for making the change discussed in the NOPR, the value for not requiring the assessing and recording of an internal dose monitoring result should be 10 millirems committed effective dose, rather than 10 millirems committed equivalent dose. DOE received another comment that this change may not provide significant relief because there are requirements to assess and record both whole body internal doses (committed effective doses) and organ or tissue internal doses (committed equivalent doses). The commenter suggested that a threshold for not requiring assessing and recording of an internal dose be applied to both whole body and organ or tissue internal doses. DOE agrees with these comments. The intent of the proposed change was to provide relief from having to assess and record all internal doses which are well below DOE's conservative internal dose monitoring threshold. To meet this intent, DOE revises the provision to not require recording of whole body internal doses (committed effective doses) and organ or tissue internal doses (committed equivalent doses) as long as the monitoring data are estimated to correspond to an individual receiving less than 10 millirems committed effective dose. For radionuclides of most concern to DOE, the 10 millirems committed effective dose threshold is suitable to ensure adequate evaluation of organ or tissue doses as well.

In summary, DOE revises § 835.702(b) to not require recording of whole body internal doses (committed effective doses) and organ or tissue internal doses (committed equivalent doses) as long as the monitoring data are estimated to correspond to an individual receiving less than 10 millirems committed effective dose. DOE revises the value for unrecorded internal dose estimated for any individual in a year to be the applicable monitoring threshold at § 835.402(c).

L. Radiation Safety Training

DOE proposed amending § 835.901(b) by adding the text ''applied training,'' after ''by successful completion of,'' in the introductory language of that paragraph. The training and applied training is to be commensurate with the hazards in the area and the required controls. DOE already requires that each individual demonstrate knowledge of the radiation safety training topics listed in § 835.901(c) by successful completion of an examination and performance demonstrations. The current requirement for performance demonstration implies that the training will include practical factors or ''applied training.'' Accordingly, DOE considered the proposed change to be only editorial.

DOE considered comments on options for adding a provision for retention testing in 10 CFR part 835. DOE specifically noted in the NOPR that DOE–HDBK–1131–98 includes an attachment ''Evaluating the Effectiveness of Radiological Training.'' This attachment discusses a recommended approach to implementing a retention testing program.

DOE also solicited comments on adding a provision, in subpart J, for radiological control technician (RCT) training. The NOPR noted that 10 CFR part 835 already requires individuals responsible for developing and implementing measures necessary for ensuring compliance with the requirements of 10 part CFR 835 (including RCTs) to have the appropriate education, training, and skills. The NOPR referenced DOE guidance which details DOE's expectations for the appropriate level of training, retraining, testing and qualifications of RCTs. DOE, however, solicited comments on whether DOE should specifically include requirements for RCT training, retraining, testing, and qualifications in 10 CFR part 835.

DOE received a comment that several changes need to be made in the area of radiation safety training. Specifically, the commenter requested that DOE:

- Add a requirement for applied training and performance demonstrations for the periodic requalification;
- Add a requirement for retention testing;
- Make changes to the testing process to ensure that computer-based training does not allow the trainee to pass the examination based on trial and error;
- Reinstate the training requirements for RCTs.

Regarding the comment to add a requirement for applied training and performance demonstrations for periodic requalification, 10 CFR 835.901(e) currently specifies the training requirements for requalification. DOE has had no indication that the lack of performance demonstration requirements for requalification has created a radiation protection concern. DOE searched its occurrence reporting data, and could not identify significant examples of radiological occurrences resulting from improper radiological work practices due to lack of performance demonstrations during requalification training. Although DOE is not amending 10 CFR part 835 as requested by the commenter, it may update its implementation guide to recommend that sites periodically evaluate individuals' abilities to perform acceptable radiological work practices (such as donning and doffing protective clothing) and include, as necessary, performance demonstrations during the requalification training.

Regarding the comment that DOE should add a requirement for retention testing, as discussed in the NOPR, DOE provides, and maintains several guidance documents which address retention testing. Several other comments stated that there is no need for a retention testing requirement in 10 CFR part 835. DOE has searched its occurrence reporting data and found no significant examples of radiological occurrences resulting from lack of retaining information from radiological worker training or equivalent training. Consequently, at this time, DOE is not adding a requirement for retention testing for radiation safety training. DOE continues to support retention testing as a good practice and is willing to work with DOE sites to improve previously discussed guidance documents relating to retention testing.

Regarding the comment to make changes to the testing process to ensure that computer-based training does not

allow the trainee to pass the examination based on trial and error, DOE believes that permitting a trainee to pass by trial and error would be inconsistent with the requirement that individuals demonstrate an acceptable baseline knowledge level of radiation protection fundamentals and practices. DOE may update its implementation guide to clearly indicate that this practice is not consistent with the requirement.

Regarding the comment to reinstate the training requirements for RCTs, DOE explained its basis for specifying the training and qualification requirements for individuals responsible for implementing 10 CFR part 835 requirements, which include RCTs, when DOE amended 10 CFR part 835 on November 4, 1998 (63 FR 59662).

Under the original rule, published on December 14, 1993 (58 FR 65458), DOE specified training and retraining requirements for RCTs in § 835.903. To address a number of shortcomings in its provisions for training RCTs, DOE proposed, in its December 23, 1996, NOPR, to amend 10 CFR part 835 by codifying the definition of ''radiological control technician'' at § 835.2(a). DOE also solicited comments on four alternative approaches. Alternative Approach 4 included specifying the training and qualification requirements for individuals responsible for implementing 10 CFR part 835 requirements, including RCTs, under a new § 835.103. Public comments indicated that DOE's proposed definition of the term ''radiological control technician'' did not adequately describe the roles and responsibilities of individuals filling this position. DOE received comments endorsing each of the proposed alternative approaches, with the majority of the comments endorsing Alternative Approach 4. DOE subsequently chose this approach because it provided the flexibility necessary to cover the wide range of individuals involved in developing and implementing measures necessary for ensuring compliance with 10 CFR part 835, including cognizant managers, supervisors, auditors, engineers, clerks, and technicians. DOE has decided that the current approach in § 835.103 is the optimal approach for specifying training requirements for RCTs. DOE received several comments supporting this position.

DOE has searched its occurrence reporting data, and could not identify significant examples of radiological occurrences resulting from inadequate training or qualifications of RCTs. Consequently, DOE is not making any revisions to the training requirements for RCTs at this time.

DOE will, however, continue to assist sites in meeting § 835.103 by improving and maintaining those previously discussed guidance documents relating to the training, retraining, and qualifications of RCTs.

DOE also received comments that the proposed change to § 835.901(b) was confusing. DOE proposed to specify that each individual shall demonstrate knowledge of the radiation safety training topics established in § 835.901(c), commensurate with the hazards in the area and required controls, by successful completion of applied training. There were questions concerning the new term ''applied training'' and requests for DOE to either delete this change or make revisions to clarify the intent. DOE provides the following clarification in response to these comments. DOE believes that radiation safety training should include appropriate theoretical training (such as radiological fundamentals, limits, and controls) as well as applied training (such as reading and understanding work permits and donning and doffing protective clothing). DOE recognizes that there are different training methods available to effectively provide this training, including classroom instruction, computer-based training, on-the-job mentoring, or combinations of these methods. Successful completion of such training is demonstrated by completion of an examination and performance demonstrations. As DOE stated in the NOPR, the current requirement for performance demonstration already implies that the training includes applied training. DOE has decided, after considering the comments, that the proposed addition of the term ''applied training'' to the training requirements does not clarify or improve the requirement. Consequently, DOE does not make the proposed change to § 835.901(c) in today's rule. In summary, DOE makes no revisions to subpart J as part of this final rule.

M. Design and Control Requirements in 10 CFR Part 835

DOE proposed to amend § 835.1001(a) by replacing the text ''physical design features and administrative control'' with ''engineering and administrative controls.'' DOE also proposed to amend § 835.1001(b) by replacing the text ''physical design features'' with ''engineering controls'' and proposed to amend § 835.1003 by replacing the text ''physical design features and administrative controls'' with ''engineering and administrative controls.'' These changes were proposed in order to make the terms used in 10 CFR part 835 consistent with those in DOE Policy 450.4, ''Safety Management System Policy.'' DOE considered the terms to be equivalent.

DOE received a comment that the proposed changes to § 835.1001(a) will clarify the text and will be beneficial. DOE makes the changes as proposed in the NOPR with exception that the term ''engineering'' will be replaced with the term ''engineered.'' See discussion in section IV. H. of this preamble.

N. General Provisions to Emergency Exposure Situations in 10 CFR Part 835

DOE proposed to amend the general provisions to emergency exposure situations to clarify that the resumption of operations, pursuant to § 835.1301(d), only applies to operations which have been suspended as a result of a dose in excess of the limits specified in § 835.202. DOE considered the proposed change to be only editorial.

DOE received a comment that § 835.1301(d) should also require operations which have resulted in a dose in excess of the limits specified in § 835.202, except those received in accordance with § 835.204, to be suspended. DOE does not agree with this comment. Implementing a requirement such as this would be problematic. Past DOE experience with exposures in excess of the limits have involved situations where the exposure was not determined for a considerable time period after the operation causing the exposure. Sometimes the operation causing the exposure had already ceased by the time the exposure was assessed. Other times the operation causing the exposure was never determined. The rule is not the appropriate vehicle for such management of DOE operations.

DOE received another comment that the proposed clarification of § 835.1301(d) will be beneficial. The final rule makes the changes as proposed in the NOPR.

O. DAC Values, Introductory Paragraph, and Footnotes in Appendix A in 10 CFR Part 835

There is discussion earlier in this preamble of DOE's adoption in this final rule of the system of dosimetry for intake of radioactive materials set forth in more recent ICRP Publications. DOE also proposed to modify the DAC values contained in appendix A to part 835 to reflect the previously mentioned ICRP publications. The salient changes proposed were:

- The use of updated dose per unit intake conversion factors (dose coefficients) specified in ICRP

Publication 68 instead of the dose per unit intake conversion factors in the EPA Federal Guidance Report Number 11, *Limiting Values of Radionuclide Intake and Air Concentration and Dose Conversion Factors for Inhalation, Submersion, and Ingestion*, which is the basis for the current appendix A values. ICRP Publication 68 lists committed effective dose coefficients which are used in deriving the DAC limit based on the stochastic limit of 5 rem. In order to determine if the non-stochastic (organ) limit of 50 rems to any organ or tissue is more limiting, DOE used the ICRP computer program, *The ICRP Database of Dose Coefficients: Workers and Members of the Public*, ISBN 0 08 043 8768. As in the current set of DAC values, the more limiting value (stochastic or non-stochastic) is used.

- The use of the ICRP Publication 66, *Human Respiratory Tract Model for Radiological Protection*, classification of radioactive material by absorption type [F(fast), M(medium), and S(slow)] instead of by lung clearance classes [D(days), W(weeks), and Y(years)] as specified in ICRP Publication 30. Values were calculated in units of Bq/m^3 and converted to units of μCi/mL. The table presents both units, each truncated to one significant figure.
- The use of default particle size distribution of 5 micrometers instead of a default particle size distribution of 1 micrometer, if the actual particle size distribution is not known.

In addition to the changes in the dosimetric models used to calculate the DACs in appendix A, several other changes to this appendix were proposed. One proposed change was to establish DAC values for tritiated particulate aerosols and insoluble organically bound tritium and default values for radionuclides not listed in the appendix.

Subsequent to the November 4, 1998 amendment to 10 CFR part 835, Occupational Radiation Protection (63 FR 59662), the Department developed guidance for controlling individual exposures to tritiated particulate aerosols and insoluble organically bound tritium. In 2001, the DOE Office of Worker Protection Policy and Programs (EH–52) issued Radiological Control Technical Position RCTP 2001–02, *Acceptable Approach for Developing Air Concentration Values for Controlling Exposures to Tritiated Particulate Aerosols and Organically Bound Tritium*, which provided guidance on the use of acceptable air concentration values. In 2004, EH–52 also published a technical standard, *Radiological Control Programs for Special Tritium Compounds*, DOE–HDBK–1184–2004, which provided additional guidance on use of acceptable air concentration values. DOE proposed including DAC values for tritiated particulate aerosols based on the methodology described in DOE–HDBK–1184–2004, adjusted to use the ICRP 60 dosimetric quantities and adjusted to use a default 5 micron particle size. This handbook is available for review at: *http://www.hss.energy.gov/HealthSafety/WSHP/radiation/ts.html.*

Appendix A of 10 CFR part 835 does not include default values for radionuclides not listed in the appendices. Consistent with the NRC practice, DOE proposed to establish default values for radionuclides not listed in appendix A. One default value would apply to any isotope not already listed with a decay mode other than alpha emission or spontaneous fission and with a radioactive half-life greater than two hours. The default value would be the most restrictive applicable DAC value already listed in appendix A for that type of decay, *i.e.*, 4 E–11 μCi/mL (1 Bq/m^3). The second default value would apply to any isotope not already listed with a decay mode of alpha emission or spontaneous fission. The second default value would also apply to any mixture for which the identity or the concentration of any radionuclide in the mixture is not known. The default value would likewise be the most restrictive applicable DAC value already listed in appendix A, *i.e.*, 2 E–13 μCi/mL (8 E–03 Bq/m^3).

DOE received a comment that the proposed note at the end of appendix A which states that a DAC value for ''any mixture for which the identity or the concentration of any radionuclide in the mixture is not known'' conflicted with the existing note at the beginning of appendix A which states that for ''unknown radionuclides, the most restrictive DAC (lowest value) for those isotopes not known to be absent shall be used.'' DOE agrees with this comment and, in the final rule, omits the text regarding ''any mixture for which the identity or the concentration of any radionuclide in the mixture is not known.'' DOE also moves the two notes at the end of appendix A, pertaining to default values for any single radionuclide not listed in the appendix, to the beginning of appendix A.

DOE received a comment that, for amendment items pertaining to STCs, consideration be given to recent ICRP and published information regarding STCs, such as the October 2004 Health Physics Society Journal paper, *Application of the ICRP Clarification of the Tritium Metabolic Model.* DOE reviewed updated published information regarding STCs, including the Health Physics Society Journal paper referenced. DOE believes that the methodology and values in DOE–HDBK–1184–2004 continue to provide the best approaches to developing acceptable controls such as DAC values and the posting and labeling criteria for STCs, which are adjusted to use the ICRP Publication 60 dosimetric quantities and a default 5 micron particle size. Accordingly, in today's final rule, DOE makes the proposed changes to DAC values for tritiated particulate aerosols and organically bound tritium. For consistency with terminology in DOE–HDBK–1184–2004, the revised footnote to appendix D, and the definition of ''special tritium compound'' in § 835.2, DOE replaces the terms ''tritiated particulate aerosol and organically bound H–3 (insoluble)'' and ''organically bound H–3 (soluble)'' with ''STCs (insoluble)'' and ''STCs (soluble).''

DOE received a comment that a single set of DACs, based only on committed effective dose values (*i.e.* no DAC values based on the non-stochastic limit to an organ or tissue), would provide a much simpler framework, which still would provide adequate protection to the worker. DOE does not believe that this change would significantly simplify the regulatory framework and does not make this change.

DOE received a comment that the definition of ''derived air concentration'' should include reference to the ICRP computer program, *The ICRP Database of Dose Coefficients: Workers and Members of the Public*, ISBN 0 08 043 8768. This program was referenced in the NOPR preamble as being a source for calculation of appendix A values. DOE agrees with this comment and makes this change.

DOE received two comments that DOE should allow sites to derive their own DAC values. The commenters stated that DOE should allow sites to derive default DAC values for nuclides not listed in appendix A, and that DOE should allow use of alternate self-absorption factors for determining DACs for STCs. DOE does not agree with these comments. DOE believes it is beneficial for DOE to use a consistent set of DACs across the complex, with variation permitted for particle size as specified in appendix A. The need for use of site-specific DACs may be addressed through the 10 CFR part 820 exemption process.

P. DAC Values, Introductory Paragraph, and Footnotes in Appendix C in 10 CFR Part 835

DOE proposed to amend appendix C of 10 CFR part 835 by changing the term ''contaminated atmospheric cloud'' to ''cloud of airborne radioactive material.'' DOE considered this proposed change to be only editorial. Consistent with DOE's proposal to adopt the system of dosimetry for intake of radioactive materials set forth in more recent ICRP publications, DOE proposed to replace the air immersion DAC values in appendix C with new values which were determined using ICRP Publication 68 methodology. Specifically, the proposed values were derived from the dose conversion factors in Annex D of ICRP publication 68 and assumed 250 days (50 weeks times 5 days per week) exposure per year to get an effective dose of 5 rems in a year. Consistent with the NRC, DOE also proposed to establish a default value for any single radionuclide not listed in appendix C to part 835. The default value would apply to any isotope not already listed with a decay mode other than alpha emission or spontaneous fission and with a radioactive half-life less than two hours. The DAC would be the most restrictive value already listed, i.e., 6 E–06 μCi/mL (2 E+04 Bq/m^3).

DOE received a comment that the change in terminology proposed for appendix C to part 835 would be welcomed, especially at accelerator facilities. The final rule makes the changes as proposed in the NOPR.

Q. Text and Footnotes in Appendix D in 10 CFR Part 835

Several changes to appendix D were proposed in order to codify guidance issued by the Department in Radiological Control Technical Positions (RCTP) and to enhance the clarity of this section. In *10 Code of Federal Regulations Part 835 Appendix D—Surface Radioactivity Values,* RCTP 96–02, DOE provided guidance on the application of footnote 5 to appendix D to part 835 that addresses surface contamination values for mixed fission products containing Sr–90. Based on this guidance, DOE proposed to revise appendix D to part 835 as follows: In the second group of nuclides (total surface radioactivity value − 1000 dpm/100 cm^2; removable surface radioactivity value − 200 dpm/100 cm^2), DOE proposed to insert the parenthetical phrase ''including mixed fission products where the Sr-90 fraction is 90 percent or more of the total activity.'' DOE proposed to add a new group to appendix D to part 835 (between the existing second and third groups) that would consist of mixed fission products where the Sr-90 fraction is more than 50 percent but less than 90 percent of the total activity. For this proposed group, the total surface radioactivity value would be 3000 dpm/100 cm^2 and the removable surface radioactivity value would be 600 dpm/100 cm^2.

In addition, DOE proposed to clarify footnote seven to appendix D by replacing the term ''(alpha)'' with the sentence ''These limits apply only to the alpha emitters within the respective decay series.''

DOE did not propose additional changes to the surface radioactivity values in appendix D to part 835. DOE is aware of newly developed surface radioactivity criteria (see American National Standard—Surface and Volume Radioactivity Standards for Clearance (ANSI/HPS N13.12–1999)), for the release of property and other items, which are more clearly based on potential risks than the surface contamination values in appendix D to part 835. However, to maintain a consistent application in the use of surface radioactivity values for the protection of workers; the public; and the environment, DOE has decided to continue evaluation of appendix D to part 835 surface contamination values as a coordinated project that addresses both occupational and environmental aspects of this topic.

DOE–HDBK–1184–2004 recommends applying the 10 CFR part 835 subpart L provisions if the contamination levels from insoluble tritiated particles fixed to a surface exceed the removable tritium limit. DOE solicited comments on the need to revise the rule to reflect this recommendation.

DOE received comments opposed to codifying the guidance issued by RCTP 96–02 into appendix D to part 835. Although the change was proposed with the intent of clarifying the requirements, some commenters stated that they believed that the revised text would increase costs and make compliance much more difficult. More specifically, they claimed that application of the more conservative contamination values for some Sr-90 mixtures could create a significant challenge because of the difficulty in detecting those values consistently in a field setting with current techniques and available instrumentation. Moreover, implementation of the proposed three-tiered Sr-90 contamination values would be complex due to the need to determine the relative abundance of Sr-90 in the specific mixture being dealt with, in order to determine which contamination value to apply. Commenters suggested that DOE adopt the ANSI N 13.12 groupings.

DOE's intent with the proposed change to appendix D to part 835 was to provide clearer requirements. Under the current appendix D to part 835, footnote 5, the higher limit (total surface radioactivity value − 5000 dpm/100 cm^2; removable surface radioactivity value − 1000 dpm/100 cm^2) does not apply to Sr-90 which has been separated from the other fission products or mixtures where the Sr-90 has been enriched. This footnote applies to mixed fission products which, through the passage of time, have resulted in mixtures where the Sr-90 is enriched. There had been questions regarding the applicability of this footnote to specific site operations, especially where mixed fission products had been stored for extended time periods. The intent of the proposed change to appendix D to part 835 was to clarify requirements for application of the surface radioactivity values for these mixtures, so as to not always require the lower limit (total surface radioactivity value − 1000 dpm/100 cm^2; removable surface radioactivity value − 200 dpm/100 cm^2) that applied to pure or enriched Sr-90.

In view of the negative comments on this proposed change, DOE questions whether the proposed change would simplify radiological operations or enhance radiological safety. Accordingly, DOE does not make the proposed changes that address surface contamination values for mixed fission products containing Sr-90. However, DOE will retain the guidance in this area.

DOE also received a comment that Pu-241 should not be included within the ''transuranic'' category. This category should only apply to alpha emitters. As noted in the NOPR preamble, DOE agrees that eventually DOE should move toward a risk-based, consensus value for surface contamination values such as the ANSI/HPS N13.12 values. DOE will continue to evaluate application of surface radioactivity values for protection of workers, the public, and the environment as a coordinated project that addresses both occupational and environmental aspects of this topic.

DOE received a comment that appendix D to part 835 should be updated to include recommendations regarding STCs as provided in DOE-HDBK–1184–2004, Section 3.2.1.1. Specifically, the commenter suggested that Section 3.2.1.1 implies that removable surface contamination values for STCs should be 1,000 dpm/100 cm^2. The handbook explains that if surface contamination levels are less than one tenth of the 10 CFR part 835 appendix

D value, (i.e., < 1,000 dpm/100 cm²) it may be appropriate to assume that there are no significant levels of STC contamination and additional controls such as posting, access control, and personnel monitoring are not required. The commenter suggests that a value of 1,000 dpm/100 cm² for removable surface contamination from STCs be added to appendix D to part 835, and the reference to tritiated compounds be deleted from footnote 6.

Based on both the intent of DOE HDBK 1184–2004 and consideration of the estimated dose consequence associated with surfaces contaminated by STCs, DOE has determined that it is unnecessary to decrease the surface radioactivity value for removable contamination in appendix D to part 835 that applies to tritiated compounds. However, DOE has added a footnote to appendix D to part 835 to address other situations involving surfaces contaminated by insoluble tritiated particles.

With regard to DOE HDBK 1184–2004, DOE notes that the guidance to initiate some radiological controls for STCs at a level of one tenth of the appendix D to 10 CFR part 835 value is based on the relative uncertainty associated with the activity-to-dose conversion factor for these compounds, the difficulties performing surface contamination measurements of these compounds, and the possibility that STCs may be located in areas where surveys are difficult to conduct. The factor of one tenth was estimated by assuming a three-to four-fold uncertainty in the activity-to-dose conversion factor and a two-to three-fold uncertainty in the measurement of surface contamination. Because the potential dose from STCs is related to the activity-to-dose conversion factor and the surface contamination measurement, the uncertainty in the potential dose from STCs could range from four- to five-fold. That is, the estimated potential dose from STCs could be only up to one fifth (0.2) of the actual potential dose from STCs. Thus, DOE believes that a factor of one tenth should reasonably account for uncertainties associated with determining the potential dose from STCs.

Establishing criteria for certain types of radiological controls at a factor of 0.1 of the normal surface radioactivity values for STCs is a way to account for uncertainties, reduce the chance of significant STC exposure to workers, and ensure compliance with the regulatory value for surface contamination. Because of the conservatism of this approach, the types of radiological controls recommended (performance of more surveys and evaluations to make sure that sources of STCs are comprehensively identified) are less stringent than those triggered by the appendix D to part 835 values (e.g. posting, personal monitoring and the use of personal protective equipment).

With regard to the dose consequence associated with surfaces contaminated by STCs, calculations (performed using RESRAD BUILD Version 3.0) indicate that exposure to a surface contaminated by insoluble tritiated particles at levels of 10,000 dpm/100 cm² will result in a yearly dose of 1.18 x 10–4 millirems. This value is four orders of magnitude below the criterion of 1 millirem/year generally accepted as the criterion for unrestricted release of materials. Thus, DOE believes there is no significant health benefit to be gained by lowering the appendix D to part 835 value for removable surface contamination that applies to tritiated compounds.

DOE also received a comment that appendix D to part 835 should be updated to include recommendations regarding STCs as provided in DOE-HDBK–1184–2004, Section 3.2.1.2. which addresses fixed surface contamination. This section of the handbook addresses the possibility that there may be cases where tritium binds tightly to the matrix into which it has diffused, and removable contamination levels are below the values in 10 CFR part 835 (i.e., 10,000 dpm/100 cm²), and recommends that provisions of part 835, subpart L, Radioactive Contamination Control, pertaining to total surface contamination values be applied when total contamination exceeds 10,000 dpm/100 cm². The commenter suggests that appendix D to part 835, Table and footnotes, be revised to address fixed surface contamination from STCs.

Consideration of the properties of STCs suggests that there may be cases where tritium binds tightly to a material into which it has diffused, and the removable contamination level on the surface of this material is below the value in 10 CFR part 835. Such cases could occur when a class of STCs called insoluble tritiated particles (ITPs) are fixed to a surface or from tritium exposure to bulk quantities of metals of the types from which ITPs are formed. Although this situation is not expected to occur often, DOE addresses it by modifying 10 CFR part 835 appendix D footnote 6, to indicate that there is a situation where tritium may exist in a form that can be considered to be fixed surface contamination. DOE also addresses it by specifying a total surface contamination value of 10,000 dpm/100 cm² as the value above which the appropriate requirements in 10 CFR part 835 are triggered. Because the definitions of insoluble metal tritides and insoluble tritiated particle are imprecise, it may be necessary to perform a technical evaluation of metals that have been exposed to tritium in order to determine if fixed surface contamination exists. DOE-HDBK–1184–2004 provides guidance to help in making such a determination.

In summary, the final rule revised appendix D to 10 CFR part 835 as follows. In the last row of the first column, the entry is changed to ''Tritium and STCs.'' In the last row of column three of 10 CFR part 835 appendix D, ''N/A'' is replaced with ''See Footnote 6.'' The following text is added to footnote 6, ''In certain cases, a 'Total' value of 10,000 dpm/100 cm² may be applicable either to metals, of the types which form insoluble special tritium compounds, that have been exposed to tritium; or to bulk materials to which particles of insoluble special tritium compound are fixed to a surface.'' Footnote 7 is revised to read ''These limits only apply to the alpha emitters within the respective decay series.''

R. Text and Footnote in Appendix E in 10 CFR Part 835

As discussed earlier, DOE proposed to adopt the system of dosimetry for intake of radioactive materials set forth in more recent ICRP publications. DOE proposed to revise the appendix E to part 835 values using the ICRP Publication 60 methodology and the same exposure scenarios discussed in the 1998 amendment to 10 CFR part 835. In summary, the values were based on the more limiting of the quantity of radioactive material which results in either an external or internal whole body dose, from either inhalation or ingestion, of 100 millirems. The external exposure scenario assumed a photon exposure for 12 hours a day for 365 days with the source distance being at 1 meter. The internal exposure scenario assumed an instantaneous intake of 0.001% of the material by an individual. Consistent with the other proposed changes, the values in appendix E to part 835 were recalculated to reflect the previously mentioned ICRP publications. DOE also proposed to reorder the entries in accordance with atomic weight rather than alphabetically.

DOE also proposed to add a footnote to appendix E to part 835 specifying a value of 10 Ci for any type of STC. This proposed change would be made to keep appendix E to part 835 consistent with the proposed change to appendix

A which includes the addition of STCs. The value of 10 Ci was derived using the same method as the other proposed values in appendix E to part 835, *i.e.*, they were based on the exposure scenario discussed in the preamble to the 1998 amendment. Specifically, the inhalation exposure scenario used to derive the 10 Ci value assumed a 100 millirems dose from a Type S hafnium tritide particle (the most restrictive STC) with a release fraction to be inhaled of 0.001%. A dose conversion value of 2.6 E–10 Sv/Bq, was determined by using the methodology from DOE-HDBK–1184–2004 and adjusted using the ICRP Publication 60 dosimetric quantities.

In addition, DOE proposed revising the value for Californium-252 in appendix E to part 835 calculated for an external neutron exposure situation, which was more limiting than the photon exposure. More specifically, DOE calculated the proposed appendix E to part 835 value for Californium-252 by substituting a neutron exposure for the photon exposure in the external exposure scenario using values from *Reference Neutron Radiations—Part 1: Characteristics and Methods of Production,* ISO/CD, 8529–1.

As mentioned in the appendix A to part 835 discussion, DOE received a comment that for amendment items pertaining to STCs, consideration should be given to recent ICRP publications and published information regarding STCs, such as the October 2004 Health Physics Society Journal paper, *Application of the ICRP Clarification of the Tritium Metabolic Model.* DOE reviewed updated published information regarding STCs, including the Health Physics Society Journal paper referenced. DOE believes that the methodology and values in DOE-HDBK–1184–2004 continue to provide the best approaches to developing acceptable controls such as DAC values and the posting and labeling criteria for STCs, adjusted to use the ICRP Publication 60 dosimetric quantities and a default 5 micron particle size. Accordingly, the final rule makes the changes to appendix E to part 835 values for tritiated particulates or organically-bound tritiated compounds as proposed. For consistency with the revised footnote to appendix D to part 835 and the added definition of STCs, DOE replaces the term ''tritiated particulate or organically-bound tritiated compound'' with ''STC.''

DOE also received a comment that the table appeared to be intended to be arranged in order of increasing atomic number, with all isotopes of the same element included together. The commenter thought this was a good approach that expedites finding the values for a given radionuclide. The commenter noted some ordering inconsistencies. DOE agrees with this comment and revises the table in appendix E to part 835 so that the order is by increasing atomic number with all isotopes of the same element included together.

DOE also received a comment that the basis for the appendix E to part 835 values in the NOPR is well-stated and if DOE decides to make this transition, this rationale should be retained in a footnote to the appendix or some other readily traceable reference. The comment stated that in practical radiation protection work, it is often useful to track down the origin of the values found in such tables. To do that, one needs clear traceability to their original derivation. DOE agrees with this comment and intends to add a discussion of this issue in the updated implementation guide for 10 CFR part 835.

DOE received a comment that the proposed change would likely result in many more sources exceeding the appendix E threshold. DOE does not agree with this comment. DOE compared proposed appendix E to part 835 values with the existing values for 22 representative radionuclides. The comparison showed that only six of the proposed values were more restrictive than the existing values and those values were only slightly more restrictive.

In summary, the final rule makes the changes as proposed in the NOPR, with the exception that DOE replaces the term ''tritiated particulate or organically-bound tritiated compound'' with ''STC.'' DOE revises the order to be in increasing atomic number with all isotopes of the same element included together.

S. Guidance Documents

The primary implementation guide which defines DOE's expectations for the existing rule is DOE's implementation guide G 441.1–1B, *Radiation Protection Programs Guide for Use with Title 10, Code of Federal Regulations, Part 835, Occupational Radiation Protection.* This guide is available through the DOE radiation protection Web page on *http://www.hss.energy.gov/HealthSafety/WSHP/radiation/regs.html.*

DOE plans on updating this guide to reflect the amended requirements. DOE also plans to review and, as necessary, incorporate the DOE Radiological Control Technical Positions issued by the DOE Office of Worker Safety and Health Policy into the guide. DOE Technical Standards developed by the DOE Office of Worker Safety and Health Policy will also be updated. In particular, these Technical Standards include: DOE-STD–1098–99 *Radiological Control, DOE-STD–1121–98 Internal Dosimetry* and the series of handbooks relating to radiation protection training. DOE plans to have all guidance documents updated and available in sufficient time to be of use in meeting the amended 10 CFR part 835 implementation date.

T. Submitting Documents for DOE Approval

Part 835.101(g) requires contractors to update their Radiation Protection Program (RPP) and submit it to DOE within 180 days of the effective date of any modifications to part 835. In accordance with 10 CFR 835.101(f), the RPP shall include plans, schedules, and other measures for achieving compliance no later than three years following the effective date of the amendment. DOE issued guidance on submittal of RPPs in DOE G 441.1–1B, *Radiation Protection Programs Guide for Use with Title 10, Code of Federal Regulations, Part 835, Occupational Radiation Protection.*

U. Protection and Operational Quantities

The ICRP Publication 60 dosimetric quantities adopted in 10 CFR part 835 have been designated by ICRP as ''protection quantities'' that are intended for defining and calculating the numerical limits and action levels used in radiation protection standards such as 10 CFR part 835. Protection quantities provide a way to relate the magnitude of a radiation exposure to the risk of a health effect that is applicable to an individual and that is largely independent of the type and source (internal or external) of the radiation. In addition the protection quantities can be easily calculated for use in planning radiological work.

These goals are achieved using a combination of theoretical and practical considerations. For example, absorbed dose is assumed to be averaged over a tissue or organ. Radiation weighting factors are used to account for the biological effectiveness of various types and energies of radiation and tissue weighting factors are used to account for the sensitivity of various tissues to radiation induced cancer. The tissue and radiation weighting factors are based on both biological and epidemiological studies and have been updated as new research becomes available. Nevertheless, the values of these weighting factors are

approximations that account for both uncertainty in the underlying data and the need to ensure that the protection quantities do not underestimate the true dose and hence the risk. Protection quantities used in 10 CFR part 835 include: equivalent dose, effective dose, committed equivalent dose, committed effective dose, total effective dose, and cumulative total effective dose.

Because protection quantities were developed to provide an index of the risk resulting from energy imparted to tissue by radiation, they are theoretical and not measurable. Fortunately, it is possible to use the measurable properties of radiation fields and radioactive materials associated with exposure to external radiation sources or intake of radioactive materials to estimate and demonstrate compliance with the protection quantities. These measurable quantities are called operational quantities.

Although many types of operational quantities are possible, a well characterized set of operational quantities for assessing doses received from external exposure have been selected by the International Commission on Radiation Units and Measurements (ICRU) in Report 51, *Quantities and Units in Radiation Protection Dosimetry.* These operational quantities have been adopted in recommendations of the ICRP and in the standards implementing the ICRP recommendations written by the International Atomic Energy Agency (IAEA) and the European Union (EU). In addition, the ICRP, in Publication 74, *Conversion Coefficients for Use in Radiological Protection Against External Radiation,* compared and contrasted doses determined using the ICRP system of protection quantities with doses determined using the ICRU based operational quantities. For almost all situations considered, doses determined with the operational quantities were greater or equal to the doses determined using protection quantities. These operational quantities and their relation to the protection quantities listed in the final version of 10 CFR part 835 are listed below.

RELATION BETWEEN PROTECTION QUANTITIES AND OPERATIONAL QUANTITIES FOR INDIVIDUAL MONITORING OF EXTERNAL EXPOSURE

Protection quantity	Operational quantity (depth [d] in tissue [mm])
Equivalent dose to the whole body from external sources*	$H_p(10)$.
Equivalent dose to the lens of the eye from external sources	$H_p(3)$.
Equivalent dose to the extremity or skin from external sources	$H_p(0.07)$.

Where:

$H_p(d)$ is the personal dose equivalent at depth d in tissue

See ICRU Report 51 for the definition of $H_p(d)$

*Same as effective dose from external sources.

For doses resulting from intakes of radioactive materials operational quantities have been published in ICRP, IAEA and EU documents.

Relation between protection quantities and operational quantities for individual monitoring of doses from intakes of radioactive material

Protection quantity	Operational quantity
Committed effective dose	$\sum_j h_{j,eff,50,inh} I_{j,inh} + \sum_j h_{j,eff,50,ing} I_{j,ing}$
Committed equivalent dose	$\sum_j h_{j,T,50,inh} I_{j,inh} + \sum_j h_{j,T,50,ing} I_{j,ing}$

Where:

$h_{j,eff,50,inh}$ is the committed effective dose per unit of radioactivity intake by inhalation (inh)

$h_{j,eff,50,ing}$ is the committed effective dose per unit of radioactivity intake by ingestion (ing)

$h_{j,T,50,inh}$ is the committed equivalent dose to a tissue (T) per unit of radioactivity intake by inhalation

$h_{j,T,50,ing}$ is the committed equivalent dose to a tissue (T) per unit of radioactivity intake by ingestion

$I_{j,inh}$ is an intake by inhalation

$I_{j,inh}$ is an intake by ingestion

j is a radionuclide

For the total effective dose, the following operational quantity is suggested.

Protection quantity	Operational quantity
Total effective dose	$H_p(10) + \sum_j h_{j,eff,50,inh} I_{j,inh} + \sum_j h_{j,eff,50,ing} I_{j,ing}$

In addition to the operational quantities used for individual monitoring, the following table contains operational quantities that may be measured to characterize certain aspects of radiation fields in the workplace.

OPERATIONAL QUANTITIES FOR USE IN CHARACTERIZING WORKPLACE RADIATION FIELDS

Workplace measurement	Suggested operational quantity
Control of effective dose	H *(10).
Control of dose to the skin, the extremities and the lens of the eye	H ’(0.07, Ω).
Control of dose to the lens of the eye	H ’(3, Ω).

Where:

H*(10) is the ambient dose equivalent at a depth of 10 mm in tissue

H’(0.007, Ω) is the directional dose equivalent at a depth of 0.07mm in the ICRU sphere

H’(3, Ω) is the directional dose equivalent at a depth of 3 mm in the ICRU sphere

Ω defines the direction of the radiation field

See ICRU Report 51 for the definitions of ambient dose equivalent and directional dose equivalent.

To summarize the above discussion, protection quantities have been developed for use in radiation protection standards to establish dose limits and action levels that reflect the risk associated with radiation exposure and are directly applicable to all members of the population being protected. Measurable operational quantities have been selected that permit measurements which show compliance with protection quantities specified in 10 CFR part 835. Additional guidance will be provided in the implementation guide for 10 CFR part 835.

V. Regulatory Review

A. Review Under Executive Order 12866

Today’s final rule has been determined not to be a ‘‘significant regulatory action’’ within the scope of section 3(f) of Executive Order 12866, ‘‘Regulatory Planning and Review,’’ 58 FR 51735 (October 4, 1993), as amended by Executive Order 13258, 67 FR 9385 (February 26, 2002) and Executive Order 13422 (January 18, 2007). Accordingly, this rule was not reviewed under the Executive Order by the Office of Information and Regulatory Affairs (OIRA) in the Office of Management and Budget (OMB).

B. Review Under Executive Order 12988

With respect to the review of existing regulations and the promulgation of new regulations, section 3 of Executive Order 12988, ‘‘Civil Justice Reform,’’ 61 FR 4729 (February 7, 1996), imposes on Executive agencies the general duty to eliminate drafting errors and ambiguity, write regulations to minimize litigation, provide a clear legal standard for affected conduct rather than a general standard, and promote simplification and burden reduction. Section 3(c) of Executive Order 12988 requires Executive agencies to review regulations in light of applicable standards in section 3(a) and section 3(b) to determine whether they are met. DOE has completed the required review and determined that, to the extent permitted by law, this final rule meets the relevant standards of Executive Order 12988.

C. Review Under Executive Order 13132

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

Today’s regulatory action has been determined not to be a ‘‘policy that has federalism implications;’’ that is, it does not have substantial direct effects on the States, on the relationship between the national government and the States, nor on the distribution of power and responsibilities among various levels of government under Executive Order 13132, 64 FR 43255 (August 10, 1999).

D. Reviews Under the Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) requires that a federal agency prepare an initial regulatory flexibility analysis for any regulation for which a general NOPR is required, unless the agency certifies that the rule, if promulgated, will not have a significant economic impact on a substantial number of small entities (5 U.S.C. 605(b)).

Today’s regulation establishes DOE amended requirements for nuclear safety and occupational radiation protection at DOE sites. The contractors who manage and operate DOE facilities are principally responsible for implementing the rule requirements. DOE considered whether these contractors are ’’small businesses,’’ as that term is defined in the Regulatory Flexibility Act (5 U.S.C. 601(3)). The Regulatory Flexibility Act’s definition incorporates the definition of ’’small business concern’’ in the Small Business Act, which the Small Business Administration (SBA) has developed through size standards in 13 CFR part 121. The DOE contractors subject to this rule exceed the SBA’s size standards for small businesses. In addition, DOE expects that any potential economic impact of this rule on small businesses would be minimal because DOE sites perform work under contracts to DOE or the prime contractor at the site. DOE contractors are reimbursed through their contracts with DOE for the costs of complying with DOE nuclear safety and radiation protection requirements. They would not, therefore, be adversely impacted by the requirements in this rule. For these reasons, DOE certifies that today’s regulatory action does not have a significant economic impact on a substantial number of small entities and, therefore, no regulatory flexibility analysis has been prepared. DOE’s certification and supporting statement of factual basis will be provided to the Chief Counsel of Advocacy of the SBA pursuant to 5 U.S.C. 605(b).

E. Review Under the Paperwork Reduction Act

The information collection provisions of this final rule are not substantially different from those contained in DOE contracts with DOE prime contractors covered by this rule. The information collection was previously approved by OMB and assigned OMB Control No. 1910–0300. Accordingly, no additional OMB clearance is required by the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

F. Review Under the National Environmental Policy Act

DOE has reviewed these amendments to 10 CFR parts 820 and 835 under the National Environmental Policy Act (NEPA) of 1969 (42 U.S.C. 4321 *et seq.*), the Council on Environmental Quality’s regulations (40 CFR parts 1500–08), and DOE’s implementing regulations (10 CFR part 1021). Categorical Exclusion A5 in appendix A to Subpart D of 10 CFR part 1021 (rulemaking that amends an existing rule without changing the environmental effect of the amended rule) applies to this rulemaking. Accordingly, DOE has not prepared an environmental impact statement or an

environmental assessment pursuant to NEPA.

G. Review Under the Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995, (2 U.S.C. 1531 *et seq.*), requires each Federal agency, to the extent permitted by law to prepare a written assessment of the effects of any Federal mandate in an agency rule that may result in the expenditure by State, tribal, or local governments, in the aggregate, or by the private sector, of $100 million or more (adjusted annually for inflation) in any one year. The Act also requires a Federal agency to develop an effective process to permit timely input by elected officials of State, tribal, or local governments on a proposed ''significant intergovernmental mandate,'' and requires an agency plan for giving notice and opportunity to provide timely input to potentially affected small governments before establishing any requirements that might significantly or uniquely affect small governments. DOE has determined that today's final rule does not contain any Federal mandates affecting small governments, so these requirements do not apply.

H. Review Under Executive Order 13211

Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use,'' 66 FR 28355 (May 22, 2001) requires Federal agencies to prepare and submit to the OMB, a Statement of Energy Effects for any proposed significant energy action. A ''significant energy action'' is defined as any action by an agency that promulgated or is expected to lead to promulgation of a final rule, and that: (1) Is a significant regulatory action under Executive Order 12866, or any successor order; and (2) is likely to have a significant adverse effect on the supply, distribution, or use of energy, or (3) is designated by the Administrator of OIRA as a significant energy action. For any proposed significant energy action, the agency must give a detailed statement of any adverse effects on energy supply, distribution, or use should the proposal be implemented, and of reasonable alternatives to the action and their expected benefits on energy supply, distribution, and use. Today's regulatory action would not have a significant adverse effect on the supply, distribution, or use of energy and is, therefore, not a significant energy action. Accordingly, DOE has not prepared a Statement of Energy Effects.

I. Review Under the Treasury and General Government Appropriations Act, 1999

Section 654 of the Treasury and General Government Appropriations Act, 1999 (Pub. L. 105–277) requires Federal agencies to issue a ''Family Policymaking Assessment'' for any rule that may affect family well-being. Today's regulatory action has no impact on the autonomy or integrity of the family as an institution. Accordingly, DOE has not prepared a Family Policymaking Assessment.

J. Review Under the Treasury and General Government Appropriations Act, 2001

The Treasury and General Government Appropriations Act, 2001 (44 U.S.C. 3516, note) provides for agencies to review most dissemination of information to the public under guidelines established by each agency pursuant to general guidelines issued by OMB. OMB's guidelines were published at 67 FR 8452 (Feb. 22, 2002), and DOE's guidelines were published at 67 FR 62446 (Oct. 7, 2002). DOE has reviewed today's regulatory action under the OMB and DOE guidelines, and has concluded that it is consistent with applicable policies in those guidelines.

K. Congressional Notification

As required by 5 U.S.C. 801, DOE will submit to Congress a report regarding the issuance of today's regulatory action rule prior to the effective date set forth at the outset of this notice. The report will state that it has been determined that the rule is not a ''major rule'' as defined by 5 U.S.C. 804(2).

VI. Approval of the Office of the Secretary

The Secretary of Energy has approved publication of this final rule.

List of Subjects

10 CFR Part 820

Administrative practice and procedure, Federal buildings and facilities, Government contracts, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Nuclear safety, Penalties, Public health, and Radiation protection.

10 CFR Part 835

Federal buildings and facilities, Nuclear energy, Nuclear materials, Nuclear power plants and reactors, Nuclear safety, Occupational safety and health, Radiation protection, and Reporting and recordkeeping requirements.

Issued in Washington, DC on May 22, 2007.

Glenn Podonsky,

Chief, Office of Health, Safety and Security.

■ For the reasons set forth in the preamble, Parts 820 and 835 of Chapter III, Title 10, of the Code of Federal Regulations are amended as set forth below.

PART 820—PROCEDURAL RULES FOR DOE NUCLEAR ACTIVITIES

■ 1. The authority citation for part 820 is revised to read as follows:

Authority: 42 U.S.C. 2201; 2282(a); 7191; 28 U.S.C. 2461 note; 50 U.S.C. 2410.

■ 2. In § 820.2 add a new definition for ''NNSA'' to read as follows:

§ 820.2 Definitions.

* * * * *

NNSA means the National Nuclear Security Administration.

* * * * *

■ 3. Section 820.13 is added to read as follows:

§ 820.13 Direction to NNSA contractors.

(a) Notwithstanding any other provision of this part, and pursuant to section 3213 of Pub. L. 106–65, as amended (codified at 50 U.S.C. 2403), the NNSA, rather than the Director, signs, issues and serves the following actions that direct NNSA contractors:

(1) Subpoenas;

(2) Orders to compel attendance;

(3) Disclosures of information or documents obtained during an investigation or inspection;

(4) Preliminary notices of violations; and

(5) Final notices of violations.

(b) The NNSA Administrator shall act after consideration of the Director's recommendation.

■ 4. In § 820.21, paragraphs (g) and (h) are added to read as follows:

§ 820.21 Investigations.

* * * * *

(g) The Director may issue enforcement letters that communicate DOE's expectations with respect to any aspect of the requirements of DOE's Nuclear Safety Requirements, including identification and reporting of issues, corrective actions, and implementation of DOE's Nuclear Safety Requirements, provided that an enforcement letter may not create the basis for any legally enforceable requirement pursuant to this part.

(h) The Director may sign, issue and serve subpoenas.

■ 5. In Appendix A to part 820, revise sections IV and VIII to read as follows:

Appendix A to Part 820—General Statement of Enforcement Policy

* * * * *

IV. Responsibilities

(a) The Director, as the principal enforcement officer of DOE, has been delegated the authority to:

(1) Conduct enforcement inspections, investigations, and conferences;

(2) Issue Notices of Violations and proposed civil penalties, Enforcement Letters, Consent Orders, and subpoenas; and

(3) Issue orders to compel attendance and disclosure of information or documents obtained during an investigation or inspection.

(b) The NNSA Administrator, pursuant to section 3212 (b)(9) of Public Law 106–65 (codified at 50 U.S.C. 2402 (b)(9)), as amended, has authority over and responsibility for environment, safety and health operations within NNSA and is authorized to sign, issue and serve the following actions that direct NNSA contractors:

(1) Subpoenas;

(2) Orders to compel attendance;

(3) Disclosure of information or documents obtained during an investigation or inspection;

(4) Preliminary Notices of Violations; and

(5) Final Notices of Violations.

The NNSA Administrator acts after consideration of the Director's recommendation.

* * * * *

VIII. Enforcement Letter

(a) In cases where DOE has decided not to conduct an investigation or inspection or issue a Preliminary Notice of Violation (PNOV), DOE may send an Enforcement Letter to the contractor, signed by the Director. Enforcement Letters issued to NNSA contractors will be coordinated with the Principal Deputy Administrator of the NNSA prior to issuance. The Enforcement Letter is intended to communicate the basis of the decision not to pursue enforcement action for a noncompliance. The Enforcement Letter is intended to inform contractors of the desired level of nuclear safety performance. It may be used when DOE concludes the specific noncompliance at issue is not of the level of significance warranted to conduct an investigation or inspection or for issuance of a PNOV. Even where a noncompliance may be significant, the Enforcement Letter recognizes that the contractor's actions may have attenuated the need for enforcement action. The Enforcement Letter will typically recognize how the contractor handled the circumstances surrounding the noncompliance, address additional areas requiring the contractor's attention, and address DOE's expectations for corrective action.

(b) In general, Enforcement Letters communicate DOE's expectations with respect to any aspect of the requirements contained in the Department's nuclear safety rules, including identification and reporting of issues, corrective actions, and implementation of the contractor's nuclear safety program. DOE might, for example, wish to recognize some action of the contractor that is of particular benefit to nuclear safety performance that is a candidate for emulation by other contractors. On the other hand, DOE may wish to bring a program shortcoming to the attention of the contractor that, but for the lack of nuclear safety significance of the immediate issue, might have resulted in the issuance of a PNOV. An Enforcement Letter is not an enforcement action.

(c) With respect to many noncompliances, DOE may decide not to send an Enforcement Letter. When DOE decides that a contractor has appropriately corrected a noncompliance or that the significance of the noncompliance is sufficiently low, it may close out its review simply through an annotation in the DOE Noncompliance Tracking System (NTS). A closeout of a noncompliance with or without an Enforcement Letter may only take place after DOE has confirmed that corrective actions have been completed. Closeout of any NNSA contractor noncompliance will be coordinated with NNSA prior to closeout.

* * * * *

PART 835—OCCUPATIONAL RADIATION PROTECTION

■ 6. The authority citation for part 835 is revised to read as follows:

Authority: 42 U.S.C. 2201, 7191; 50 U.S.C. 2410.

■ 7. Section 835.1 is amended:

■ a. In the introductory text of paragraph (b), remove the word ''discussed'' and insert in its place ''provided.''

■ b. Paragraph (b)(2) is revised.

■ c. Paragraph (b)(4) is removed.

■ d. Paragraph (b)(5) is redesignated as paragraph (b)(4) and the word ''or'' at the end of the paragraph is removed.

■ e. Paragraph (b)(6) is redesignated as paragraph (b)(5) and the punctuation at the end of the paragraph is replaced with the punctuation '';'' and the word ''or'' is added at the end of the paragraph.

■ f. A new paragraph (b)(6) is added.

■ g. A new paragraph (b)(7) is added.

■ h. Paragraph (c) is revised.

■ i. A new paragraph (d) is added.

The revisions and additions specified above read as follows:

§ 835.1 Scope.

* * * * *

(b) * * *

(2) Activities conducted under the authority of the Deputy Administrator for Naval Reactors, as described in Pub. L. 98–525 and 106–65;

* * * * *

(6) Radioactive material on or within material, equipment, and real property which is approved for release when the radiological conditions of the material, equipment, and real property have been documented to comply with the criteria for release set forth in a DOE authorized limit which has been approved by a Secretarial Officer in consultation with the Chief Health, Safety and Security Officer.

(7) Radioactive material transportation not performed by DOE or a DOE contractor.

(c) Occupational doses received as a result of excluded activities and radioactive material transportation listed in paragraphs (b)(1) through (b)(4) and (b)(7) of this section, shall be included to the extent practicable when determining compliance with the occupational dose limits at §§ 835.202 and 835.207, and with the limits for the embryo/fetus at § 835.206. Occupational doses resulting from authorized emergency exposures and planned special exposures shall not be considered when determining compliance with the dose limits at §§ 835.202 and 835.207.

(d) The requirements in subparts F and G of this part do not apply to radioactive material transportation by DOE or a DOE contractor conducted:

(1) Under the continuous observation and control of an individual who is knowledgeable of and implements required exposure control measures, or

(2) In accordance with Department of Transportation regulations or DOE orders that govern such movements.

■ 8. Section 835.2 is revised to read as follows:

§ 835.2 Definitions.

(a) As used in this part:

Accountable sealed radioactive source means a sealed radioactive source having a half-life equal to or greater than 30 days and an isotopic activity equal to or greater than the corresponding value provided in appendix E of this part.

Activity Median Aerodynamic Diameter (AMAD) means a particle size in an aerosol where fifty percent of the activity in the aerosol is associated with particles of aerodynamic diameter greater than the AMAD.

Airborne radioactive material or airborne radioactivity means radioactive material dispersed in the air in the form of dusts, fumes, particulates, mists, vapors, or gases.

Airborne radioactivity area means any area, accessible to individuals, where:

(1) The concentration of airborne radioactivity, above natural background, exceeds or is likely to exceed the derived air concentration (DAC) values listed in appendix A or appendix C of this part; or

(2) An individual present in the area without respiratory protection could

receive an intake exceeding 12 DAC-hours in a week.

ALARA means ''As Low As is Reasonably Achievable,'' which is the approach to radiation protection to manage and control exposures (both individual and collective) to the work force and to the general public to as low as is reasonable, taking into account social, technical, economic, practical, and public policy considerations. As used in this part, ALARA is not a dose limit but a process which has the objective of attaining doses as far below the applicable limits of this part as is reasonably achievable.

Annual limit on intake (ALI) means the derived limit for the amount of radioactive material taken into the body of an adult worker by inhalation or ingestion in a year. ALI is the smaller value of intake of a given radionuclide in a year by the reference man (ICRP Publication 23) that would result in a committed effective dose of 5 rems (0.05 sieverts (Sv)) (1 rem = 0.01 Sv) or a committed equivalent dose of 50 rems (0.5 Sv) to any individual organ or tissue. ALI values for intake by ingestion and inhalation of selected radionuclides are based on International Commission on Radiological Protection Publication 68, *Dose Coefficients for Intakes of Radionuclides by Workers*, published July, 1994 (ISBN 0 08 042651 4). This document is available from Elsevier Science Inc., Tarrytown, NY.

Authorized limit means a limit on the concentration of residual radioactive material on the surfaces or within the property that has been derived consistent with DOE directives including the as low as is reasonably achievable (ALARA) process requirements, given the anticipated use of the property and has been authorized by DOE to permit the release of the property from DOE radiological control.

Background means radiation from:

(1) Naturally occurring radioactive materials which have not been technologically enhanced;

(2) Cosmic sources;

(3) Global fallout as it exists in the environment (such as from the testing of nuclear explosive devices);

(4) Radon and its progeny in concentrations or levels existing in buildings or the environment which have not been elevated as a result of current or prior activities; and

(5) Consumer products containing nominal amounts of radioactive material or producing nominal amounts of radiation.

Bioassay means the determination of kinds, quantities, or concentrations, and, in some cases, locations of radioactive material in the human body, whether by direct measurement or by analysis and evaluation of radioactive materials excreted or removed from the human body.

Calibration means to adjust and/or determine either:

(1) The response or reading of an instrument relative to a standard (*e.g.*, primary, secondary, or tertiary) or to a series of conventionally true values; or

(2) The strength of a radiation source relative to a standard (*e.g.*, primary, secondary, or tertiary) or conventionally true value.

Contamination area means any area, accessible to individuals, where removable surface contamination levels exceed or are likely to exceed the removable surface contamination values specified in appendix D of this part, but do not exceed 100 times those values.

Controlled area means any area to which access is managed by or for DOE to protect individuals from exposure to radiation and/or radioactive material.

Declared pregnant worker means a woman who has voluntarily declared to her employer, in writing, her pregnancy for the purpose of being subject to the occupational dose limits to the embryo/fetus as provided in § 835.206. This declaration may be revoked, in writing, at any time by the declared pregnant worker.

Derived air concentration (DAC) means, for the radionuclides listed in appendix A of this part, the airborne concentration that equals the ALI divided by the volume of air breathed by an average worker for a working year of 2000 hours (assuming a breathing volume of 2400 m^3). For the radionuclides listed in appendix C of this part, the air immersion DACs were calculated for a continuous, non-shielded exposure via immersion in a semi-infinite cloud of radioactive material. Except as noted in the footnotes to appendix A of this part, the values are based on dose coefficients from International Commission on Radiological Protection Publication 68, *Dose Coefficients for Intakes of Radionuclides by Workers*, published July, 1994 (ISBN 0 08 042651 4) and the associated ICRP computer program, *The ICRP Database of Dose Coefficients: Workers and Members of the Public*, (ISBN 0 08 043 8768). These materials are available from Elsevier Science Inc., Tarrytown, NY.

Derived air concentration-hour (DAC-hour) means the product of the concentration of radioactive material in air (expressed as a fraction or multiple of the DAC for each radionuclide) and the time of exposure to that radionuclide, in hours.

Deterministic effects means effects due to radiation exposure for which the severity varies with the dose and for which a threshold normally exists (*e.g.*, radiation-induced opacities within the lens of the eye).

DOE means the United States Department of Energy.

DOE activity means an activity taken for or by DOE in a DOE operation or facility that has the potential to result in the occupational exposure of an individual to radiation or radioactive material. The activity may be, but is not limited to, design, construction, operation, or decommissioning. To the extent appropriate, the activity may involve a single DOE facility or operation or a combination of facilities and operations, possibly including an entire site or multiple DOE sites.

Entrance or access point means any location through which an individual could gain access to areas controlled for the purpose of radiation protection. This includes entry or exit portals of sufficient size to permit human entry, irrespective of their intended use.

General employee means an individual who is either a DOE or DOE contractor employee; an employee of a subcontractor to a DOE contractor; or an individual who performs work for or in conjunction with DOE or utilizes DOE facilities.

High contamination area means any area, accessible to individuals, where removable surface contamination levels exceed or are likely to exceed 100 times the removable surface contamination values specified in appendix D of this part.

High radiation area means any area, accessible to individuals, in which radiation levels could result in an individual receiving an equivalent dose to the whole body in excess of 0.1 rems (0.001 Sv) in 1 hour at 30 centimeters from the radiation source or from any surface that the radiation penetrates.

Individual means any human being.

Member of the public means an individual who is not a general employee. An individual is not a ''member of the public'' during any period in which the individual receives an occupational dose.

Minor means an individual less than 18 years of age.

Monitoring means the measurement of radiation levels, airborne radioactivity concentrations, radioactive contamination levels, quantities of radioactive material, or individual doses and the use of the results of these measurements to evaluate radiological hazards or potential and actual doses resulting from exposures to ionizing radiation.

Occupational dose means an individual's ionizing radiation dose (external and internal) as a result of that individual's work assignment. Occupational dose does not include doses received as a medical patient or doses resulting from background radiation or participation as a subject in medical research programs.

Person means any individual, corporation, partnership, firm, association, trust, estate, public or private institution, group, Government agency, any State or political subdivision of, or any political entity within a State, any foreign government or nation or other entity, and any legal successor, representative, agent or agency of the foregoing; provided that person does not include DOE or the United States Nuclear Regulatory Commission.

Radiation means ionizing radiation: alpha particles, beta particles, gamma rays, X-rays, neutrons, high-speed electrons, high-speed protons, and other particles capable of producing ions. Radiation, as used in this part, does not include non-ionizing radiation, such as radio waves or microwaves, or visible, infrared, or ultraviolet light.

Radiation area means any area, accessible to individuals, in which radiation levels could result in an individual receiving an equivalent dose to the whole body in excess of 0.005 rem (0.05 mSv) in 1 hour at 30 centimeters from the source or from any surface that the radiation penetrates.

Radioactive material area means any area within a controlled area, accessible to individuals, in which items or containers of radioactive material exist and the total activity of radioactive material exceeds the applicable values provided in appendix E of this part.

Radioactive material transportation means the movement of radioactive material by aircraft, rail, vessel, or highway vehicle. Radioactive material transportation does not include preparation of material or packagings for transportation, storage of material awaiting transportation, or application of markings and labels required for transportation.

Radiological area means any area within a controlled area defined in this section as a ''radiation area,'' ''high radiation area,'' ''very high radiation area,'' ''contamination area,'' ''high contamination area,'' or ''airborne radioactivity area.''

Radiological worker means a general employee whose job assignment involves operation of radiation producing devices or working with radioactive materials, or who is likely to be routinely occupationally exposed above 0.1 rem (0.001 Sv) per year total effective dose.

Real property means land and anything permanently affixed to the land such as buildings, fences and those things attached to the buildings, such as light fixtures, plumbing and heating fixtures.

Real-time air monitoring means measurement of the concentrations or quantities of airborne radioactive materials on a continuous basis.

Respiratory protective device means an apparatus, such as a respirator, worn by an individual for the purpose of reducing the individual's intake of airborne radioactive materials.

Sealed radioactive source means a radioactive source manufactured, obtained, or retained for the purpose of utilizing the emitted radiation. The sealed radioactive source consists of a known or estimated quantity of radioactive material contained within a sealed capsule, sealed between layer(s) of non-radioactive material, or firmly fixed to a non-radioactive surface by electroplating or other means intended to prevent leakage or escape of the radioactive material. Sealed radioactive sources do not include reactor fuel elements, nuclear explosive devices, and radioisotope thermoelectric generators.

Source leak test means a test to determine if a sealed radioactive source is leaking radioactive material.

Special tritium compound (STC) means any compound, except for H_2O, that contains tritium, either intentionally (*e.g.*, by synthesis) or inadvertently (*e.g.*, by contamination mechanisms).

Stochastic effects means malignant and hereditary diseases for which the probability of an effect occurring, rather than its severity, is regarded as a function of dose without a threshold, for radiation protection purposes.

Very high radiation area means any area, accessible to individuals, in which radiation levels could result in an individual receiving an absorbed dose in excess of 500 rads (5 grays) in one hour at 1 meter from a radiation source or from any surface that the radiation penetrates.

Week means a period of seven consecutive days.

Year means the period of time beginning on or near January 1 and ending on or near December 31 of that same year used to determine compliance with the provisions of this part. The starting and ending date of the year used to determine compliance may be changed, provided that the change is made at the beginning of the year and that no day is omitted or duplicated in consecutive years.

(b) As used in this part to describe various aspects of radiation dose:

Absorbed dose (D) means the average energy imparted by ionizing radiation to the matter in a volume element. The absorbed dose is expressed in units of rad (or gray) (1 rad = 0.01 grays).

Committed effective dose (E_{50}) means the sum of the committed equivalent doses to various tissues or organs in the body ($H_{T,50}$), each multiplied by the appropriate tissue weighting factor (w_T)—that is, $E_{50} = \Sigma w_T H_{T,50} + w_{Remainder} H_{Remainder,50}$. Where $w_{Remainder}$ is the tissue weighting factor assigned to the remainder organs and tissues and $H_{Remainder,50}$ is the committed equivalent dose to the remainder organs and tissues. Committed effective dose is expressed in units of rem (or Sv).

Committed equivalent dose ($H_{T,50}$) means the equivalent dose calculated to be received by a tissue or organ over a 50-year period after the intake of a radionuclide into the body. It does not include contributions from radiation sources external to the body. Committed equivalent dose is expressed in units of rem (or Sv).

Cumulative total effective dose means the sum of all total effective dose values recorded for an individual plus, for occupational exposures received before the implementation date of this amendment, the cumulative total effective dose equivalent (as defined in the November 4, 1998 amendment to this rule) values recorded for an individual, where available, for each year occupational dose was received, beginning January 1, 1989.

Dose is a general term for absorbed dose, equivalent dose, effective dose, committed equivalent dose, committed effective dose, or total effective dose as defined in this part.

Effective dose (E) means the summation of the products of the equivalent dose received by specified tissues or organs of the body (H_T) and the appropriate tissue weighting factor (w_T)—that is, $E = \Sigma w_T H_T$. It includes the dose from radiation sources internal and/or external to the body. For purposes of compliance with this part, equivalent dose to the whole body may be used as effective dose for external exposures. The effective dose is expressed in units of rem (or Sv).

Equivalent dose (H_T) means the product of average absorbed dose ($D_{T,R}$) in rad (or gray) in a tissue or organ (T) and a radiation (R) weighting factor (w_R). For external dose, the equivalent dose to the whole body is assessed at a depth of 1 cm in tissue; the equivalent dose to the lens of the eye is assessed

at a depth of 0.3 cm in tissue, and the equivalent dose to the extremity and skin is assessed at a depth of 0.007 cm in tissue. Equivalent dose is expressed in units of rem (or Sv).

External dose or exposure means that portion of the equivalent dose received from radiation sources outside the body (*i.e.*, ''external sources'').

Extremity means hands and arms below the elbow or feet and legs below the knee.

Internal dose or exposure means that portion of the equivalent dose received from radioactive material taken into the body (*i.e.*, ''internal sources'').

Radiation weighting factor (w_R) means the modifying factor used to calculate the equivalent dose from the average tissue or organ absorbed dose; the absorbed dose (expressed in rad or gray) is multiplied by the appropriate radiation weighting factor. The radiation weighting factors to be used for determining equivalent dose in rem are as follows:

RADIATION WEIGHTING FACTORS [1], W_R

Type and energy range	Radiation weighting factor
Photons, electrons and muons, all energies	1
Neutrons, energy < 10 keV[2, 3]	5
Neutrons, energy 10 keV to 100 keV[2, 3]	10
Neutrons, energy > 100 keV to 2 MeV[2, 3]	20
Neutrons, energy > 2 MeV to 20 MeV[2, 3]	10
Neutrons, energy > 20 MeV[2, 3]	5
Protons, other than recoil protons, energy > 2 MeV	5
Alpha particles, fission fragments, heavy nuclei	20

[1] All values relate to the radiation incident on the body or, for internal sources, emitted from the source.
[2] When spectral data are insufficient to identify the energy of the neutrons, a radiation weighting factor of 20 shall be used.
[3] When spectral data are sufficient to identify the energy of the neutrons, the following equation may be used to determine a neutron radiation weighting factor value:

$$w_R = 5 + 17 \exp\left[\frac{-\left(\ln\left(2E_n\right)\right)^2}{6}\right]$$ Where E_n is the neutron energy in MeV.

Tissue weighting factor (w_T) means the fraction of the overall health risk, resulting from uniform, whole body irradiation, attributable to specific tissue (T). The equivalent dose to tissue, (H_T), is multiplied by the appropriate tissue weighting factor to obtain the effective dose (E) contribution from that tissue. The tissue weighting factors are as follows:

TISSUE WEIGHTING FACTORS FOR VARIOUS ORGANS AND TISSUES

Organs or tissues, T	Tissue weighting factor, w_T
Gonads	0.20
Red bone marrow	0.12
Colon	0.12
Lungs	0.12
Stomach	0.12
Bladder	0.05
Breast	0.05
Liver	0.05
Esophagus	0.05
Thyroid	0.05
Skin	0.01
Bone surfaces	0.01
Remainder [1]	0.05
Whole body [2]	1.00

[1] ''Remainder'' means the following additional tissues and organs and their masses, in grams, following parenthetically: adrenals (14), brain (1400), extrathoracic airways (15), small intestine (640), kidneys (310), muscle (28,000), pancreas (100), spleen (180), thymus (20), and uterus (80). The equivalent dose to the remainder tissues ($H_{remainder}$), is normally calculated as the mass-weighted mean dose to the preceeding ten organs and tissues. In those cases in which the most highly irradiated remainder tissue or organ receives the highest equivalent dose of all the organs, a weighting factor of 0.025 (half of remainder) is applied to that tissue or organ and 0.025 (half of remainder) to the mass-weighted equivalent dose in the rest of the remainder tissues and organs to give the remainder equivalent dose.

[2] For the case of uniform external irradiation of the whole body, a tissue weighting factor (w_T) equal to 1 may be used in determination of the effective dose.

Total effective dose (TED) means the sum of the effective dose (for external exposures) and the committed effective dose.

Whole body means, for the purposes of external exposure, head, trunk (including male gonads), arms above and including the elbow, or legs above and including the knee.

(c) Terms defined in the Atomic Energy Act of 1954 or in 10 CFR part 820 and not defined in this part are used consistent with their meanings given in the Atomic Energy Act of 1954 or in 10 CFR part 820.

■ 9. Section 835.4 is revised to read as follows:

§ 835.4 Radiological units.

Unless otherwise specified, the quantities used in the records required by this part shall be clearly indicated in special units of curie, rad, roentgen, or rem, including multiples and subdivisions of these units, or other conventional units, such as, dpm, dpm/100 cm^2 or mass units. The SI units, becquerel (Bq), gray (Gy), and sievert (Sv), may be provided parenthetically for reference with scientific standards.

■ 10. Section 835.101(f) is revised to read as follows:

§ 835.101 Radiation protection programs.

* * * * *

(f) The RPP shall include plans, schedules, and other measures for achieving compliance with regulations of this part. Unless otherwise specified in this part, compliance with the amendments to this part published on

June 8, 2007 shall be achieved no later than July 9, 2010.

* * * * *

■ 11. Section 835.202 is amended by revising paragraphs (a)(1) through (a)(4) to read as follows:

§ 835.202 Occupational dose limits for general employees.

(a) * * *

(1) A total effective dose of 5 rems (0.05 Sv);

(2) The sum of the equivalent dose to the whole body for external exposures and the committed equivalent dose to any organ or tissue other than the skin or the lens of the eye of 50 rems (0.5 Sv);

(3) An equivalent dose to the lens of the eye of 15 rems (0.15 Sv); and

(4) The sum of the equivalent dose to the skin or to any extremity for external exposures and the committed equivalent dose to the skin or to any extremity of 50 rems (0.5 Sv).

* * * * *

■ 12. Section 835.203 is revised to read as follows:

§ 835.203 Combining internal and external equivalent doses.

(a) The total effective dose during a year shall be determined by summing the effective dose from external exposures and the committed effective dose from intakes during the year.

(b) Determinations of the effective dose shall be made using the radiation and tissue weighting factor values provided in § 835.2.

■ 13. In § 835.205 paragraphs (b)(1), (b)(2), (b)(3) introductory text, and (b)(3)(ii) are revised to read as follows:

§ 835.205 Determination of compliance for non-uniform exposure of the skin.

* * * * *

(b) * * *

(1) Area of skin irradiated is 100 cm ^{2} *or more.* The non-uniform equivalent dose received during the year shall be averaged over the 100 cm ^{2} of the skin receiving the maximum dose, added to any uniform equivalent dose also received by the skin, and recorded as the equivalent dose to any extremity or skin for the year.

(2) *Area of skin irradiated is 10 cm^2 or more, but is less than 100 cm^2.* The non-uniform equivalent dose (H) to the irradiated area received during the year shall be added to any uniform equivalent dose also received by the skin and recorded as the equivalent dose to any extremity or skin for the year. H is the equivalent dose averaged over the 1 cm^2 of skin receiving the maximum absorbed dose, D, reduced by the fraction f, which is the irradiated area in cm^2 divided by 100 cm^2 (*i.e.*, H = fD). In no case shall a value of f less than 0.1 be used.

(3) Area of skin irradiated is less than 10 cm^2. The non-uniform equivalent dose shall be averaged over the 1 cm^2 of skin receiving the maximum dose. This equivalent dose shall:

(i) * * *

(ii) Not be added to any other equivalent dose to any extremity or skin for the year.

■ 14. In § 835.206 paragraphs (a) and (c) are revised to read as follows:

§ 835.206 Limits for the embryo/fetus.

(a) The equivalent dose limit for the embryo/fetus from the period of conception to birth, as a result of occupational exposure of a declared pregnant worker, is 0.5 rem (0.005 Sv).

* * * * *

(c) If the equivalent dose to the embryo/fetus is determined to have already exceeded 0.5 rem (0.005 Sv) by the time a worker declares her pregnancy, the declared pregnant worker shall not be assigned to tasks where additional occupational exposure is likely during the remaining gestation period.

■ 15. Section 835.207 is revised to read as follows:

§ 835.207 Occupational dose limits for minors.

The dose limits for minors occupationally exposed to radiation and/or radioactive materials at a DOE activity are 0.1 rem (0.001 Sv) total effective dose in a year and 10 percent of the occupational dose limits specified at § 835.202(a)(3) and (a)(4).

■ 16. Section 835.208 is revised to read as follows:

§ 835.208 Limits for members of the public entering a controlled area.

The total effective dose limit for members of the public exposed to radiation and/or radioactive material during access to a controlled area is 0.1 rem (0.001 Sv) in a year.

■ 17. In § 835.401, paragraph (a)(5) is revised to read as follows:

§ 835.401 General requirements.

(a) * * *

(5) Verify the effectiveness of engineered and administrative controls in containing radioactive material and reducing radiation exposure; and

* * * * *

■ 18. Section 835.402 is amended:

■ a. Paragraphs (a)(1)(i), (ii), and (iii) are revised.

■ b. Paragraph (a)(2) is revised.

■ c. Paragraphs (c)(1) and (c)(2) are revised.

The revisions read as follows:

§ 835.402 Individual monitoring.

(a) * * *

(1) * * *

(i) An effective dose of 0.1 rem (0.001 Sv) or more in a year;

(ii) An equivalent dose to the skin or to any extremity of 5 rems (0.05 Sv) or more in a year;

(iii) An equivalent dose to the lens of the eye of 1.5 rems (0.015 Sv) or more in a year;

(2) Declared pregnant workers who are likely to receive from external sources an equivalent dose to the embryo/fetus in excess of 10 percent of the applicable limit at § 835.206(a);

* * * * *

(c) * * *

(1) Radiological workers who, under typical conditions, are likely to receive a committed effective dose of 0.1 rem (0.001 Sv) or more from all occupational radionuclide intakes in a year;

(2) Declared pregnant workers likely to receive an intake or intakes resulting in an equivalent dose to the embryo/fetus in excess of 10 percent of the limit stated at § 835.206(a);

* * * * *

■ 19. Section 835.405 is amended by revising paragraph (c)(2) and adding paragraph (e) to read as follows:

§ 835.405 Receipt of packages containing radioactive material.

* * * * *

(c) * * *

(1) * * *

(2) Measurements of the radiation levels, if the package contains a Type B quantity (as defined at 10 CFR 71.4) of radioactive material.

(d) * * *

(e) Monitoring pursuant to § 835.405(b) is not required for packages transported on a DOE site which have remained under the continuous observation and control of a DOE employee or DOE contractor employee who is knowledgeable of and implements required exposure control measures.

§ 835.502 [Amended]

■ 20. Section 835.502 is amended in paragraph (a)(2) by removing the words ''deep dose equivalent'' and replacing it with ''equivalent dose to the whole body'' and in introductory paragraph (b) by removing the words ''a deep dose equivalent'' and replacing it with ''an equivalent dose.''

§ 835.602 [Amended]

■ 21. Section 835.602 is amended in paragraph (a) by removing the word''equivalent.''

§ 835.606 [Amended]

■ 22. Section 835.606 is amended in paragraph (a)(2) by adding ''and less than 0.1 Ci'' after the word ''part'' and before the punctuation.

■ 23. Section 835.702 is amended:
■ a. Paragraph (a) is revised.
■ b. Paragraph (b) is revised.
■ c. Paragraph (c)(3) is revised.
■ d. Paragraphs (c)(4)(i) and (ii) are revised.
■ e. Paragraph (c)(5)(i), (ii) and (iii) are revised.
■ f. Paragraph (c)(6) is revised.

The revisions read as follows:

§ 835.702 Individual monitoring records.

(a) Except as authorized by § 835.702(b), records shall be maintained to document doses received by all individuals for whom monitoring was conducted and to document doses received during planned special exposures, unplanned doses exceeding the monitoring thresholds of § 835.402, and authorized emergency exposures.

(b) Recording of the non-uniform equivalent dose to the skin is not required if the dose is less than 2 percent of the limit specified for the skin at § 835.202(a)(4). Recording of internal dose (committed effective dose or committed equivalent dose) is not required for any monitoring result estimated to correspond to an individual receiving less than 0.01 rem (0.1 mSv) committed effective dose. The bioassay or air monitoring result used to make the estimate shall be maintained in accordance with § 835.703(b) and the unrecorded internal dose estimated for any individual in a year shall not exceed the applicable monitoring threshold at § 835.402(c).

(c) * * *

(3) Include the results of monitoring used to assess the following quantities for external dose received during the year:

(i) The effective dose from external sources of radiation (equivalent dose to the whole body may be used as effective dose for external exposure);

(ii) The equivalent dose to the lens of the eye;

(iii) The equivalent dose to the skin; and

(iv) The equivalent dose to the extremities.

(4) * * *

(i) Committed effective dose;

(ii) Committed equivalent dose to any organ or tissue of concern; and

* * * * *

(5) * * *

(i) Total effective dose in a year;

(ii) For any organ or tissue assigned an internal dose during the year, the sum of the equivalent dose to the whole body from external exposures and the committed equivalent dose to that organ or tissue; and

(iii) Cumulative total effective dose.

(6) Include the equivalent dose to the embryo/fetus of a declared pregnant worker.

* * * * *

§ 835.1001 [Amended]

■ 24. Section 835.1001 is amended:
■ a. In paragraph (a), first sentence, remove ''physical design features and administrative control'' and add in its place ''engineered and administrative controls.''
■ b. In paragraph (b), remove ''physical design features'' and add in its place ''engineered controls.''

§ 835.1002 [Amended]

■ 25. In § 835.1002, in the first sentence of paragraph (b), remove ''0.5 mrem (5 microsieverts)'' and add in its place ''0.5 millirem (5 μSv).''

§ 835.1003 [Amended]

■ 26. Section 835.1003 is amended in the introductory text by removing ''physical design features and administrative controls'' and adding in its place ''engineered and administrative controls.''

§ 835.1202 [Amended]

■ 27. In § 835.1202, paragraph (b) is amended by removing ''microcurie'' and adding in its place ''μCi.''

§ 835.1301 [Amended]

■ 28. In § 835.1301, paragraph (d) is amended by removing ''after a dose was received'' and adding in its place ''which have been suspended as a result of a dose.''

■ 29. Appendix A of part 835 is revised to read as follows:

Appendix A to Part 835—Derived Air Concentrations (DAC) for Controlling Radiation Exposure to Workers at DOE Facilities

The data presented in appendix A are to be used for controlling individual internal doses in accordance with § 835.209, identifying the need for air monitoring in accordance with § 835.403, and identifying and posting airborne radioactivity areas in accordance with § 835.603(d).

The DAC values are given for individual radionuclides. For known mixtures of radionuclides, determine the sum of the ratio of the observed concentration of a particular radionuclide and its corresponding DAC for all radionuclides in the mixture. If this sum exceeds unity (1), then the DAC has been exceeded. For unknown radionuclides, the most restrictive DAC (lowest value) for those isotopes not known to be absent shall be used. For any single radionuclide not listed in appendix A with decay mode other than alpha emission or spontaneous fission and with radioactive half-life greater than two hours, the DAC value shall be 4 E-11 μCi/mL (1 Bq/m^3). For any single radionuclide not listed in appendix A that decays by alpha emission or spontaneous fission the DAC value shall be 2 E-13 μCi/mL (8 E-03 Bq/m^3).

The DACs for limiting radiation exposures through inhalation of radionuclides by workers are listed in this appendix. The values are based on either a stochastic (committed effective dose) dose limit of 5 rems (0.05 Sv) or a deterministic (organ or tissue) dose limit of 50 rems (0.5 Sv) per year, whichever is more limiting.

Note: the 15 rems (0.15 Sv) dose limit for the lens of the eye does not appear as a critical organ dose limit.

The columns in this appendix contain the following information: (1) Radionuclide; (2) inhaled air DAC for type F (fast), type M (moderate), and type S (slow) materials in units of μCi/mL; (3) inhaled air DAC for type F (fast), type M (moderate), and type S (slow) materials in units of Bq/m^3; (4) an indication of whether or not the DAC for each class is controlled by the stochastic (effective dose) or deterministic (organ or tissue) dose. The absorption types (F, M, and S) have been established to describe the absorption type of the materials from the respiratory tract into the blood. The range of half-times for the absorption types correspond to: Type F, 100% at 10 minutes; Type M, 10% at 10 minutes and 90% at 140 days; and Type S 0.1% at 10 minutes and 99.9% at 7000 days. The DACs are listed by radionuclide, in order of increasing atomic mass, and are based on the assumption that the particle size distribution of 5 micrometers AMAD is used. For situations where the particle size distribution is known to differ significantly from 5 micrometers AMAD, appropriate corrections may be made to both the estimated dose to workers and the DACs.

Radionuclide	Absorption type [3]			Absorption type [3]			Stochastic or organ or tissue [1]
	μCi/mL			Bq/m^3			
	F	M	S	F	M	S	(F/M/S)
H-3 (Water) [2]	2 E−05	2 E−05	2 E−05	7 E+05	7 E+05	7 E+05	St/St/St

Radionuclide	Absorption type [3]			Absorption type [3]			Stochastic or organ or tissue [1]
	μCi/mL			Bq/m [3]			
	F	M	S	F	M	S	(F/M/S)
H-3 (Elemental) [2]	2 E−01	2 E−01	2 E−01	9 E+09	9 E+09	9 E+09	St/St/St
STCs (Insoluble) [4]	1 E−05	6 E−06	2 E−06	3 E+05	2 E+05	8 E+04	St/St/St
STCs (Soluble)	1 E−05	1 E−05	1 E−05	5 E+05	5 E+05	5 E+05	St/St/St
Be-7	–	1 E−05	1 E−05	–	4 E+05	4 E+05	/St/St
Be-10	–	8 E−08	2 E−08	–	3 E+03	1 E+03	/St/St
C-11 (Vapor) [2]	–	1 E−04	–	–	6 E+06	–	/St/
C-11 (CO) [2]	4 E−04	4 E−04	4 E−04	1 E+07	1 E+07	1 E+07	St/St/St
C-11 (CO_2) [2]	2 E−04	2 E−04	2 E−04	9 E+06	9 E+06	9 E+06	St/St/St
C-14 (Vapor) [2]	–	9 E−07	–	–	3 E+04	–	/St/
C-14 (CO) [2]	7 E−04	7 E−04	7 E−04	2 E+07	2 E+07	2 E+07	St/St/St
C-14 (CO_2) [2]	8 E−05	8 E−05	8 E−05	3 E+06	3 E+06	3 E+06	St/St/St
F-18	4 E−06	3 E−06	3 E−06	1 E+05	1 E+05	1 E+05	ET/ET/ET
Na-22	2 E−07	–	–	1 E+04	–	–	E/ /
Na-24	4 E−07	–	–	1 E+04	–	–	ET/ /
Mg-28	3 E−07	3 E−07	–	1 E+04	1 E+04	–	ET/St/
Al-26	4 E−08	4 E−08	–	1 E+03	1 E+03	–	St/St/
Si-31	9 E−06	5 E−06	5 E−06	3 E+05	1 E+05	1 E+05	ET/St/St
Si-32	1 E−07	5 E−08	1 E−08	5 E+03	2 E+03	3 E+02	St/St/St
P-32	5 E−07	1 E−07	–	1 E+04	7 E+03	–	St/St/
P-33	4 E−06	4 E−07	–	1 E+05	1 E+04	–	St/St/
S-35 (Vapor)	–	4 E−06	–	–	1 E+05	–	/St/
S-35	7 E−06	5 E−07	–	2 E+05	1 E+04	–	St/St/
Cl-36	1 E−06	1 E−07	–	4 E+04	4 E+03	–	St/St/
Cl-38	7 E−06	5 E−06	–	2 E+05	2 E+05	–	ET/ET/
Cl-39	2 E−06	4 E−06	–	1 E+05	1 E+05	–	ET/ET/
K-40	1 E−07	–	–	6 E+03	–	–	St/ /
K-42	2 E−06	–	–	1 E+05	–	–	E/ /
K-43	9 E−07	–	–	3 E+04	–	–	ET/ /
K-44	8 E−06	–	–	2 E+05	–	–	ET/ /
K-45	9 E−06	–	–	3 E+05	–	–	ET/ /
Ca-41	–	2 E−06	–	–	8 E+04	–	/BS/
Ca-45	–	2 E−07	–	–	9 E+03	–	/St/
Ca-47	–	2 E−07	–	–	9 E+03	–	/St/
Sc-43	–	–	2 E−06	–	–	7 E+04	/ /ET
Sc-44m	–	–	2 E−07	–	–	1 E+04	/ /St
Sc-44	–	–	1 E−06	–	–	4 E+04	/ /ET
Sc-46	–	–	1 E−07	–	–	4 E+03	/ /St
Sc-47	–	–	7 E−07	–	–	2 E+04	/ /St
Sc-48	–	–	2 E−07	–	–	1 E+04	/ /ET
Sc-49	–	–	8 E−06	–	–	3 E+05	/ /ET
Ti-44	7 E−09	2 E−08	9 E−09	2 E+02	7 E+02	3 E+02	St/St/St
Ti-45	3 E−06	2 E−06	2 E−06	1 E+05	1 E+05	1 E+05	ET/ET/ET
V-47	8 E−06	6 E−06	–	3 E+05	2 E+05	–	ET/ET/
V-48	2 E−07	2 E−07	–	9 E+03	7 E+03	–	ET/St/
V-49	1 E−05	2 E−05	–	7 E+05	9 E+05	–	BS/St/
Cr-48	2 E−06	2 E−06	2 E−06	8 E+04	8 E+04	8 E+04	ET/ET/ET
Cr-49	7 E−06	5 E−06	5 E−06	2 E+05	2 E+05	2 E+05	ET/ET/ET
Cr-51	1 E−05	1 E−05	1 E−05	6 E+05	6 E+05	5 E+05	St/St/St
Mn-51	7 E−06	5 E−06	–	2 E+05	2 E+05	–	ET/ET/
Mn-52m	7 E−06	5 E−06	–	2 E+05	2 E+05	–	ET/ET/
Mn-52	2 E−07	2 E−07	–	8 E+03	8 E+03	–	ET/ET/
Mn-53	5 E−06	1 E−05	–	2 E+05	5 E+05	–	BS/St/
Mn-54	5 E−07	4 E−07	–	1 E+04	1 E+04	–	St/St/
Mn-56	2 E−06	2 E−06	–	9 E+04	8 E+04	–	ET/ET/
Fe-52	6 E−07	5 E−07	–	2 E+04	2 E+04	–	ET/E/
Fe-55	6 E−07	1 E−06	–	2 E+04	6 E+04	–	St/St/
Fe-59	1 E−07	1 E−07	–	6 E+03	6 E+03	–	St/St/
Fe-60	1 E−09	4 E−09	–	6 E+01	1 E+02	–	St/St/
Co-55	–	5 E−07	5 E−07	–	2 E+04	2 E+04	/ET/ET
Co-56	–	1 E−07	1 E−07	–	5 E+03	4 E+03	/St/St
Co-57	–	1 E−06	9 E−07	–	5 E+04	3 E+04	/St/St
Co-58m	–	3 E−05	3 E−05	–	1 E+06	1 E+06	/St/St
Co-58	–	4 E−07	3 E−07	–	1 E+04	1 E+04	/St/St
Co-60m	–	4 E−04	4 E−04	–	1 E+07	1 E+07	/St/St
Co-60	–	7 E−08	3 E−08	–	2 E+03	1 E+03	/St/St
Co-61	–	6 E−06	6 E−06	–	2 E+05	2 E+05	/ET/ET
Co-62m	–	7 E−06	6 E−06	–	2 E+05	2 E+05	/ET/ET
Ni-56 (Inorg)	4 E−07	4 E−07	–	1 E+04	1 E+04	–	ET/ET/
Ni-56 (Carbonyl)	–	4 E−07	–	–	1 E+04	–	/St/
Ni-57 (Inorg)	5 E−07	5 E−07	–	2 E+04	2 E+04	–	ET/ET/

Radionuclide	Absorption type [3]			Absorption type [3]			Stochastic or organ or tissue [1]
	μCi/mL			Bq/m [3]			
	F	M	S	F	M	S	(F/M/S)
Ni-57 (Carbonyl)	–	7 E−07	–	–	2 E+04	–	/ET/
Ni-59 (Inorg)	2 E−06	5 E−06	–	9 E+04	2 E+05	–	St/St/
Ni-59 (Carbonyl)	–	6 E−07	–	–	2 E+04	–	/St/
Ni-63 (Inorg)	1 E−06	1 E−06	–	4 E+04	6 E+04	–	St/St/
Ni-63 (Carbonyl)	–	2 E−07	–	–	1 E+04	–	/St/
Ni-65 (Inorg)	5 E−06	4 E−06	–	1 E+05	1 E+05	–	ET/ET/
Ni-65 (Carbonyl)	–	8 E−07	–	–	3 E+04	–	/ET/
Ni-66 (Inorg)	7 E−07	2 E−07	–	2 E+04	1 E+04	–	St/St/
Ni-66 (Carbonyl)	–	2 E−07	–	–	1 E+04	–	/ET/
Cu-60	5 E−06	4 E−06	4 E−06	1 E+05	1 E+05	1 E+05	ET/ET/ET
Cu-61	3 E−06	3 E−06	3 E−06	1 E+05	1 E+05	1 E+05	ET/ET/ET
Cu-64	4 E−06	3 E−06	3 E−06	1 E+05	1 E+05	1 E+05	ET/E/E
Cu-67	2 E−06	1 E−06	9 E−07	8 E+04	3 E+04	3 E+04	ET/St/St
Zn-62	–	–	8 E−07	–	–	3 E+04	/ /St
Zn-63	–	–	5 E−06	–	–	2 E+05	/ /ET
Zn-65	–	–	2 E−07	–	–	7 E+03	/ /St
Zn-69m	–	–	1 E−06	–	–	6 E+04	/ /St
Zn-69	–	–	7 E−06	–	–	2 E+05	/ /ET
Zn-71m	–	–	1 E−06	–	–	5 E+04	/ /ET
Zn-72	–	–	3 E−07	–	–	1 E+04	/ /St
Ga-65	1 E−05	9 E−06	–	4 E+05	3 E+05	–	ET/ET/
Ga-66	8 E−07	7 E−07	–	3 E+04	2 E+04	–	ET/St/
Ga-67	3 E−06	2 E−06	–	1 E+05	7 E+04	–	ET/St/
Ga-68	6 E−06	4 E−06	–	2 E+05	1 E+05	–	ET/ET/
Ga-70	1 E−05	1 E−05	–	6 E+05	4 E+05	–	ET/ET/
Ga-72	5 E−07	5 E−07	–	2 E+04	2 E+04	–	ET/ET/
Ga-73	4 E−06	2 E−06	–	1 E+05	1 E+05	–	ET/St/
Ge-66	2 E−06	2 E−06	–	9 E+04	9 E+04	–	ET/ET/
Ge-67	1 E−05	7 E−06	–	3 E+05	2 E+05	–	ET/ET/
Ge-68	6 E−07	7 E−08	–	2 E+04	2 E+03	–	ET/St/
Ge-69	1 E−06	1 E−06	–	3 E+04	3 E+04	–	ET/ET/
Ge-71	5 E−05	5 E−05	–	2 E+06	1 E+06	–	ET/E/
Ge-75	1 E−05	7 E−06	–	4 E+05	2 E+05	–	ET/ET/
Ge-77	1 E−06	1 E−06	–	4 E+04	4 E+04	–	ET/ET/
Ge-78	3 E−06	3 E−06	–	1 E+05	1 E+05	–	ET/ET/
As-69	–	9 E−06	–	–	3 E+05	–	/ET/
As-70	–	2 E−06	–	–	8 E+04	–	/ET/
As-71	–	1 E−06	–	–	4 E+04	–	/St/
As-72	–	4 E−07	–	–	1 E+04	–	/St/
As-73	–	8 E−07	–	–	3 E+04	–	/St/
As-74	–	3 E−07	–	–	1 E+04	–	/St/
As-76	–	6 E−07	–	–	2 E+04	–	/St/
As-77	–	1 E−06	–	–	4 E+04	–	/St/
As-78	–	3 E−06	–	–	1 E+05	–	/ET/
Se-70	2 E−06	2 E−06	–	1 E+05	9 E+04	–	ET/ET/
Se-73m	1 E−05	1 E−05	–	5 E+05	4 E+05	–	ET/ET/
Se-73	1 E−06	1 E−06	–	6 E+04	5 E+04	–	ET/ET/
Se-75	4 E−07	3 E−07	–	1 E+04	1 E+04	–	St/St/
Se-79	3 E−07	1 E−07	–	1 E+04	6 E+03	–	K/St/
Se-81m	1 E−05	6 E−06	–	3 E+05	2 E+05	–	ET/ET/
Se-81	1 E−05	1 E−05	–	6 E+05	4 E+05	–	ET/ET/
Se-83	6 E−06	5 E−06	–	2 E+05	1 E+05	–	ET/ET/
Br-74m	3 E−06	2 E−06	–	1 E+05	1 E+05	–	ET/ET/
Br-74	4 E−06	4 E−06	–	1 E+05	1 E+05	–	ET/ET/
Br-75	4 E−06	3 E−06	–	1 E+05	1 E+05	–	ET/ET/
Br-76	5 E−07	5 E−07	–	2 E+04	2 E+04	–	ET/ET/
Br-77	2 E−06	2 E−06	–	7 E+04	7 E+04	–	ET/ET/
Br-80m	6 E−06	5 E−06	–	2 E+05	2 E+05	–	ET/St/
Br-80	3 E−05	2 E−05	–	1 E+06	7 E+05	–	ET/ET/
Br-82	3 E−07	3 E−07	–	1 E+04	1 E+04	–	ET/ET/
Br-83	9 E−06	6 E−06	–	3 E+05	2 E+05	–	ET/ET/
Br-84	7 E−06	5 E−06	–	2 E+05	2 E+05	–	ET/ET/
Rb-79	8 E−06	–	–	2 E+05	–	–	ET/ /
Rb-81m	1 E−05	–	–	6 E+05	–	–	ET/ /
Rb-81	2 E−06	–	–	1 E+05	–	–	ET/ /
Rb-82m	8 E−07	–	–	3 E+04	–	–	ET/ /
Rb-83	5 E−07	–	–	2 E+04	–	–	St/ /
Rb-84	3 E−07	–	–	1 E+04	–	–	St/ /
Rb-86	4 E−07	–	–	1 E+04	–	–	St/ /
Rb-87	7 E−07	–	–	2 E+04	–	–	St/ /

Radionuclide	Absorption type [3]			Absorption type [3]			Stochastic or organ or tissue [1]
	μCi/mL			Bq/m [3]			
	F	M	S	F	M	S	(F/M/S)
Rb-88	1 E−05	–	–	5 E+05	–	–	ET/ /
Rb-89	1 E−05	–	–	3 E+05	–	–	ET/ /
Sr-80	3 E−06	–	2 E−06	1 E+05	–	9 E+04	ET/ /St
Sr-81	7 E−06	–	5 E−06	2 E+05	–	2 E+05	ET/ /ET
Sr-82	1 E−07	–	7 E−08	6 E+03	–	2 E+03	St/ /St
Sr-83	1 E−06	–	9 E−07	3 E+04	–	3 E+04	ET/ /ET
Sr-85m	4 E−05	–	3 E−05	1 E+06	–	1 E+06	ET/ /ET
Sr-85	1 E−06	–	8 E−07	3 E+04	–	3 E+04	St/ /St
Sr-87m	1 E−05	–	9 E−06	4 E+05	–	3 E+05	ET/ /ET
Sr-89	4 E−07	–	1 E−07	1 E+04	–	3 E+03	St/ /St
Sr-90	1 E−08	–	7 E−09	4 E+02	–	2 E+02	BS/ /St
Sr-91	1 E−06	–	9 E−07	5 E+04	–	3 E+04	ET/ /St
Sr-92	2 E−06	–	1 E−06	8 E+04	–	6 E+04	ET/ /St
Y-86m	–	7 E−06	6 E−06	–	2 E+05	2 E+05	/ET/ET
Y-86	–	4 E−07	4 E−07	–	1 E+04	1 E+04	/ET/ET
Y-87	–	9 E−07	8 E−07	–	3 E+04	3 E+04	/ET/ET
Y-88	–	1 E−07	1 E−07	–	6 E+03	6 E+03	/St/St
Y-90m	–	4 E−06	4 E−06	–	1 E+05	1 E+05	/St/St
Y-90	–	3 E−07	3 E−07	–	1 E+04	1 E+04	/St/St
Y-91m	–	2 E−05	2 E−05	–	7 E+05	7 E+05	/ET/ET
Y-91	–	1 E−07	9 E−08	–	4 E+03	3 E+03	/St/St
Y-92	–	2 E−06	2 E−06	–	7 E+04	7 E+04	/St/St
Y-93	–	9 E−07	9 E−07	–	3 E+04	3 E+04	/St/St
Y-94	–	8 E−06	8 E−06	–	3 E+05	3 E+05	/ET/ET
Y-95	–	1 E−05	1 E−05	–	4 E+05	4 E+05	/ET/ET
Zr-86	5 E−07	5 E−07	5 E−07	2 E+04	2 E+04	2 E+04	ET/ET/ET
Zr-88	1 E−07	3 E−07	3 E−07	5 E+03	1 E+04	1 E+04	St/St/St
Zr-89	6 E−07	6 E−07	6 E−07	2 E+04	2 E+04	2 E+04	ET/ET/ET
Zr-93	3 E−09	1 E−08	1 E−07	1 E+02	6 E+02	5 E+03	BS/BS/BS
Zr-95	9 E−08	1 E−07	1 E−07	3 E+03	5 E+03	4 E+03	BS/St/St
Zr-97	7 E−07	4 E−07	4 E−07	2 E+04	1 E+04	1 E+04	ET/St/St
Nb-88	–	5 E−06	5 E−06	–	1 E+05	1 E+05	/ET/ET
Nb-89 (66 min)	–	3 E−06	3 E−06	–	1 E+05	1 E+05	/ET/ET
Nb-89 (122 min)	–	2 E−06	2 E−06	–	1 E+05	1 E+05	/ET/ET
Nb-90	–	3 E−07	3 E−07	–	1 E+04	1 E+04	/ET/ET
Nb-93m	–	1 E−06	6 E−07	–	7 E+04	2 E+04	/St/St
Nb-94	–	7 E−08	2 E−08	–	2 E+03	8 E+02	/St/St
Nb-95m	–	7 E−07	6 E−07	–	2 E+04	2 E+04	/St/St
Nb-95	–	4 E−07	4 E−07	–	1 E+04	1 E+04	/St/St
Nb-96	–	4 E−07	4 E−07	–	1 E+04	1 E+04	/ET/ET
Nb-97	–	5 E−06	5 E−06	–	1 E+05	1 E+05	/ET/ET
Nb-98	–	3 E−06	3 E−06	–	1 E+05	1 E+05	/ET/ET
Mo-90	8 E−07	–	7 E−07	3 E+04	–	2 E+04	ET/ /ET
Mo-93m	1 E−06	–	1 E−06	3 E+04	–	3 E+04	ET/ /ET
Mo-93	2 E−07	–	4 E−07	7 E+03	–	1 E+04	BS/ /St
Mo-99	1 E−06	–	5 E−07	5 E+04	–	1 E+04	E/ /St
Mo-101	8 E−06	–	6 E−06	3 E+05	–	2 E+05	ET/ /ET
Tc-93m	8 E−06	7 E−06	–	3 E+05	2 E+05	–	ET/ET/
Tc-93	3 E−06	3 E−06	–	1 E+05	1 E+05	–	ET/ET/
Tc-94m	5 E−06	4 E−06	–	1 E+05	1 E+05	–	ET/ET/
Tc-94	1 E−06	1 E−06	–	4 E+04	3 E+04	–	ET/ET/
Tc-95m	8 E−07	6 E−07	–	3 E+04	2 E+04	–	ET/St/
Tc-95	1 E−06	1 E−06	–	5 E+04	5 E+04	–	ET/ET/
Tc-96m	2 E−05	2 E−05	–	1 E+06	1 E+06	–	ET/ET/
Tc-96	3 E−07	3 E−07	–	1 E+04	1 E+04	–	ET/ET/
Tc-97m	1 E−06	2 E−07	–	5 E+04	7 E+03	–	St/St/
Tc-97	4 E−06	3 E−06	–	1 E+05	1 E+05	–	ET/St/
Tc-98	3 E−07	9 E−08	–	1 E+04	3 E+03	–	St/St/
Tc-99m	1 E−05	1 E−05	–	5 E+05	4 E+05	–	ET/ET/
Tc-99	1 E−06	1 E−07	–	5 E+04	6 E+03	–	St/St/
Tc-101	1 E−05	1 E−05	–	6 E+05	4 E+05	–	ET/ET/
Tc-104	9 E−06	7 E−06	–	3 E+05	2 E+05	–	ET/ET/
Ru-94	5 E−06	5 E−06	5 E−06	2 E+05	1 E+05	1 E+05	ET/ET/ET
Ru-97	2 E−06	2 E−06	2 E−06	8 E+04	8 E+04	8 E+04	ET/ET/ET
Ru-103	8 E−07	2 E−07	2 E−07	3 E+04	1 E+04	9 E+03	St/St/St
Ru-105	2 E−06	2 E−06	2 E−06	9 E+04	8 E+04	8 E+04	ET/ET/ET
Ru-106	5 E−08	3 E−08	1 E−08	2 E+03	1 E+03	5 E+02	St/St/St
Rh-99m	3 E−06	3 E−06	3 E−06	1 E+05	1 E+05	1 E+05	ET/ET/ET
Rh-99	8 E−07	6 E−07	6 E−07	3 E+04	2 E+04	2 E+04	ET/St/St
Rh-100	5 E−07	5 E−07	5 E−07	1 E+04	1 E+04	1 E+04	ET/ET/ET

Radionuclide	Absorption type [3] μCi/mL			Absorption type [3] Bq/m [3]			Stochastic or organ or tissue [1]
	F	M	S	F	M	S	(F/M/S)
Rh-101m	1 E−06	1 E−06	1 E−06	6 E+04	6 E+04	6 E+04	ET/ET/ET
Rh-101	3 E−07	3 E−07	1 E−07	1 E+04	1 E+04	6 E+03	St/St/St
Rh-102m	2 E−07	2 E−07	1 E−07	1 E+04	7 E+03	4 E+03	St/St/St
Rh-102	6 E−08	1 E−07	6 E−08	2 E+03	4 E+03	2 E+03	St/St/St
Rh-103m	4 E−04	2 E−04	2 E−04	1 E+07	8 E+06	8 E+06	St/St/St
Rh-105	3 E−06	1 E−06	1 E−06	1 E+05	5 E+04	4 E+04	ET/St/St
Rh-106m	1 E−06	1 E−06	1 E−06	6 E+04	5 E+04	5 E+04	ET/ET/ET
Rh-107	1 E−05	9 E−06	9 E−06	5 E+05	3 E+05	3 E+05	ET/ET/ET
Pd-100	5 E−07	5 E−07	5 E−07	2 E+04	2 E+04	2 E+04	ET/ET/ET
Pd-101	3 E−06	3 E−06	3 E−06	1 E+05	1 E+05	1 E+05	ET/ET/ET
Pd-103	4 E−06	1 E−06	1 E−06	1 E+05	6 E+04	7 E+04	E/St/St
Pd-107	1 E−05	1 E−05	1 E−06	5 E+05	4 E+05	7 E+04	K/St/St
Pd-109	2 E−06	1 E−06	1 E−06	9 E+04	4 E+04	4 E+04	St/St/St
Ag-102	9 E−06	7 E−06	7 E−06	3 E+05	2 E+05	2 E+05	ET/ET/ET
Ag-103	8 E−06	7 E−06	7 E−06	3 E+05	2 E+05	2 E+05	ET/ET/ET
Ag-104m	8 E−06	6 E−06	6 E−06	2 E+05	2 E+05	2 E+05	ET/ET/ET
Ag-104	3 E−06	3 E−06	3 E−06	1 E+05	1 E+05	1 E+05	ET/ET/ET
Ag-105	7 E−07	8 E−07	7 E−07	2 E+04	2 E+04	2 E+04	St/St/St
Ag-106m	2 E−07	2 E−07	2 E−07	9 E+03	9 E+03	9 E+03	ET/ET/ET
Ag-106	1 E−05	1 E−05	1 E−05	5 E+05	4 E+05	4 E+05	ET/ET/ET
Ag-108m	7 E−08	1 E−07	2 E−08	2 E+03	4 E+03	1 E+03	St/St/St
Ag-110m	8 E−08	9 E−08	7 E−08	3 E+03	3 E+03	2 E+03	St/St/St
Ag-111	9 E−07	3 E−07	3 E−07	3 E+04	1 E+04	1 E+04	St/St/St
Ag-112	4 E−06	2 E−06	2 E−06	1 E+05	8 E+04	8 E+04	E/St/St
Ag-115	1 E−05	8 E−06	8 E−06	4 E+05	3 E+05	3 E+05	ET/ET/ET
Cd-104	4 E−06	4 E−06	4 E−06	1 E+05	1 E+05	1 E+05	ET/ET/ET
Cd-107	5 E−06	5 E−06	4 E−06	2 E+05	1 E+05	1 E+05	ET/ET/ET
Cd-109	2 E−08	9 E−08	1 E−07	9 E+02	3 E+03	4 E+03	K/K/St
Cd-113m	1 E−09	6 E−09	1 E−08	6 E+01	2 E+02	6 E+02	K/K/K
Cd-113	1 E−09	5 E−09	1 E−08	5 E+01	2 E+02	5 E+02	K/K/K
Cd-115m	3 E−08	1 E−07	1 E−07	1 E+03	3 E+03	3 E+03	K/St/St
Cd-115	9 E−07	4 E−07	4 E−07	3 E+04	1 E+04	1 E+04	K/St/St
Cd-117m	1 E−06	1 E−06	1 E−06	4 E+04	4 E+04	4 E+04	ET/ET/ET
Cd-117	2 E−06	2 E−06	2 E−06	8 E+04	7 E+04	7 E+04	ET/ET/ET
In-109	4 E−06	4 E−06	–	1 E+05	1 E+05	–	ET/ET/
In-110 (69 min)	5 E−06	4 E−06	–	1 E+05	1 E+05	–	ET/ET/
In-110 (5 h)	9 E−07	9 E−07	–	3 E+04	3 E+04	–	ET/ET/
In-111	1 E−06	1 E−06	–	5 E+04	5 E+04	–	ET/ET/
In-112	2 E−05	1 E−05	–	9 E+05	6 E+05	–	ET/ET/
In-113m	1 E−05	1 E−05	–	4 E+05	3 E+05	–	ET/ET/
In-114m	5 E−08	9 E−08	–	1 E+03	3 E+03	–	St/St/
In-115m	6 E−06	5 E−06	–	2 E+05	2 E+05	–	ET/ET/
In-115	1 E−09	5 E−09	–	4 E+01	1 E+02	–	St/St/
In-116m	4 E−06	3 E−06	–	1 E+05	1 E+05	–	ET/ET/
In-117m	5 E−06	4 E−06	–	2 E+05	1 E+05	–	ET/ET/
In-117	7 E−06	5 E−06	–	2 E+05	2 E+05	–	ET/ET/
In-119m	1 E−05	1 E−05	–	6 E+05	4 E+05	–	ET/ET/
Sn-110	1 E−06	1 E−06	–	6 E+04	6 E+04	–	ET/ET/
Sn-111	1 E−05	1 E−05	–	6 E+05	5 E+05	–	ET/ET/
Sn-113	7 E−07	2 E−07	–	2 E+04	1 E+04	–	St/St/
Sn-117m	8 E−07	2 E−07	–	3 E+04	9 E+03	–	BS/St/
Sn-119m	1 E−06	3 E−07	–	5 E+04	1 E+04	–	St/St/
Sn-121m	5 E−07	1 E−07	–	2 E+04	6 E+03	–	St/St/
Sn-121	4 E−06	2 E−06	–	1 E+05	7 E+04	–	ET/St/
Sn-123m	1 E−05	7 E−06	–	4 E+05	2 E+05	–	ET/ET/
Sn-123	3 E−07	1 E−07	–	1 E+04	3 E+03	–	St/St/
Sn-125	4 E−07	2 E−07	–	1 E+04	7 E+03	–	St/St/
Sn-126	4 E−08	3 E−08	–	1 E+03	1 E+03	–	St/St/
Sn-127	2 E−06	2 E−06	–	9 E+04	7 E+04	–	ET/ET/
Sn-128	2 E−06	2 E−06	–	1 E+05	8 E+04	–	ET/ET/
Sb-115	1 E−05	1 E−05	–	5 E+05	4 E+05	–	ET/ET/
Sb-116m	3 E−06	2 E−06	–	1 E+05	1 E+05	–	ET/ET/
Sb-116	1 E−05	1 E−05	–	4 E+05	3 E+05	–	ET/ET/
Sb-117	1 E−05	1 E−05	–	4 E+05	3 E+05	–	ET/ET/
Sb-118m	1 E−06	1 E−06	–	4 E+04	4 E+04	–	ET/ET/
Sb-119	6 E−06	6 E−06	–	2 E+05	2 E+05	–	ET/ET/
Sb-120 (16 min)	2 E−05	2 E−05	–	1 E+06	7 E+05	–	ET/ET/
Sb-120 (6 d)	3 E−07	3 E−07	–	1 E+04	1 E+04	–	ET/ET/
Sb-122	8 E−07	4 E−07	–	3 E+04	1 E+04	–	St/St/
Sb-124m	4 E−05	3 E−05	–	1 E+06	1 E+06	–	ET/ET/

Radionuclide	Absorption type [3]			Absorption type [3]			Stochastic or organ or tissue [1]
	μCi/mL			Bq/m [3]			
	F	M	S	F	M	S	(F/M/S)
Sb-124	2 E−07	1 E−07	–	1 E+04	4 E+03	–	St/St/
Sb-125	2 E−07	1 E−07	–	7 E+03	6 E+03	–	BS/St/
Sb-126m	1 E−05	7 E−06	–	3 E+05	2 E+05	–	ET/ET/
Sb-126	2 E−07	1 E−07	–	9 E+03	6 E+03	–	ET/St/
Sb-127	7 E−07	3 E−07	–	2 E+04	1 E+04	–	E/St/
Sb-128 (9 h)	5 E−07	5 E−07	–	2 E+04	2 E+04	–	ET/ET/
Sb-128 (10 min)	1 E−05	9 E−06	–	4 E+05	3 E+05	–	ET/ET/
Sb-129	1 E−06	1 E−06	–	6 E+04	5 E+04	–	ET/ET/
Sb-130	3 E−06	2 E−06	–	1 E+05	1 E+05	–	ET/ET/
Sb-131	6 E−06	4 E−06	–	2 E+05	1 E+05	–	ET/ET/
Te-116 (Vapor)	–	6 E−06	–	–	2 E+05	–	/St /
Te-116	2 E−06	2 E−06	–	8 E+04	7 E+04	–	ET/ET/
Te-121m (Vapor)	–	4 E−08	–	–	1 E+03	–	/BS/
Te-121m	1 E−07	1 E−07	–	4 E+03	5 E+03	–	BS/St/
Te-121 (Vapor)	–	1 E−06	–	–	4 E+04	–	/St /
Te-121	1 E−06	1 E−06	–	3 E+04	3 E+04	–	ET/ET/
Te-123m (Vapor)	–	5 E−08	–	–	2 E+03	–	/BS/
Te-123m	1 E−07	1 E−07	–	4 E+03	6 E+03	–	BS/St/
Te-123 (Vapor)	–	1 E−08	–	–	4 E+02	–	/BS/
Te-123	2 E−08	5 E−08	–	1 E+03	1 E+03	–	BS/BS/
Te-125m (Vapor)	–	1 E−07	–	–	3 E+03	–	/BS/
Te-125m	2 E−07	1 E−07	–	9 E+03	7 E+03	–	BS/St/
Te-127m (Vapor)	–	6 E−08	–	–	2 E+03	–	/BS/
Te-127m	1 E−07	9 E−08	–	5 E+03	3 E+03	–	BS/St/
Te-127 (Vapor)	–	7 E−06	–	–	2 E+05	–	/St/
Te-127	5 E−06	3 E−06	–	2 E+05	1 E+05	–	ET/St/
Te-129m (Vapor)	–	1 E−07	–	–	5 E+03	–	/St/
Te-129m	3 E−07	1 E−07	–	1 E+04	3 E+03	–	St/St/
Te-129 (Vapor)	–	1 E−05	–	–	5 E+05	–	/St/
Te-129	1 E−05	7 E−06	–	4 E+05	2 E+05	–	ET/ET/
Te-131m (Vapor)	–	1 E−07	–	–	5 E+03	–	/T/
Te-131m	3 E−07	3 E−07	–	1 E+04	1 E+04	–	T/St/
Te-131 (Vapor)	–	6 E−06	–	–	2 E+05	–	/T/
Te-131	1 E−05	7 E−06	–	4 E+05	2 E+05	–	ET/ET/
Te-132 (Vapor)	–	7 E−08	–	–	2 E+03	–	/T/
Te-132	1 E−07	1 E−07	–	6 E+03	6 E+03	–	T/St/
Te-133m (Vapor)	–	1 E−06	–	–	6 E+04	–	/T/
Te-133m	3 E−06	2 E−06	–	1 E+05	1 E+05	–	T/ET/
Te-133 (Vapor)	–	7 E−06	–	–	2 E+05	–	/T/
Te-133	1 E−05	9 E−06	–	4 E+05	3 E+05	–	ET/ET/
Te-134 (Vapor)	–	6 E−06	–	–	2 E+05	–	/St/
Te-134	3 E−06	2 E−06	–	1 E+05	1 E+05	–	ET/ET/
I-120m (Methyl)	4 E−06	–	–	1 E+05	–	–	T/ /
I-120m (Vapor)	–	3 E−06	–	–	1 E+05	–	/St /
I-120m	2 E−06	–	–	8 E+04	–	–	ET/ /
I-120 (Methyl)	1 E−06	–	–	6 E+04	–	–	T/ /
I-120 (Vapor)	–	1 E−06	–	–	5 E+04	–	/T/
I-120	2 E−06	–	–	1 E+05	–	–	E/ /
I-121 (Methyl)	5 E−06	–	–	2 E+05	–	–	T/ /
I-121 (Vapor)	–	4 E−06	–	–	1 E+05	–	/T/
I-121	8 E−06	–	–	3 E+05	–	–	T/ /
I-123 (Methyl)	1 E−06	–	–	7 E+04	–	–	T/ /
I-123 (Vapor)	–	1 E−06	–	–	5 E+04	–	/T/
I-123	2 E−06	–	–	1 E+05	–	–	T/ /
I-124 (Methyl)	3 E−08	–	–	1 E+03	–	–	T/ /
I-124 (Vapor)	–	2 E−08	–	–	9 E+02	–	/T/
I-124	4 E−08	–	–	1 E+03	–	–	T/ /
I-125 (Methyl)	2 E−08	–	–	9 E+02	–	–	T/ /
I-125 (Vapor)	–	2 E−08	–	–	7 E+02	–	/T/
I-125	3 E−08	–	–	1 E+03	–	–	T/ /
I-126 (Methyl)	1 E−08	–	–	5 E+02	–	–	T/ /
I-126 (Vapor)	–	1 E−08	–	–	4 E+02	–	/T/
I-126	2 E−08	–	–	7 E+02	–	–	T/ /
I-128 (Methyl)	3 E−05	–	–	1 E+06	–	–	T/ /
I-128 (Vapor)	–	8 E−06	–	–	3 E+05	–	/St/
I-128	1 E−05	–	–	6 E+05	–	–	ET/ /
I-129 (Methyl)	3 E−09	–	–	1 E+02	–	–	T/ /
I-129 (Vapor)	–	2 E−09	–	–	1 E+02	–	/T/
I-129	5 E−09	–	–	2 E+02	–	–	T/ /
I-130 (Methyl)	2 E−07	–	–	7 E+03	–	–	T/ /

Radionuclide	Absorption type [3]			Absorption type [3]			Stochastic or organ or tissue [1]
	μCi/mL			Bq/m [3]			
	F	M	S	F	M	S	(F/M/S)
I-130 (Vapor)	–	1 E−07	–	–	6 E+03	–	/T/
I-130	3 E−07	–	–	1 E+04	–	–	T/ /
I-131 (Methyl)	1 E−08	–	–	6 E+02	–	–	T/ /
I-131 (Vapor)	–	1 E−08	–	–	5 E+02	–	/T/
I-131	2 E−08	–	–	9 E+02	–	–	T/ /
I-132m (Methyl)	1 E−06	–	–	7 E+04	–	–	T/ /
I-132m (Vapor)	–	1 E−06	–	–	6 E+04	–	/T/
I-132m	3 E−06	–	–	1 E+05	–	–	T/ /
I-132 (Methyl)	1 E−06	–	–	6 E+04	–	–	T/ /
I-132 (Vapor)	–	1 E−06	–	–	5 E+04	–	/T/
I-132	2 E−06	–	–	7 E+04	–	–	T/ /
I-133 (Methyl)	9 E−08	–	–	3 E+03	–	–	T/ /
I-133 (Vapor)	–	7 E−08	–	–	2 E+03	–	/T/
I-133	1 E−07	–	–	5 E+03	–	–	T/ /
I-134 (Methyl)	8 E−06	–	–	2 E+05	–	–	T/ /
I-134 (Vapor)	–	3 E−06	–	–	1 E+05	–	/St/
I-134	3 E−06	–	–	1 E+05	–	–	ET/ /
I-135 (Methyl)	4 E−07	–	–	1 E+04	–	–	T/ /
I-135 (Vapor)	–	3 E−07	–	–	1 E+04	–	/T/
I-135	6 E−07	–	–	2 E+04	–	–	T/ /
Cs-125	1 E−05	–	–	4 E+05	–	–	ET/ /
Cs-127	4 E−06	–	–	1 E+05	–	–	ET/ /
Cs-129	2 E−06	–	–	9 E+04	–	–	ET/ /
Cs-130	1 E−05	–	–	6 E+05	–	–	ET/ /
Cs-131	7 E−06	–	–	2 E+05	–	–	ET/ /
Cs-132	9 E−07	–	–	3 E+04	–	–	ET/ /
Cs-134m	8 E−06	–	–	2 E+05	–	–	ET/ /
Cs-134	5 E−08	–	–	2 E+03	–	–	St/ /
Cs-135m	8 E−06	–	–	2 E+05	–	–	ET/ /
Cs-135	5 E−07	–	–	2 E+04	–	–	St/ /
Cs-136	2 E−07	–	–	1 E+04	–	–	E/ /
Cs-137	8 E−08	–	–	3 E+03	–	–	St/ /
Cs-138	5 E−06	–	–	2 E+05	–	–	ET/ /
Ba-126	4 E−06	–	–	1 E+05	–	–	ET/ /
Ba-128	4 E−07	–	–	1 E+04	–	–	St/ /
Ba-131m	4 E−05	–	–	1 E+06	–	–	ET/ /
Ba-131	1 E−06	–	–	4 E+04	–	–	ET/ /
Ba-133m	2 E−06	–	–	7 E+04	–	–	St/ /
Ba-133	3 E−07	–	–	1 E+04	–	–	St/ /
Ba-135m	2 E−06	–	–	9 E+04	–	–	St/ /
Ba-139	1 E−05	–	–	3 E+05	–	–	St/ /
Ba-140	3 E−07	–	–	1 E+04	–	–	St/ /
Ba-141	1 E−05	–	–	4 E+05	–	–	ET/ /
Ba-142	9 E−06	–	–	3 E+05	–	–	ET/ /
La-131	1 E−05	8 E−06	–	4 E+05	3 E+05	–	ET/ET/
La-132	1 E−06	1 E−06	–	5 E+04	5 E+04	–	ET/ET/
La-135	1 E−05	1 E−05	–	4 E+05	4 E+05	–	ET/ET/
La-137	4 E−08	2 E−07	–	1 E+03	8 E+03	–	L/L/
La-138	3 E−09	1 E−08	–	1 E+02	4 E+02	–	St/St/
La-140	4 E−07	3 E−07	–	1 E+04	1 E+04	–	ET/St/
La-141	5 E−06	2 E−06	–	1 E+05	9 E+04	–	St/St/
La-142	2 E−06	2 E−06	–	9 E+04	8 E+04	–	ET/ET/
La-143	1 E−05	1 E−05	–	6 E+05	4 E+05	–	ET/ET/
Ce-134	–	3 E−07	3 E−07	–	1 E+04	1 E+04	/St/St
Ce-135	–	5 E−07	5 E−07	–	2 E+04	2 E+04	/ET/ET
Ce-137m	–	1 E−06	9 E−07	–	3 E+04	3 E+04	/St/St
Ce-137	–	1 E−05	1 E−05	–	7 E+05	7 E+05	/ET/ET
Ce-139	–	4 E−07	4 E−07	–	1 E+04	1 E+04	/St/St
Ce-141	–	2 E−07	1 E−07	–	7 E+03	6 E+03	/St/St
Ce-143	–	5 E−07	5 E−07	–	2 E+04	2 E+04	/St/St
Ce-144	–	2 E−08	1 E−08	–	9 E+02	7 E+02	/St/St
Pr-136	–	1 E−05	1 E−05	–	3 E+05	3 E+05	/ET/ET
Pr-137	–	9 E−06	9 E−06	–	3 E+05	3 E+05	/ET/ET
Pr-138m	–	2 E−06	2 E−06	–	7 E+04	7 E+04	/ET/ET
Pr-139	–	1 E−05	1 E−05	–	5 E+05	5 E+05	/ET/ET
Pr-142m	–	6 E−05	5 E−05	–	2 E+06	2 E+06	/St/St
Pr-142	–	8 E−07	7 E−07	–	2 E+04	2 E+04	/St/St
Pr-143	–	2 E−07	2 E−07	–	1 E+04	9 E+03	/St/St
Pr-144	–	1 E−05	1 E−05	–	4 E+05	4 E+05	/ET/ET
Pr-145	–	2 E−06	2 E−06	–	8 E+04	8 E+04	/St/St

Radionuclide	Absorption type [3]			Absorption type [3]			Stochastic or organ or tissue [1]
	μCi/mL			Bq/m [3]			
	F	M	S	F	M	S	(F/M/S)
Pr-147	–	9 E−06	9 E−06	–	3 E+05	3 E+05	/ET/ET
Nd-136	–	4 E−06	4 E−06	–	1 E+05	1 E+05	/ET/ET
Nd-138	–	1 E−06	1 E−06	–	5 E+04	5 E+04	/St/St
Nd-139m	–	1 E−06	1 E−06	–	5 E+04	5 E+04	/ET/ET
Nd-139	–	1 E−05	1 E−05	–	6 E+05	6 E+05	/ET/ET
Nd-141	–	3 E−05	3 E−05	–	1 E+06	1 E+06	/ET/ET
Nd-147	–	2 E−07	2 E−07	–	1 E+04	9 E+03	/St/St
Nd-149	–	4 E−06	4 E−06	–	1 E+05	1 E+05	/ET/ET
Nd-151	–	9 E−06	9 E−06	–	3 E+05	3 E+05	/ET/ET
Pm-141	–	1 E−05	1 E−05	–	4 E+05	4 E+05	/ET/ET
Pm-143	–	5 E−07	6 E−07	–	2 E+04	2 E+04	/St/St
Pm-144	–	1 E−07	1 E−07	–	3 E+03	5 E+03	/St/St
Pm-145	–	1 E−07	4 E−07	–	5 E+03	1 E+04	/BS/St
Pm-146	–	4 E−08	6 E−08	–	1 E+03	2 E+03	/St/St
Pm-147	–	1 E−07	1 E−07	–	4 E+03	6 E+03	/BS/St
Pm-148m	–	1 E−07	1 E−07	–	5 E+03	4 E+03	/St/St
Pm-148	–	2 E−07	2 E−07	–	9 E+03	9 E+03	/St/St
Pm-149	–	7 E−07	6 E−07	–	2 E+04	2 E+04	/St/St
Pm-150	–	2 E−06	2 E−06	–	8 E+04	8 E+04	/ET/ET
Pm-151	–	9 E−07	8 E−07	–	3 E+04	3 E+04	/St/St
Sm-141m	–	5 E−06	–	–	2 E+05	–	/ET/
Sm-141	–	1 E−05	–	–	4 E+05	–	/ET/
Sm-142	–	4 E−06	–	–	1 E+05	–	/ET/
Sm-145	–	4 E−07	–	–	1 E+04	–	/BS/
Sm-146	–	2 E−11	–	–	1 E+00	–	/BS/
Sm-147	–	2 E−11	–	–	1 E+00	–	/BS/
Sm-151	–	7 E−08	–	–	2 E+03	–	/BS/
Sm-153	–	8 E−07	–	–	3 E+04	–	/St/
Sm-155	–	1 E−05	–	–	3 E+05	–	/ET/
Sm-156	–	2 E−06	–	–	7 E+04	–	/St/
Eu-145	–	5 E−07	–	–	2 E+04	–	/ET/
Eu-146	–	3 E−07	–	–	1 E+04	–	/ET/
Eu-147	–	5 E−07	–	–	2 E+04	–	/St/
Eu-148	–	2 E−07	–	–	9 E+03	–	/St/
Eu-149	–	2 E−06	–	–	9 E+04	–	/St/
Eu-150 (12 h)	–	2 E−06	–	–	7 E+04	–	/St/
Eu-150 (34 yr)	–	1 E−08	–	–	6 E+02	–	/St/
Eu-152m	–	1 E−06	–	–	6 E+04	–	/St/
Eu-152	–	2 E−08	–	–	7 E+02	–	/St/
Eu-154	–	1 E−08	–	–	5 E+02	–	/St/
Eu-155	–	7 E−08	–	–	2 E+03	–	/BS/
Eu-156	–	1 E−07	–	–	6 E+03	–	/St/
Eu-157	–	1 E−06	–	–	4 E+04	–	/St/
Eu-158	–	5 E−6	–	–	1 E+05	–	/ET/
Gd-145	9 E−06	7 E−06	–	3 E+05	2 E+05	–	ET/ET/
Gd-146	1 E−07	1 E−07	–	4 E+03	4 E+03	–	St/St/
Gd-147	7 E−07	6 E−07	–	2 E+04	2 E+04	–	ET/ET/
Gd-148	5 E−12	2 E−11	–	2 E−01	9 E−01	–	BS/BS/
Gd-149	1 E−06	7 E−07	–	4 E+04	2 E+04	–	St/St/
Gd-151	2 E−07	8 E−07	–	9 E+03	3 E+04	–	BS/St/
Gd-152	7 E−12	3 E−11	–	2 E−01	1 E+00	–	BS/BS/
Gd-153	9 E−08	4 E−07	–	3 E+03	1 E+04	–	BS/St/
Gd-159	3 E−06	1 E−06	–	1 E+05	5 E+04	–	St/St/
Tb-147	–	2 E−06	–	–	1 E+05	–	/ET/
Tb-149	–	1 E−07	–	–	6 E+03	–	/St/
Tb-150	–	2 E−06	–	–	8 E+04	–	/ET/
Tb-151	–	1 E−06	–	–	4 E+04	–	/ET/
Tb-153	–	2 E−06	–	–	8 E+04	–	/St/
Tb-154	–	5 E−07	–	–	2 E+04	–	/ET/
Tb-155	–	2 E−06	–	–	8 E+04	–	/St/
Tb-156m (24 h)	–	2 E−06	–	–	9 E+04	–	/St/
Tb-156m (5 h)	–	4 E−06	–	–	1 E+05	–	/St/
Tb-156	–	4 E−07	–	–	1 E+04	–	/E/
Tb-157	–	2 E−07	–	–	8 E+03	–	/BS/
Tb-158	–	1 E−08	–	–	6 E+02	–	/BS/
Tb-160	–	1 E−07	–	–	3 E+03	–	/St/
Tb-161	–	4 E−07	–	–	1 E+04	–	/St/
Dy-155	–	2 E−06	–	–	1 E+05	–	/ET/
Dy-157	–	5 E−06	–	–	1 E+05	–	/ET/
Dy-159	–	2 E−06	–	–	8 E+04	–	/BS/

Radionuclide	Absorption type [3] μCi/mL			Absorption type [3] Bq/m [3]			Stochastic or organ or tissue [1]
	F	M	S	F	M	S	(F/M/S)
Dy-165	–	6 E−06	–	–	2 E+05	–	/ET/
Dy-166	–	3 E−07	–	–	1 E+04	–	/St/
Ho-155	–	1 E−05	–	–	4 E+05	–	/ET/
Ho-157	–	2 E−05	–	–	1 E+06	–	/ET/
Ho-159	–	2 E−05	–	–	9 E+05	–	/ET/
Ho-161	–	3 E−05	–	–	1 E+06	–	/ET/
Ho-162m	–	9 E−06	–	–	3 E+05	–	/ET/
Ho-162	–	5 E−05	–	–	2 E+06	–	/ET/
Ho-164m	–	3 E−05	–	–	1 E+06	–	/St/
Ho-164	–	2 E−05	–	–	8 E+05	–	/ET/
Ho-166m	–	7 E−09	–	–	2 E+02	–	/St/
Ho-166	–	6 E−07	–	–	2 E+04	–	/St/
Ho-167	–	4 E−06	–	–	1 E+05	–	/ET/
Er-161	–	3 E−06	–	–	1 E+05	–	/ET/
Er-165	–	2 E−05	–	–	1 E+06	–	/ET/
Er-169	–	6 E−07	–	–	2 E+04	–	/St/
Er-171	–	1 E−06	–	–	6 E+04	–	/St/
Er-172	–	4 E−07	–	–	1 E+04	–	/St/
Tm-162	–	9 E−06	–	–	3E+05	–	/ET/
Tm-166	–	1 E−06	–	–	4 E+04	–	/ET/
Tm-167	–	5 E−07	–	–	2 E+04	–	/St/
Tm-170	–	1 E−07	–	–	4 E+03	–	/St/
Tm-171	–	2 E−07	–	–	9 E+03	–	/BS/
Tm-172	–	4 E−07	–	–	1 E+04	–	/St/
Tm-173	–	2 E−06	–	–	8 E+04	–	/St/
Tm-175	–	8 E−06	–	–	2 E+05	–	/ET/
Yb-162	–	1 E−05	1 E−05	–	5 E+05	5 E+05	/ET/ET
Yb-166	–	6 E−07	5 E−07	–	2 E+04	2 E+04	/St/St
Yb-167	–	3 E−05	3 E−05	–	1 E+06	1 E+06	/ET/ET
Yb-169	–	2 E−07	2 E−07	–	9 E+03	8 E+03	/St/St
Yb-175	–	8 E−07	8 E−07	–	3 E+04	2 E+04	/St/St
Yb-177	–	6 E−06	5 E−06	–	2 E+05	2 E+05	/ET/ET
Yb-178	–	5 E−06	5 E−06	–	1 E+05	1 E+05	/ET/E
Lu-169	–	9 E−07	9 E−07	–	3 E+04	3 E+04	/ET/ET
Lu-170	–	4 E−07	4 E−07	–	1 E+04	1 E+04	/ET/ET
Lu-171	–	6 E−07	6 E−07	–	2 E+04	2 E+04	/St/St
Lu-172	–	3 E−07	3 E−07	–	1 E+04	1 E+04	/St/St
Lu-173	–	2 E−07	4 E−07	–	8 E+03	1 E+04	/BS/St
Lu-174m	–	2 E−07	2 E−07	–	7 E+03	8 E+03	/BS/St
Lu-174	–	9 E−08	2 E−07	–	3 E+03	8 E+03	/BS/St
Lu-176m	–	3 E−06	3 E−06	–	1 E+05	1 E+05	/St/St
Lu-176	–	3 E−09	1 E−08	–	1 E+02	6 E+02	/BS/St
Lu-177m	–	5 E−08	4 E−08	–	2 E+03	1 E+03	/St/St
Lu-177	–	5 E−07	5 E−07	–	2 E+04	1 E+04	/St/St
Lu-178m	–	4 E−06	4 E−06	–	1 E+05	1 E+05	/ET/ET
Lu-178	–	8 E−06	8 E−06	–	3 E+05	3 E+05	/ET/ET
Lu-179	–	3 E−06	3 E−06	–	1 E+05	1 E+05	/St/St
Hf-170	1 E−06	1 E−06	–	4 E+04	4 E+04	–	ET/ET/
Hf-172	6 E−09	3 E−08	–	2 E+02	1 E+03	–	BS/BS/
Hf-173	2 E−06	2 E−06	–	9 E+04	8 E+04	–	ET/ET/
Hf-175	5 E−07	6 E−07	–	2 E+04	2 E+04	–	BS/St/
Hf-177m	2 E−06	1 E−06	–	9 E+04	6 E+04	–	ET/ET/
Hf-178m	8 E−10	4 E−09	–	3 E+01	1 E+02	–	BS/BS/
Hf-179m	2 E−07	1 E−07	–	8 E+03	6 E+03	–	BS/St/
Hf-180m	2 E−06	1 E−06	–	7 E+04	6 E+04	–	ET/ET/
Hf-181	1 E−07	1 E−07	–	4 E+03	5 E+03	–	BS/St/
Hf-182m	5 E−06	4 E−06	–	2 E+05	1 E+05	–	ET/ET/
Hf-182	5 E−10	2 E−09	–	2 E+01	9 E+01	–	BS/BS/
Hf-183	6 E−06	4 E−06	–	2 E+05	1 E+05	–	ET/ET/
Hf-184	1 E−06	1 E−06	–	5 E+04	4 E+04	–	ET/St/
Ta-172	–	5 E−06	5 E−06	–	1 E+05	1 E+05	/ET/ET
Ta-173	–	3 E−06	3 E−06	–	1 E+05	1 E+05	/E/E
Ta-174	–	5 E−06	5 E−06	–	2 E+05	2 E+05	/ET/ET
Ta-175	–	1 E−06	1 E−06	–	6 E+04	6 E+04	/ET/ET
Ta-176	–	1 E−06	1 E−06	–	3 E+04	3 E+04	/ET/ET
Ta-177	–	4 E−06	4 E−06	–	1 E+05	1 E+05	/St/St
Ta-178	–	3 E−06	3 E−06	–	1 E+05	1 E+05	/ET/ET
Ta-179	–	4 E−06	1 E−06	–	1 E+05	7 E+04	/St/St
Ta-180m	–	9 E−06	9 E−06	–	3 E+05	3 E+05	/St/St
Ta-180	–	1 E−07	4 E−08	–	4 E+03	1 E+03	/St/St

Radionuclide	Absorption type [3]			Absorption type [3]			Stochastic or organ or tissue [1]
	μCi/mL			Bq/m [3]			
	F	M	S	F	M	S	(F/M/S)
Ta-182m	–	6 E−06	6 E−06	–	2 E+05	2 E+05	/ET/ET
Ta-182	–	9 E−08	7 E−08	–	3 E+03	2 E+03	/St/St
Ta-183	–	3 E−07	2 E−07	–	1 E+04	1 E+04	/St/St
Ta-184	–	8 E−07	8 E−07	–	3 E+04	3 E+04	/ET/ET
Ta-185	–	5 E−06	5 E−06	–	2 E+05	1 E+05	/ET/ET
Ta-186	–	7 E−06	7 E−06	–	2 E+05	2 E+05	/ET/ET
W-176	3 E−06	–	–	1 E+05	–	–	ET/ /
W-177	5 E−06	–	–	2 E+05	–	–	ET/ /
W-178	3 E−06	–	–	1 E+05	–	–	ET/ /
W-179	1 E−04	–	–	5 E+06	–	–	ET/ /
W-181	1 E−05	–	–	4 E+05	–	–	ET/ /
W-185	2 E−06	–	–	9 E+04	–	–	St/ /
W-187	1 E−06	–	–	5 E+04	–	–	ET/ /
W-188	6 E−07	–	–	2 E+04	–	–	St/ /
Re-177	1 E−05	1 E−05	–	6 E+05	4 E+05	–	ET/ET/
Re-178	1 E−05	1 E−05	–	5 E+05	3 E+05	–	ET/ET/
Re-181	1 E−06	1 E−06	–	5 E+04	4 E+04	–	ET/ET/
Re-182 (64 h)	4 E−07	3 E−07	–	1 E+04	1 E+04	–	ET/St/
Re-182 (12 h)	1 E−06	1 E−06	–	4 E+04	4 E+04	–	ET/ET/
Re-184m	6 E−07	1 E−07	–	2 E+04	4 E+03	–	St/St/
Re-184	7 E−07	3 E−07	–	2 E+04	1 E+04	–	ET/St/
Re-186m	4 E−7	7 E−08	–	1 E+04	2 E+03	–	St/St/
Re-186	7 E−07	4 E−07	–	2 E+04	1 E+04	–	St/St/
Re-187	2 E−04	1 E−04	–	8 E+06	4 E+06	–	St/St/
Re-188m	3 E−05	2 E−05	–	1 E+06	1 E+06	–	St/St/
Re-188	8 E−07	7 E−07	–	3 E+04	2 E+04	–	St/St/
Re-189	1 E−06	9 E−07	–	4 E+04	3 E+04	–	St/St/
Os-180	1 E−05	1 E−05	1 E−05	5 E+05	3 E+05	3 E+05	ET/ET/ET
Os-181	3 E−06	3 E−06	3 E−06	1 E+05	1 E+05	1 E+05	ET/ET/ET
Os-182	1 E−06	9 E−07	9 E−07	3 E+04	3 E+04	3 E+04	ET/ET/ET
Os-185	4 E−07	5 E−07	5 E−07	1 E+04	2 E+04	1 E+04	St/St/St
Os-189m	1 E−04	7 E−05	7 E−05	4 E+06	2 E+06	2 E+06	St/St/St
Os-191m	1 E−05	4 E−06	4 E−06	5 E+05	1 E+05	1 E+05	St/St/St
Os-191	1 E−06	4 E−07	3 E−07	5 E+04	1 E+04	1 E+04	St/St/St
Os-193	2 E−06	8 E−07	8 E−07	7 E+04	3 E+04	3 E+04	St/St/St
Os-194	4 E−08	4 E−08	1 E−08	1 E+03	1 E+03	4 E+02	St/St/St
Ir-182	9 E−06	7 E−06	7 E−06	3 E+05	2 E+05	2 E+05	ET/ET/ET
Ir-184	1 E−06	1 E−06	1 E−06	7 E+04	6 E+04	7 E+04	ET/ET/ET
Ir-185	2 E−06	1 E−06	1 E−06	7 E+04	7 E+04	7 E+04	ET/ET/ET
Ir-186 (16 h)	8 E−07	7 E−07	7 E−07	2 E+04	2 E+04	2 E+04	ET/ET/ET
Ir-186 (2 h)	5 E−06	4 E−06	4 E−06	1 E+05	1 E+05	1 E+05	ET/ET/ET
Ir-187	4 E−06	3 E−06	3 E−06	1 E+05	1 E+05	1 E+05	ET/ET/ET
Ir-188	6 E−07	6 E−07	6 E−07	2 E+04	2 E+04	2 E+04	ET/ET/ET
Ir-189	3 E−06	1 E−06	1 E−06	1 E+05	5 E+04	4 E+04	St/St/St
Ir-190m (3 h)	2 E−06	2 E−06	2 E−06	8 E+04	8 E+04	7 E+04	ET/ET/ET
Ir-190m (1 h)	9 E−05	5 E−05	5 E−05	3 E+06	2 E+06	1 E+06	ET/St/St
Ir-190	4 E−07	2 E−07	2 E−07	1 E+04	9 E+03	8 E+03	ET/St/St
Ir-192m	1 E−07	1 E−07	2 E−08	3 E+03	6 E+03	1 E+03	St/St/St
Ir-192	2 E−07	1 E−07	1 E−07	9 E+03	5 E+03	4 E+03	St/St/St
Ir-194m	8 E−08	8 E−08	6 E−08	3 E+03	3 E+03	2 E+03	St/St/St
Ir-194	1 E−06	7 E−07	7 E−07	5 E+04	2 E+04	2 E+04	St/St/St
Ir-195m	2 E−06	2 E−06	2 E−06	9 E+04	7 E+04	7 E+04	ET/ET/ET
Ir-195	7 E−06	5 E−06	4 E−06	2 E+05	1 E+05	1 E+05	ET/ET/ET
Pt-186	3 E−06	–	–	1 E+05	–	–	ET/ /
Pt-188	8 E−07	–	–	3 E+04	–	–	E/ /
Pt-189	3 E−06	–	–	1 E+05	–	–	ET/ /
Pt-191	1 E−06	–	–	7 E+04	–	–	ET/ /
Pt-193m	2 E−06	–	–	8 E+04	–	–	ET/ /
Pt-193	2 E−05	–	–	7 E+05	–	–	ET/ /
Pt-195m	1 E−06	–	–	5 E+04	–	–	ET/ /
Pt-197m	7 E−06	–	–	2 E+05	–	–	ET/ /
Pt-197	3 E−06	–	–	1 E+05	–	–	ET/ /
Pt-199	1 E−05	–	–	4 E+05	–	–	ET/ /
Pt-200	1 E−06	–	–	5 E+04	–	–	St/ /
Au-193	4 E−06	3 E−06	3 E−06	1 E+05	1 E+05	1 E+05	ET/E/St
Au-194	9 E−07	9 E−07	9 E−07	3 E+04	3 E+04	3 E+04	ET/ET/ET
Au-195	3 E−06	7 E−07	4 E−07	1 E+05	2 E+04	1 E+04	ET/St/St
Au-198m	6 E−07	2 E−07	2 E−07	2 E+04	1 E+04	1 E+04	ET/St/St
Au-198	1 E−06	5 E−07	5 E−07	4 E+04	2 E+04	1 E+04	ET/St/St
Au-199	2 E−06	8 E−07	7 E−07	7 E+04	3 E+04	2 E+04	ET/St/St

Radionuclide	Absorption type [3] μCi/mL			Absorption type [3] Bq/m [3]			Stochastic or organ or tissue [1]
	F	M	S	F	M	S	(F/M/S)
Au-200m	5 E−07	4 E−07	4 E−07	1 E+04	1 E+04	1 E+04	ET/ET/ET
Au-200	1 E−05	7 E−06	7 E−06	4 E+05	2 E+05	2 E+05	ET/ET/ET
Au-201	1 E−05	1 E−05	9 E−06	5 E+05	3 E+05	3 E+05	ET/ET/ET
Hg-193m (Org)	1 E−06	–	–	4 E+04	–	–	ET/ /
Hg-193m	1 E−06	1 E−06	–	4 E+04	4 E+04	–	ET/ET/
Hg-193m (Vapor)	–	1 E−07	–	–	6 E+03	–	/St/
Hg-193 (Org)	5 E−06	–	–	1 E+05	–	–	ET/ /
Hg-193	5 E−06	4 E−06	–	1 E+05	1 E+05	–	ET/ET/
Hg-193 (Vapor)	–	5 E−07	–	–	1 E+04	–	/St/
Hg-194 (Org)	2 E−08	–	–	1 E+03	–	–	St/ /
Hg-194	3 E−08	1 E−07	–	1 E+03	3 E+03	–	St/St/
Hg-194 (Vapor)	–	1 E−08	–	–	5 E+02	–	/St/
Hg-195m (Org)	1 E−06	–	–	5 E+04	–	–	ET/ /
Hg-195m	1 E−06	8 E−07	–	5 E+04	3 E+04	–	ET/St/
Hg-195m (Vapor)	–	6 E−08	–	–	2 E+03	–	/St/
Hg-195 (Org)	6 E−06	–	–	2 E+05	–	–	ET/ /
Hg-195	6 E−06	6 E−06	–	2 E+05	2 E+05	–	ET/ET/
Hg-195 (Vapor)	–	4 E−07	–	–	1 E+04	–	/St/
Hg-197m (Org)	1 E−06	–	–	5 E+04	–	–	ET/ /
Hg-197m	1 E−06	8 E−07	–	5 E+04	3 E+04	–	ET/St/
Hg-197m (Vapor)	–	9 E−08	–	–	3 E+03	–	/St/
Hg-197 (Org)	4 E−06	–	–	1 E+05	–	–	ET/ /
Hg-197	4 E−06	2 E−06	–	1 E+05	7 E+04	–	ET/St/
Hg-197 (Vapor)	–	1 E−07	–	–	4 E+03	–	/St/
Hg-199m (Org)	8 E−06	–	–	3 E+05	–	–	ET/ /
Hg-199m	8 E−06	5 E−06	–	3 E+05	1 E+05	–	ET/ET/
Hg-199m (Vapor)	–	3 E−06	–	–	1 E+05	–	/St/
Hg-203 (Org)	7 E−07	–	–	2 E+04	–	–	St/ /
Hg-203	9 E−07	2 E−07	–	3 E+04	1 E+04	–	St/St/
Hg-203 (Vapor)	–	8 E−08	–	–	2 E+03	–	/St/
Tl-194m	5 E−06	–	–	2 E+05	–	–	ET/ /
Tl-194	2 E−05	–	–	8 E+05	–	–	ET/ /
Tl-195	6 E−06	–	–	2 E+05	–	–	ET/ /
Tl-197	8 E−06	–	–	2 E+05	–	–	ET/ /
Tl-198m	2 E−06	–	–	9 E+04	–	–	ET/ /
Tl-198	1 E−06	–	–	5 E+04	–	–	ET/ /
Tl-199	5 E−06	–	–	2 E+05	–	–	ET/ /
Tl-200	8 E−07	–	–	3 E+04	–	–	ET/ /
Tl-201	4 E−06	–	–	1 E+05	–	–	ET/ /
Tl-202	1 E−06	–	–	5 E+04	–	–	ET/ /
Tl-204	9 E−07	–	–	3 E+04	–	–	St/ /
Pb-195m	7 E−06	–	–	2 E+05	–	–	ET/ /
Pb-198	2 E−06	–	–	9 E+04	–	–	ET/ /
Pb-199	4 E−06	–	–	1 E+05	–	–	ET/ /
Pb-200	1 E−06	–	–	4 E+04	–	–	ET/ /
Pb-201	2 E−06	–	–	7 E+04	–	–	ET/ /
Pb-202m	1 E−06	–	–	6 E+04	–	–	ET/ /
Pb-202	4 E−08	–	–	1 E+03	–	–	St/ /
Pb-203	2 E−06	–	–	7 E+04	–	–	ET/ /
Pb-205	9 E−07	–	–	3 E+04	–	–	BS/ /
Pb-209	9 E−06	–	–	3 E+05	–	–	ET/ /
Pb-210	1 E−10	–	–	5 E+00	–	–	BS/ /
Pb-211	4 E−08	–	–	1 E+03	–	–	ET/ /
Pb-212	5 E−09	–	–	2 E+02	–	–	ET/ /
Pb-214	4 E−08	–	–	1 E+03	–	–	ET/ /
Bi-200	5 E−06	4 E−06	–	2 E+05	1 E+05	–	ET/ET/
Bi-201	3 E−06	2 E−06	–	1 E+05	1 E+05	–	ET/ET/
Bi-202	2 E−06	2 E−06	–	9 E+04	9 E+04	–	ET/ET/
Bi-203	7 E−07	7 E−07	–	2 E+04	2 E+04	–	ET/ET/
Bi-205	4 E−07	4 E−07	–	1 E+04	1 E+04	–	ET/ET/
Bi-206	2 E−07	2 E−07	–	9 E+03	8 E+03	–	ET/ET/
Bi-207	4 E−07	1 E−07	–	1 E+04	6 E+03	–	ET/St/
Bi-210m	3 E−09	2 E−10	–	1 E+02	9 E+00	–	K/St/
Bi-210	1 E−07	9 E−09	–	6 E+03	3 E+02	–	K/St/
Bi-212	1 E−08	8 E−09	–	4 E+02	3 E+02	–	ET/ET/
Bi-213	1 E−08	7 E−09	–	4 E+02	2 E+02	–	ET/ET/
Bi-214	1 E−08	1 E−08	–	6 E+02	4 E+02	–	ET/ET/
Po-203	5 E−06	4 E−06	–	1 E+05	1 E+05	–	ET/ET/
Po-205	4 E−06	3 E−06	–	1 E+05	1 E+05	–	ET/ET/
Po-207	1 E−06	1 E−06	–	7 E+04	6 E+04	–	ET/ET/

Radionuclide	Absorption type [3]			Absorption type [3]			Stochastic or organ or tissue [1]
	μCi/mL			Bq/m [3]			
	F	M	S	F	M	S	(F/M/S)
Po-210	7 E−10	2 E−10	–	2 E+01	9 E+00	–	K/St/
At-207	1 E−06	2 E−07	–	4 E+04	1 E+04	–	St/St/
At-211	7 E−09	5 E−09	–	2 E+02	1 E+02	–	ET/St/
Rn-220 [5]	1 E−08	–	–	6 E+02	–	–	–
Rn-222 [5]	8 E−08	–	–	3 E+03	–	–	–
Fr-222	1 E−08	–	–	3 E+02	–	–	ET/ /
Fr-223	4 E−07	–	–	1 E+04	–	–	St/ /
Ra-223	–	9 E−11	–	–	3 E+00	–	/St/
Ra-224	–	2 E−10	–	–	8 E+00	–	/St/
Ra-225	–	1 E−10	–	–	4 E+00	–	/St/
Ra-226	–	2 E−10	–	–	9 E+00	–	/St/
Ra-227	–	8 E−07	–	–	3 E+04	–	/BS/
Ra-228	–	1 E−10	–	–	5 E+00	–	/BS/
Ac-224	1 E−08	6 E−09	5 E−09	6 E+02	2 E+02	2 E+02	BS/St/St
Ac-225	2 E−10	9 E−11	8 E−11	7 E+00	3 E+00	3 E+00	BS/St/St
Ac-226	1 E−09	6 E−10	5 E−10	4 E+01	2 E+01	2 E+01	ET/St/St
Ac-227	2 E−13	1 E−12	1 E−11	1 E−02	5 E−02	4 E−01	BS/BS/St
Ac-228	6 E−09	3 E−08	4 E−08	2 E+02	1 E+03	1 E+03	BS/BS/St
Th-226	–	4 E−09	4 E−09	–	1 E+02	1 E+02	/ET/ET
Th-227	–	9 E−11	7 E−11	–	3 E+00	2 E+00	/St/St
Th-228	–	2 E−11	2 E−11	–	7 E−01	8 E−01	/BS/St
Th-229	–	2 E−12	1 E−11	–	7 E−02	4 E−01	/BS/St
Th-230	–	3 E−12	4 E−11	–	1 E−01	1 E+00	/BS/BS
Th-231	–	1 E−06	1 E−06	–	5 E+04	5 E+04	/St/St
Th-232	–	3 E−12	4 E−11	–	1 E−01	1 E+00	/BS/BS
Th-234	–	1 E−07	9 E−08	–	3 E+03	3 E+03	/St/St
Pa-227	–	4 E−09	4 E−09	–	1 E+02	1 E+02	/ET/ET
Pa-228	–	1 E−08	1 E−08	–	3 E+02	4 E+02	/BS/St
Pa-230	–	1 E−09	9 E−10	–	4 E+01	3 E+01	/St/St
Pa-231	–	1 E−12	1 E−11	–	4 E−02	4 E−01	/BS/BS
Pa-232	–	1 E−08	1 E−07	–	6 E+02	7 E+03	/BS/BS
Pa-233	–	2 E−07	1 E−07	–	7 E+03	6 E+03	/St/St
Pa-234	–	7 E−07	7 E−07	–	2 E+04	2 E+04	/ET/ET
U-230	6 E−10	5 E−11	4 E−11	2 E+01	2 E+00	1 E+00	K/St/St
U-231	2 E−06	1 E−06	1 E−06	8 E+04	4 E+04	4 E+04	ET/St/St
U-232	5 E−11	1 E−10	2 E−11	2 E+00	4 E+00	7 E−01	BS/St/ET
U-233	4 E−10	2 E−10	7 E−11	1 E+01	9 E+00	2 E+00	BS/St/ET
U-234	5 E−10	2 E−10	7 E−11	1 E+01	9 E+00	2 E+00	BS/St/ET
U-235	5 E−10	3 E−10	8 E−11	1 E+01	1 E+01	3 E+00	BS/St/ET
U-236	5 E−10	2 E−10	7 E−11	1 E+01	1 E+01	2 E+00	BS/St/ET
U-237	1 E−06	3 E−07	3 E−07	4 E+04	1 E+04	1 E+04	ET/St/St
U-238	5 E−10	3 E−10	8 E−11	2 E+01	1 E+01	3 E+00	BS/St/ET
U-239	1 E−05	9 E−06	9 E−06	5 E+05	3 E+05	3 E+05	ET/ET/ET
U-240	1 E−06	7 E−07	6 E−07	5 E+04	2 E+04	2 E+04	ET/St/St
Np-232	–	3 E−06	–	–	1 E+05	–	/BS/
Np-233	–	7 E−05	–	–	2 E+06	–	/ET/
Np-234	–	5 E−07	–	–	2 E+04	–	/ET/
Np-235	–	1 E−06	–	–	4 E+04	–	/BS/
Np-236 (1 E+05 yr)	–	4 E−11	–	–	1 E+00	–	/BS/
Np-236 (22 h)	–	5 E−08	–	–	1 E+03	–	/BS/
Np-237	–	8 E−12	–	–	3 E−01	–	/BS/
Np-238	–	1 E−07	–	–	4 E+03	–	/BS/
Np-239	–	5 E−07	–	–	1 E+04	–	/St/
Np-240	–	2 E−06	–	–	8 E+04	–	/ET/
Pu-234	–	3 E−08	3 E−08	–	1 E+03	1 E+03	/St/St
Pu-235	–	9 E−05	8 E−05	–	3 E+06	3 E+06	/ET/ET
Pu-236	–	1 E−11	7 E−11	–	6 E−01	2 E+00	/BS/St
Pu-237	–	1 E−06	1 E−06	–	7 E+04	6 E+04	/St/St
Pu-238	–	6 E−12	5 E−11	–	2 E−01	1 E+00	/BS/St
Pu-239	–	5 E−12	6 E−11	–	2 E−01	2 E+00	/BS/BS
Pu-240	–	5 E−12	6 E−11	–	2 E−01	2 E+00	/BS/BS
Pu-241	–	2 E−10	2 E−09	–	1 E+01	1 E+02	/BS/BS
Pu-242	–	5 E−12	6 E−11	–	2 E−01	2 E+00	/BS/BS
Pu-243	–	5 E−06	5 E−06	–	1 E+05	1 E+05	/E/E
Pu-244	–	5 E−12	6 E−11	–	2 E−01	2 E+00	/BS/BS
Pu-245	–	9 E−07	8 E−07	–	3 E+04	3 E+04	/St/St
Pu-246	–	8 E−08	8 E−08	–	3 E+03	2 E+03	/St/St
Am-237	–	8 E−06	–	–	3 E+05	–	/ET/
Am-238	–	2 E−06	–	–	9 E+04	–	/BS/
Am-239	–	1 E−06	–	–	6 E+04	–	/ET/

Radionuclide	Absorption type [3] µCi/mL			Absorption type [3] Bq/m [3]			Stochastic or organ or tissue [1]
	F	M	S	F	M	S	(F/M/S)
Am-240	–	7 E−07	–	–	2 E+04	–	/ET/
Am-241	–	5 E−12	–	–	1 E−01	–	/BS/
Am-242m	–	5 E−12	–	–	1 E−01	–	/BS/
Am-242	–	4 E−08	–	–	1 E+03	–	/St/
Am-243	–	5 E−12	–	–	1 E−01	–	/BS/
Am-244m	–	3 E−06	–	–	1 E+05	–	/BS/
Am-244	–	1 E−07	–	–	5 E+03	–	/BS/
Am-245	–	5 E−06	–	–	2 E+05	–	/ET/
Am-246m	–	6 E−06	–	–	2 E+05	–	/ET/
Am-246	–	2 E−06	–	–	9 E+04	–	/ET/
Cm-238	–	1 E−07	–	–	4 E+03	–	/St/
Cm-240	–	2 E−10	–	–	7 E+00	–	/St/
Cm-241	–	2 E−08	–	–	8 E+02	–	/St/
Cm-242	–	1 E−10	–	–	5 E+00	–	/St/
Cm-243	–	7 E−12	–	–	2 E−01	–	/BS/
Cm-244	–	9 E−12	–	–	3 E−01	–	/BS/
Cm-245	–	5 E−12	–	–	1 E−01	–	/BS/
Cm-246	–	5 E−12	–	–	1 E−01	–	/BS/
Cm-247	–	5 E−12	–	–	2 E−01	–	/BS/
Cm-248	–	1 E−12	–	–	5 E−02	–	/BS/
Cm-249	–	8 E−06	–	–	3 E+05	–	/ET/
Cm-250	–	2 E−13	–	–	8 E−03	–	/BS/
Bk-245	–	3 E−07	–	–	1 E+04	–	/St/
Bk-246	–	8 E−07	–	–	3 E+04	–	/ET/
Bk-247	–	3 E−12	–	–	1 E−01	–	/BS/
Bk-249	–	1 E−09	–	–	5 E+01	–	/BS/
Bk-250	–	2 E−07	–	–	9 E+03	–	/BS/
Cf-244	–	1 E−08	–	–	5 E+02	–	/ET/
Cf-246	–	1 E−09	–	–	5 E+01	–	/St/
Cf-248	–	5 E−11	–	–	2 E+00	–	/BS/
Cf-249	–	3 E−12	–	–	1 E−01	–	/BS/
Cf-250	–	7 E−12	–	–	2 E−01	–	/BS/
Cf-251	–	3 E−12	–	–	1 E−01	–	/BS/
Cf-252	–	1 E−11	–	–	6 E−01	–	/BS/
Cf-253	–	5 E−10	–	–	2 E+01	–	/St/
Cf-254	–	2 E−11	–	–	8 E−01	–	/BS/
Es-250	–	4 E−07	–	–	1 E+04	–	/BS/
Es-251	–	3 E−07	–	–	1 E+04	–	/St/
Es-253	–	2 E−10	–	–	9 E+00	–	/St/
Es-254m	–	1 E−09	–	–	5 E+01	–	/St/
Es-254	–	6 E−11	–	–	2 E+00	–	/BS/
Fm-252	–	2 E−09	–	–	8 E+01	–	/St/
Fm-253	–	1 E−09	–	–	6 E+01	–	/St/
Fm-254	–	6 E−09	–	–	2 E+02	–	/ET/
Fm-255	–	2 E−09	–	–	8 E+01	–	/St/
Fm-257	–	1 E−10	–	–	4 E+00	–	/St/
Md-257	–	2 E−08	–	–	1 E+03	–	/St/
Md-258	–	1 E−10	–	–	4 E+00	–	/St/

Footnotes for Appendix A

[1] A determination of whether the DACs are controlled by stochastic (St) or deterministic (organ or tissue) dose, or if they both give the same result (E), for each absorption type, is given in this column. The key to the organ notation for deterministic dose is: BS = Bone surface, ET = Extrathoracic, K = Kidney, L = Liver, and T = Thyroid. A blank indicates that no calculations were performed for the absorption type shown.

[2] The ICRP identifies these materials as soluble or reactive gases and vapors or highly soluble or reactive gases and vapors. For tritiated water, the inhalation DAC values allow for an additional 50% absorption through the skin, as described in ICRP Publication No. 68, Dose Coefficients for Intakes of Radionuclides by Workers. For elemental tritium, the DAC values include a factor that irradiation from gas within the lungs might increase the dose by 20%.

[3] A dash indicates no values given for this data category.

[4] DAC values derived using hafnium tritide particle and are based on ''observed activity'' (i.e, only radiation emitted from the particle is considered). DAC values derived using methodology found in Radiological Control Programs for Special Tritium Compounds, DOE–HDBK–1184–2004.

[5] These values are appropriate for protection from radon combined with its short-lived decay products and are based on information given in ICRP Publication 65: Protection Against Radon-222 at Home and at Work and in DOE–STD–1121–98: Internal Dosimetry. The values given are for 100% equilibrium concentration conditions of the short-lived radon decay products with the parent. To allow for an actual measured equilibrium concentration or a demonstrated equilibrium concentration, the values given in this table should be multiplied by the ratio (100%/actual %) or (100%/demonstrated %), respectively. Alternatively, the DAC values for Rn-220 and Rn-222 may be replaced by 2.5 working level (WL) and 0.83 WL, respectively, for appropriate limiting of decay product concentrations. A WL is any combination of short-lived radon decay products, in one liter of air without regard to the degree of equilibrium, that will result in the ultimate emission of 1.3 E+05 MeV of alpha energy.

■ 30. Appendix C of part 835 is revised to read as follows:

Appendix C to Part 835—Derived Air Concentration (DAC) for Workers From External Exposure During Immersion in a Cloud of Airborne Radioactive Material

a. The data presented in appendix C are to be used for controlling occupational exposures in accordance with § 835.209, identifying the need for air monitoring in accordance with § 835.403 and identifying the need for posting of airborne radioactivity areas in accordance with § 835.603(d).

b. The air immersion DAC values shown in this appendix are based on a stochastic dose limit of 5 rems (0.05 Sv) per year. Four columns of information are presented: (1) Radionuclide; (2) half-life in units of seconds (s), minutes (min), hours (h), days (d), or years (yr); (3) air immersion DAC in units of μCi/mL; and (4) air immersion DAC in units of Bq/m3. The data are listed by radionuclide in order of increasing atomic mass. The air immersion DACs were calculated for a continuous, nonshielded exposure via immersion in a semi-infinite cloud of airborne radioactive material. The DACs listed in this appendix may be modified to allow for submersion in a cloud of finite dimensions.

c. The DAC values are given for individual radionuclides. For known mixtures of radionuclides, determine the sum of the ratio of the observed concentration of a particular radionuclide and its corresponding DAC for all radionuclides in the mixture. If this sum exceeds unity (1), then the DAC has been exceeded. For unknown radionuclides, the most restrictive DAC (lowest value) for those isotopes not known to be absent shall be used.

		Air immersion DAC	
Radionuclide	Half-Life	(μCi/mL)	(Bq/m^3)
Ar-37	35.02 d	1 E+00	4 E+10
Ar-39	269 yr	4 E–04	1 E+07
Ar-41	1.827 h	1 E–06	3 E+04
Kr-74	11.5 min	1 E–06	4 E+04
Kr-76	14.8 h	3 E–06	1 E+05
Kr-77	74.7 h	1 E–06	5 E+04
Kr-79	35.04 h	5 E–06	2 E+05
Kr-81	2.1E+05 yr	2 E–04	9 E+06
Kr-83m	1.83 h	2 E–02	9 E+08
Kr-85	10.72 yr	2 E–04	9 E+06
Kr-85m	4.48 h	9 E–06	3 E+05
Kr-87	76.3 min	1 E–06	5 E+04
Kr-88	2.84 h	6 E–07	2 E+04
Xe-120	40.0 min	3 E–06	1 E+05
Xe-121	40.1 min	7 E–07	2 E+04
Xe-122	20.1 h	2 E–05	1 E+06
Xe-123	2.14 h	2 E–06	8 E+04
Xe-125	16.8 h	5 E–06	2 E+05
Xe-127	36.406 d	5 E–06	2 E+05
Xe-129m	8.89 d	6 E–05	2 E+06
Xe-131m	11.84 d	1 E–04	6 E+06
Xe-133	5.245 d	4 E–05	1 E+06
Xe-133m	2.19 d	4 E–05	1 E+06
Xe-135	9.11 h	5 E–06	2 E+05
Xe-135m	15.36 min	3 E–06	1 E+05
Xe-138	14.13 min	1 E–06	4 E+04

For any single radionuclide not listed above with decay mode other than alpha emission or spontaneous fission and with radioactive half-life less than two hours, the DAC value shall be 6 E–06 μCi/mL (2 E+04 Bq/m^3).

Appendix E to Part 835—[Amended]

■ 31. Appendix D is amended in the last row of the first column by revising the words ''Tritium and tritiated compounds [6]'' to read ''Tritium and STCs [6].'' The last row of column three is revised by replacing the term ''N/A'' with the words ''See Footnote 6.'' Footnote 6 is revised by appending the following to the end of the footnote ''In certain cases, a ''Total'' value of 10,000 dpm/100 cm^2 may be applicable either to metals, of the types which form insoluble special tritium compounds that have been exposed to tritium; or to bulk materials to which particles of insoluble special tritium compound are fixed to a surface.'' Footnote 7 is revised to read ''These limits only apply to the alpha emitters within the respective decay series.''

■ 32. Appendix E of part 835 is revised to read as follows:

Appendix E to Part 835—Values for Establishing Sealed Radioactive Source Accountability and Radioactive Material Posting and Labeling Requirements

The data presented in appendix E are to be used for identifying accountable sealed radioactive sources and radioactive material areas as those terms are defined at § 835.2(a), establishing the need for radioactive material area posting in accordance with § 835.603(g), and establishing the need for radioactive material labeling in accordance with § 835.605.

Nuclide	Activity (μCi)
H-3	1.5E+08
Be-7	3.1E+03
Be-10	1.4E+05
C-14	4.6E+06
Na-22	1.9E+01
Al-26	1.5E+01
Si-32	4.9E+04
S-35	2.4E+06
Cl-36	5.2E+05
K-40	2.7E+02
Ca-41	9.3E+06
Ca-45	1.1E+06
Sc-46	6.2E+01
Ti-44	1.5E+02
V-49	1.0E+08
Mn-53	7.5E+07
Mn-54	6.5E+01
Fe-55	2.9E+06
Fe-59	1.9E+02
Fe-60	8.1E+03
Co-56	3.9E+01
Co-57	2.3E+02
Co-58	1.3E+02
Co-60	1.7E+01
Ni-59	3.2E+06
Ni-63	1.3E+06

Nuclide	Activity (μCi)
Zn-65	1.1E+02
Ge-68	5.6E+02
As-73	5.3E+02
Se-75	6.3E+01
Se-79	8.7E+05
Rb-83	9.1E+01
Rb-84	2.0E+02
Sr-85	1.2E+02
Sr-89	4.8E+05
Sr-90	3.5E+04
Y-88	3.3E+01
Y-91	5.0E+04
Zr-88	1.1E+02
Zr-93	9.3E+04
Zr-95	1.9E+02
Nb-91	6.9E+01
Nb-91m	3.6E+02
Nb-92	1.8E+01
Nb-93m	4.4E+02
Nb-94	2.3E+01
Nb-95	3.4E+02
Mo-93	7.7E+01
Tc-95m	1.3E+02
Tc-97	8.1E+01
Tc-97m	3.5E+02
Tc-98	2.5E+01
Tc-99	8.4E+05
Ru-103	4.4E+02
Ru-106	2.5E+02
Rh-101	8.7E+05
Rh-102	3.0E+05
Rh-102m	6.4E+05
Pd-107	9.3E+06
Ag-105	3.3E+06
Ag-108m	1.8E+01
Ag-110m	2.2E+01
Cd-109	1.6E+02
Cd-113m	2.0E+04
Cd-115m	1.0E+04
In-114m	7.7E+02
Sn-113	3.1E+02
Sn-119m	3.3E+02
Sn-121m	8.1E+05
Sn-123	1.3E+04
Sn-126	1.8E+02
Sb-124	9.1E+01
Sb-125	6.7E+01
Te-121m	1.8E+02
Te-123m	2.8E+02
Te-125m	4.4E+02
Te-127m	8.0E+02
Te-129m	2.3E+03
I-125	3.5E+02
I-129	1.8E+02
Cs-134	2.6E+01
Cs-135	1.3E+06
Cs-137	6.0E+01
Ba-133	5.1E+01
La-137	2.7E+05
Ce-139	2.4E+02
Ce-141	2.4E+03
Ce-144	1.4E+03
Pm-143	1.3E+02
Pm-144	2.9E+01
Pm-145	2.6E+02
Pm-146	4.4E+01
Pm-147	7.7E+05
Pm-148m	1.0E+02
Sm-145	2.4E+06
Sm-146	4.0E+02
Sm-151	2.5E+05
Eu-148	1.1E+06
Eu-149	1.1E+07
Eu-152	3.1E+01
Eu-154	3.1E+01
Eu-155	3.6E+02
Gd-146	5.1E+05
Gd-148	9.0E+01
Gd-151	2.9E+06
Gd-153	2.1E+02
Tb-157	2.5E+03
Tb-158	9.0E+04
Tb-160	1.2E+02
Dy-159	1.0E+07
Ho-166m	2.1E+01
Tm-170	8.4E+03
Tm-171	2.8E+04
Yb-169	5.5E+02
Lu-173	1.8E+06
Lu-174	9.3E+05
Lu-174m	1.0E+06
Lu-177m	5.8E+01
Hf-172	7.3E+04
Hf-175	3.0E+06
Hf-178m	8.7E+03
Hf-181	3.4E+02
Hf-182	7.5E+03
Ta-179	9.3E+06
Ta-182	7.3E+01
W-181	1.0E+03
W-185	3.9E+06
W-188	6.3E+04
Re-183	5.3E+02
Re-184	2.6E+02
Re-184m	1.5E+02
Re-186m	3.4E+05
Os-185	1.3E+02
Os-194	6.4E+04
Ir-192	1.3E+02
Ir-192m	1.4E+05
Ir-194m	2.7E+01
Pt-193	8.7E+07
Au-195	4.8E+02
Hg-194	5.2E+04
Hg-203	4.9E+02
Tl-204	2.2E+04
Pb-202	1.9E+05
Pb-205	9.0E+01
Pb-210	9.2E+01
Bi-207	1.7E+01
Bi-208	1.5E+01
Bi-210m	1.2E+03
Po-209	6.3E+03
Po-210	1.2E+03
Ra-226	2.2E+02
Ra-228	1.5E+03
Ac-227	4.2E+00
Th-228	8.4E+01
Th-229	3.1E+01
Th-230	5.4E+00
Th-232	9.3E+01
Pa-231	3.0E+01
U-232	1.0E+02
U-233	3.9E+02
U-234	2.9E+02
U-235	6.7E+01
U-236	3.1E+02
U-238	3.5E+02
Np-235	1.1E+02
Np-236	2.1E+01
Np-237	4.9E+01
Pu-236	2.0E+02
Pu-237	3.3E+02
Pu-238	9.0E+01
Pu-239	8.4E+01
Pu-240	8.4E+01
Pu-241	4.6E+03
Pu-242	8.7E+01
Pu-244	9.0E+01
Am-241	7.2E+01
Am-242m	1.1E+02
Am-243	7.3E+01
Cm-241	1.0E+05
Cm-242	6.2E+02
Cm-243	4.8E+01
Cm-244	1.5E+02
Cm-245	5.0E+01
Cm-246	1.0E+02
Cm-247	8.5E+01
Cm-248	2.8E+01
Cm-250	5.4E+00
Bk-247	6.0E+01
Bk-249	2.7E+04
Cf-248	4.4E+02
Cf-249	5.5E+01
Cf-250	1.2E+02
Cf-251	5.3E+01
Cf-252	5.2E+00
Cf-254	1.2E+02
Es-254	6.3E+01
Es-255	8.8E+03
Fm-257	5.1E+02
Md-258	6.1E+02

Any alpha emitting radionuclide not listed in appendix E and mixtures of alpha emitters of unknown composition have a value of 10 μCi.

With the exception that any type of STC has a value of 10 Ci, any radionuclide other than alpha emitting radionuclides not listed in appendix E and mixtures of beta emitters of unknown composition have a value of 100 μCi.

Note: Where there is involved a mixture of radionuclides in known amounts, derive the value for the mixture as follows: determine, for each radionuclide in the mixture, the ratio between the quantity present in the mixture and the value otherwise established for the specific radionuclide when not in the mixture. If the sum of such ratios for all radionuclides in the mixture exceeds unity (1), then the accountability criterion has been exceeded.

[FR Doc. E7–10477 Filed 6–7–07; 8:45 am]

BILLING CODE 6450–01–P

Federal Register

Friday,

June 8, 2007

Part III

Department of Housing and Urban Development

24 CFR Part 1000

Use of Indian Housing Block Grant Funds for Rental Assistance in Low-Income Housing Tax Credit Projects; Proposed Rule

DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT

24 CFR Part 1000

[Docket No. FR–4999–P–01]

RIN 2577–AC61

Use of Indian Housing Block Grant Funds for Rental Assistance in Low-Income Housing Tax Credit Projects

AGENCY: Office of the Assistant Secretary for Public and Indian Housing, HUD.

ACTION: Proposed rule.

SUMMARY: This proposed rule would amend the Indian Housing Block Grant (IHBG) program regulations to specify the conditions under which IHBG funds may be used for project-based or tenant-based rental assistance. The proposed rule clarifies that such rental assistance may be provided in a manner consistent with assistance provided under section 8 of the United States Housing Act of 1937 on behalf of a tenant receiving assistance under the Native American Housing Assistance and Self-Determination Act of 1996 (NAHASDA).

DATES: *Comment Due Date:* August 7, 2007.

ADDRESSES: Interested persons are invited to submit comments regarding this rule to the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0500. Interested persons also may submit comments electronically through the Federal eRulemaking Portal at *www.regulations.gov*. HUD strongly encourages commenters to submit comments electronically so that HUD can make them immediately available to the public. Commenters should follow the instructions provided on that site to submit comments electronically. Facsimile (FAX) comments are not acceptable. In all cases, communications must refer to the docket number and title. All comments and communications submitted to HUD will be available for public inspection and copying between 8 a.m. and 5 p.m. weekdays at the above address. Due to security measures at the HUD Headquarters building, an advance appointment to review the public comments must be scheduled by calling the Regulations Division at (202) 708–3055 (this is not a toll-free number). Copies of all comments submitted are available for inspection and downloading at *www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Deborah Lalancette, Director, Office of Grants Management, Office of Native American Programs, United States Department of Housing and Urban Development, 1670 Broadway, 23rd Floor, Denver, CO 80202–4801; telephone (303) 675–1625 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

SUPPLEMENTARY INFORMATION:

I. Background

The Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4101 *et seq.*) (NAHASDA) changed the way that housing assistance is provided to Native Americans. NAHASDA eliminated several separate assistance programs and replaced them with a single block grant program, known as the Indian Housing Block Grant (IHBG) program. NAHASDA and its implementing regulations recognize tribal self-determination and self-governance while establishing reasonable standards of accountability. The regulations governing the IHBG program are located in part 1000 of HUD's regulations in title 24 of the Code of Federal Regulations.

Under the IHBG program, HUD makes assistance available to eligible Indian tribes for affordable housing activities. The amount of assistance made available to each Indian tribe is determined using an allocation formula, developed with the active participation of Indian tribes and using negotiated rulemaking procedures. The IHBG allocation formula is based on factors that reflect the need of Indian tribes for affordable housing activities. Based on the amount of funding appropriated annually for the IHBG program, HUD calculates the annual grant for each Indian tribe and provides this information to the Indian tribes. An Indian Housing Plan (IHP) for each Indian tribe is then submitted to HUD. If the IHP is found to be in compliance with statutory and regulatory requirements, the grant is made. An Indian tribe (or its tribally designated housing entity (TDHE)) may use its IHBG funds for a wide range of affordable housing activities, including the provision of project-based or tenant-based rental assistance for eligible families.

II. Low-Income Housing Tax Credits

In 1986, Congress amended the Internal Revenue Code to create the Low Income Housing Tax Credit (LIHTC) (see 26 U.S.C. 42), a tax incentive to promote the development of affordable rental housing. These tax credits encourage investment in affordable housing by providing developers a source of equity investment—an ownership interest in the housing project—in exchange for an agreement to limit rents to a level that would be affordable to low-income households. State housing agencies competitively allocate the credits to private developers who acquire, construct, or rehabilitate affordable rental housing.

Eligible projects receive Federal income tax credits over a 10-year period using a formula that, in part, takes into account certain eligible costs called ''eligible basis.'' Generally, Federal grants used with respect to a building or for its operation thereof result in a dollar-for-dollar decrease in eligible basis. However, the Internal Revenue Service (IRS) has recognized that certain types of Federal rental assistance payments are not Federal grants that require a reduction in a building's eligible basis. They include payments made pursuant to section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f) (Section 8) and comparable programs or methods of rental assistance designated by the Secretary of the Treasury by publication in the **Federal Register** or in the Internal Revenue Bulletin. (See the IRS regulations at 26 CFR 1.42–16(b).) Section 8 is the statutory authority for HUD's principal rental assistance programs—the tenant-based Housing Choice Voucher program (with implementing regulations at 24 CFR part 982) and the Project-Based Voucher program (with implementing regulations at 24 CFR part 983).

HUD rental assistance programs (such as the project-based voucher program) address the requirements that apply when such program rental assistance is provided to tenants residing in LIHTC projects. However, the IHBG program regulations are silent with regard to the use of IHBG rental assistance in these projects. HUD has received requests from several Indian tribes and TDHEs that are IHBG recipients and wish to use their IHBG funds for LIHTC projects. Specifically, these requests came from eight IHBG recipients as well as one Native American housing association representing 32 Indian tribes, all requesting that HUD address the inability to use IHBG grants in LIHTC projects without penalty (*i.e.*, without the amount of the grant coming out of a building's eligible basis). This proposed rule would address these tribal requests.

III. This Proposed Rule

The proposed rule would add a new § 1000.103 to specify the conditions under which IHBG funds may be used for tenant-based or project-based rental assistance. Proposed § 1000.103 would clarify that IHBG funds may be used for project-based or tenant-based rental assistance. Further, the proposed rule clarifies that IHBG funds may be used for project-based or tenant-based rental assistance that is administered in a manner consistent with Section 8. IHBG funds used for project-based or tenant-based rental assistance must comply with the requirements of NAHASDA and 24 CFR part 1000. Only the Secretary of the Treasury may make a determination that project-based or tenant-based rental assistance complies with IRS regulations at 26 CFR 1.42–16(b) and, therefore, will not reduce the building's eligible basis. This proposed rule is necessary in order to begin the process of requesting IRS approval for the combination of IHBG funds with LIHTCs. This proposed rule, when promulgated in final form, will allow for such determination to be made. This proposed rule would not limit the range of eligible activities that an Indian tribe or TDHE may undertake. It merely will clarify one permissible use of IHBG funds.

IV. Findings and Certifications

Executive Order 12866, Regulatory Planning and Review

The Office of Management and Budget (OMB) reviewed this rule under Executive Order 12866 (entitled ''Regulatory Planning and Review''). OMB determined that this rule is a ''significant regulatory action,'' as defined in section 3(f) of the Order (although not economically significant, as provided in section 3(f)(1) of the Order). Any changes made to the rule subsequent to its submission to OMB are identified in the docket file, which is available for public inspection in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0500. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the docket file by calling the Regulations Divisions at (202) 708–3055 (this is not a toll-free number). Persons with hearing or speech impairments may access this number through TTY by calling the toll-free Federal Information Relay Service at (800) 877–8339.

Regulatory Flexibility Act

The Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*) generally requires an agency to conduct a regulatory flexibility analysis of any rule subject to notice and comment rulemaking requirements, unless the agency certifies that the rule will not have a significant economic impact on a substantial number of small entities. This rule would clarify that IHBG funds may be used for project-based or tenant-based rental assistance that is provided in a manner consistent with assistance provided under section 8 of the United States Housing Act of 1937 on behalf of a tenant receiving assistance under NAHASDA. This rule would not impose new requirements on IHBG program participants. Accordingly, the undersigned certifies that this rule will not have a significant economic impact on a substantial number of small entities.

Notwithstanding HUD's determination that this rule will not have a significant economic impact on a substantial number of small entities, HUD specifically invites comments regarding less burdensome alternatives to this rule that will meet HUD's objectives as described in this preamble.

Environmental Impact

A Finding of No Significant Impact with respect to the environment has been made in accordance with HUD regulations at 24 CFR part 50, which implement section 102(2)(C) of the National Environmental Policy Act of 1969 (42 U.S.C. 4332(2)(C)). The Finding of No Significant Impact is available for public inspection between the hours of 8 a.m. and 5 p.m. weekdays in the Regulations Division, Office of General Counsel, Department of Housing and Urban Development, 451 Seventh Street, SW., Room 10276, Washington, DC 20410–0500. Due to security measures at the HUD Headquarters building, please schedule an appointment to review the rule docket file by calling the Regulations Division at (202) 708–3055 (this is not a toll-free number).

Executive Order 13132, Federalism

Executive Order 13132 (entitled ''Federalism'') prohibits, to the extent practicable and permitted by law, an agency from promulgating a regulation that has federalism implications and either imposes substantial direct compliance costs on state and local governments and is not required by statute, or preempts state law, unless the relevant requirements of section 6 of the Executive Order are met. This rule does not have federalism implications and does not impose substantial direct compliance costs on state and local governments or preempt state law within the meaning of the Executive Order.

Unfunded Mandates Reform Act

Title II of the Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) (UMRA) establishes requirements for Federal agencies to assess the effects of their regulatory actions on state, local, and tribal governments, and on the private sector. This rule would not impose any Federal mandate on any State, local, or tribal government, or on the private sector, within the meaning of UMRA.

Catalog of Federal Domestic Assistance.

The Catalog of Federal Domestic Assistance number applicable to the program affected by this rule is 14.862.

List of Subjects in 24 CFR Part 1000

Aged, community development block grants, Grant programs—housing and community development, Grant programs—Indians, Indians, Individuals with disabilities, Public housing, Reporting and recordkeeping requirements.

For the reasons described in the preamble, HUD proposes to amend 24 CFR part 1000 to read as follows:

PART 1000—NATIVE AMERICAN HOUSING ACTIVITIES

1. The authority citation for part 1000 continues to read as follows:

Authority: 25 U.S.C. 1401 *et seq.* and 42 U.S.C. 3535(d).

2. Add § 1000.103 to read as follows:

§ 1000.103 How may IHBG funds be used for tenant-based or project-based rental assistance?

(a) IHBG funds may be used for project-based or tenant-based rental assistance.

(b) IHBG funds may be used for project-based or tenant-based rental assistance that is provided in a manner consistent with section 8 of the United States Housing Act of 1937 (42 U.S.C. 1437f).

(c) IHBG funds used for project-based or tenant-based rental assistance must comply with the requirements of NAHASDA and this part.

Dated: May 3, 2007.

Orlando J. Cabrera,

Assistant Secretary for Public and Indian Housing.

[FR Doc. E7–11054 Filed 6–7–07; 8:45 am]

BILLING CODE 4210–67–P

Federal Register

Friday,
June 8, 2007

Part IV

Federal Communications Commission

47 CFR Part 64
Customer Proprietary Network Information; Final Rules

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket Nos. 96–115, 96–149; FCC 02–214]

Customer Proprietary Network Information

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: The Commission adopted rules to implement section 222 of the Communications Act of 1934, as amended, which governs carriers' use and disclosure of customer proprietary network information. The rules in §§ 64.2007, 64.2008, and 64.2009 required Office of Management and Budget approval and the Commission stated previously in its **Federal Register** publication that it would announce the effective date of these rules when approved. This document announces the effective date of these rules.

DATES: The revisions to 47 CFR 64.2007, addition of 47 CFR 64.2008, and revision and amendments to 47 CFR 64.2009, published at 67 FR 59205, became effective on February 24, 2003.

FOR FURTHER INFORMATION CONTACT: William Dever, (202) 418–1578, Wireline Competition Bureau.

SUPPLEMENTARY INFORMATION: The FCC published a document in the **Federal Register**, 67 FR 59205, September 20, 2002, that sets forth an effective date of October 21, 2002, except for amendments to § 64.2007, addition of § 64.2008, and amendments and revisions to § 64.2009, which contained information collection requirements that had not been approved by the Office of Management and Budget. The document stated that the Commission will publish a document in the **Federal Register** announcing the effective date of these rules. On February 24, 2003, the Office of Management and Budget (OMB) approved the information collection requirements contained in 47 CFR 64.2007, 64.2008, and 64.2009 pursuant to OMB Control No. 3060–0715. Accordingly, the information collection requirement contained in these rules became effective on February 24, 2003. The expiration date for the information collection was February 28, 2006. The expiration date was extended to May 31, 2008 in 70 FR 30112.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E7–10722 Filed 6–7–07; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 96–115, WC Docket No. 04–36; FCC 07–22]

Customer Proprietary Network Information

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: The Commission adopted rules to implement section 222 of the Communications Act of 1934, as amended, which governs carriers' use and disclosure of customer proprietary network information. In this document, the Commission responds to the practice of ''pretexting'' by strengthening its rules to protect the privacy of customer proprietary network information (CPNI) that is collected and held by providers of communications services.

DATES: Revised paragraph (o) of § 64.2003, new paragraphs (a), (b), (d), (m), (q), and (r) of § 64.2003, revised paragraph (c)(3) of § 64.2005, revised paragraph (b) of § 64.2007, revised paragraph (e) of 64.2009, and new §§ 64.2010 and 64.2011 contain information collection requirements that have not been approved by the Office of Management and Budget (OMB). The Commission will publish a document in the **Federal Register** announcing the effective date. Written comment by the public on the modified information collection requirements are due August 7, 2007. Paragraphs (c), (e) through (l), (n), and (p) of § 64.2003 do not contain information collection requirements that have not been approved by OMB and therefore are effective on June 8, 2007.

FOR FURTHER INFORMATION CONTACT: Adam Kirschenbaum, (202) 418–7280, Wireline Competition Bureau.

For additional information concerning the Paperwork Reduction Act information collection requirements contained in this document, contact Judith B. Herman at (202) 418–0214, or via e-mail at *Judith-B.Herman@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's Report and Order (Order) in CC Docket No. 96–115 and WC Docket No. 04–36, FCC 07–22, adopted March 13, 2007, and released April 2, 2007. The complete text of this document is available for inspection and copying during normal business hours in the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. This document may also be purchased from the Commission's duplicating contractor, Best Copy and Printing, Inc., 445 12th Street, SW., Room CY–B402, Washington, DC 20554, telephone (800) 378–3160 or (202) 863–2893, facsimile (202) 863–2898, or via e-mail at *http://www.bcpiweb.com.* It is also available on the Commission's Web site at *http://www.fcc.gov.*

In addition to filing comments with the Office of the Secretary, a copy of any comments on the Paperwork Reduction Act information collection requirements contained herein should be submitted to Judith B. Herman, Federal Communications Commission, Room 1–C804, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *Judith-B.Herman@fcc.gov.*

Synopsis of the Report and Order

1. On August 30, 2005, the Electronic Privacy Information Center (EPIC) filed a petition with the Commission asking the Commission to investigate telecommunications carriers' current security practices and to initiate a rulemaking proceeding to consider establishing more stringent security standards for telecommunications carriers to govern the disclosure of CPNI. In particular, EPIC proposed that the Commission consider requiring the use of consumer-set passwords, creating audit trails, employing encryption, limiting data retention, and improving notice procedures. On February 14, 2006, the Commission released the *EPIC CPNI Notice,* 71 FR 13317 (March 15, 2006), in which it sought comment on (a) the nature and scope of the problem identified by EPIC, including pretexting, and (b) what additional steps, if any, the Commission should take to protect further the privacy of CPNI. Specifically, the Commission sought comment on the five EPIC proposals listed above. In addition, the Commission tentatively concluded that it should amend its rules to require carriers annually to file their section 64.2009(e) certifications with the Commission. It also sought comment on whether it should require carriers to obtain a customer's opt-in consent before the carrier shares CPNI with its joint venture partners and independent contractors; whether to impose rules relating to how carriers verify customers' identities; whether to adopt a set of security requirements that could

be used as the basis for liability if a carrier failed to implement such requirements, or adopt a set of security requirements that a carrier could implement to exempt itself from liability; whether VoIP service providers or other IP-enabled service providers should be covered by any new rules the Commission adopts in the present rulemaking; and other specific proposals that might increase the protection of CPNI.

2. In this Order, the Commission responds to the practice of ''pretexting'' by strengthening its rules to protect the privacy of customer proprietary network information (CPNI) that is collected and held by providers of communications services (hereinafter, communications carriers or carriers). Section 222 of the Communications Act requires telecommunications carriers to take specific steps to ensure that CPNI is adequately protected from unauthorized disclosure. In the Order, the Commission strengthens its privacy rules by adopting additional safeguards to protect customers' CPNI against unauthorized access and disclosure.

3. The Order is directly responsive to the actions of data brokers, or pretexters, to obtain unauthorized access to CPNI. As EPIC pointed out in its petition that led to this rulemaking proceeding, numerous Web sites advertise the sale of personal telephone records for a price. These data brokers have been able to obtain private and personal information, including what calls were made to and/or from a particular telephone number and the duration of such calls. In many cases, the data brokers claim to be able to provide this information within fairly quick time frames, ranging from a few hours to a few days. The additional privacy safeguards the Commission adopts in the Order will sharply limit pretexters' ability to obtain unauthorized access to this type of personal customer information from carriers the Commission regulates.

4. The Commission finds that the release of call detail over the telephone presents an immediate risk to privacy and therefore it prohibits carriers from releasing call detail information based on customer-initiated telephone contact except under three circumstances. First, a carrier can release call detail information if the customer provides the carrier with a pre-established password. Second, a carrier may, at the customer's request, send call detail information to the customer's address of record. Third, a carrier may call the telephone number of record and disclose call detail information. A carrier may disclose non-call detail CPNI to a customer after the carrier authenticates the customer.

5. The Commission does not intend for the prohibition on the release of call detail over the telephone for customer-initiated telephone contact to hinder routine carrier-customer relations regarding service/billing disputes and questions. If a customer is able to provide to the carrier, during a customer-initiated telephone call, all of the call detail information necessary to address a customer service issue (*i.e.*, the telephone number called, when it was called, and, if applicable, the amount charged for the call), then the carrier is permitted to proceed with its routine customer care procedures. The Commission believes that if a customer is able to provide this information to the carrier, without carrier assistance, then the carrier does not violate the Commission's rules if the carrier takes routine customer service actions related to such information. The Commission additionally clarifies that, under these circumstances, carriers may not disclose to the customer any call detail information about the customer account other than the call detail information that the customer provides without the customer first providing a password. The Commission's rule is intended to prevent pretexter phishing and other pretexter methods for gaining unauthorized access to customer account information.

6. The Commission also requires carriers to password protect online access to CPNI. Although section 222 of the Act imposes a duty on carriers to protect the privacy of CPNI, data brokers and others have been able to access CPNI online without the account holder's knowledge or consent. The Commission agrees with EPIC that the apparent ease with which data brokers have been able to access CPNI online demonstrates the insufficiency of carriers' customer authentication procedures. In particular, the record evidence demonstrates that some carriers permit customers to establish online accounts by providing readily available biographical information. Thus, a data broker may obtain online account access easily without the customer's knowledge. Therefore, the Commission agrees with EPIC and others that use of such identifiers is an insufficient mechanism for preventing data brokers from obtaining unauthorized online access to CPNI.

7. The Commission continues to allow carriers to provide customers with access to CPNI at a carrier's retail location if the customer presents a valid photo ID and the valid photo ID matches the name on the account. The Commission agrees with the Attorneys General and finds that this is a secure authentication practice because it enables the carrier to make a reasonable judgment about the customer's identity.

8. The Commission requires carriers to notify customers immediately of certain account changes, including whenever a password, customer response to a carrier-designed back-up means of authentication, online account, or address of record is created or changed. The Commission agrees with the New Jersey Ratepayer Advocate that this notification is an important tool for customers to monitor their account's security. This notification may be through a carrier-originated voicemail or text message to the telephone number of record, or by mail to the address of record, as to reasonably ensure that the customer receives this notification. The Commission believes this measure is appropriate to protect customers from data brokers that might otherwise manage to circumvent the authentication protections the Commission adopts in this Order, and to take appropriate action in the event of pretexter activity. Further, the Commission finds that this notification requirement will also empower customers to provide carriers with timely information about pretexting activity, which the carriers may not be able to identify easily.

9. The Commission does make an exception to the rules that it adopts for certain business customers. The Commission agrees with commenters who argue that privacy concerns of telecommunications consumers are greatest when using personal telecommunications services. Indeed, the fraudulent practices described by EPIC have mainly targeted individual consumers, and the record indicates that the proprietary information of wireline and wireless business account customers already is subject to stringent safeguards, which are privately negotiated by contract. Therefore, if the carrier's contract with a business customer is serviced by a dedicated account representative as the primary contact, and specifically addresses the carrier's protection of CPNI, the Commission does not extend its carrier authentication rules to cover these business customers, because businesses are typically able to negotiate the appropriate protection of CPNI in their service agreements. However, nothing in the Order exempts carriers serving wireline enterprise and wireless business account customers from section 222 or the remainder of the Commission's CPNI rules.

10. The Commission agrees with EPIC that carriers should be required to notify a customer whenever a security breach

results in that customer's CPNI being disclosed to a third party without that customer's authorization. However, the Commission also appreciates law enforcement's concern about delaying customer notification in order to allow law enforcement to investigate crimes. Therefore, the Commission adopts a rule that it believes balances a customer's need to know with law enforcement's ability to undertake an investigation of suspected criminal activity, which itself might advance the goal of consumer protection.

11. The Commission declines to specify the precise content of the notice that must be provided to customers in the event of a security breach of CPNI. The notice requirement the Commission adopts in this proceeding is general, and the Commission recognizes that numerous types of circumstances—including situations other than pretexting—could result in the unauthorized disclosure of a customer's CPNI to a third party. Thus, the Commission leaves carriers the discretion to tailor the language and method of notification to the circumstances. Finally, the Commission expects carriers to cooperate fully in any law enforcement investigation of such unauthorized release of CPNI or attempted unauthorized access to an account consistent with statutory and Commission requirements.

12. The Commission agrees with commenters that techniques for fraud vary and tend to become more sophisticated over time, and that carriers need leeway to engage emerging threats. The Commission therefore clarifies that carriers are free to bolster their security measures through additional measures to meet their section 222 obligations to protect the privacy of CPNI. The Commission also codifies the existing statutory requirement contained in section 222 of the Act that carriers take reasonable measures to discover and protect against activity that is indicative of pretexting. Adoption of the rules in this Order does not relieve carriers of their fundamental duty to remain vigilant in their protection of CPNI, nor does it necessarily insulate them from enforcement action for unauthorized disclosure of CPNI.

13. The Commission modifies its rules to require telecommunications carriers to obtain opt-in consent from a customer before disclosing that customer's CPNI to a carrier's joint venture partner or independent contractor for the purpose of marketing communications-related services to that customer. While the Commission realizes that this is a change in Commission policy, it finds that new circumstances force it to reassess its existing regulations. As the Commission has found previously, the Commission has a substantial interest in protecting customer privacy. Based on this and in light of new privacy concerns, the Commission now finds that an opt-in framework for the sharing of CPNI with joint venture partners and independent contractors for the purposes of marketing communications-related services to a customer both directly advances its interest in protecting customer privacy and is narrowly tailored to achieve its goal of privacy protection. Specifically, an opt-in regime will more effectively limit the circulation of a customer's CPNI by maintaining it in a carrier's possession unless a customer provides informed consent for its release. Moreover, the Commission finds that an opt-in regime will provide necessary informed customer choice concerning these information sharing relationships with other companies.

14. To the extent that carriers voluntarily obtained opt-in approval from their customers for the disclosure of customers' CPNI to a joint venture partner or independent contractor for the purposes of marketing communications-related services to a customer prior to the adoption of this Order, those carriers can continue to use those approvals.

15. The Commission adopts the Commission's tentative conclusion and amends its rules to require carriers to file their annual CPNI certification with the Commission, including an explanation of any actions taken against data brokers and a summary of all customer complaints received in the past year concerning the unauthorized release of CPNI. The Commission finds that this amendment to the Commission's rules is an appropriate measure and will ensure that carriers regularly focus their attention on their duty to safeguard CPNI. Additionally, the Commission finds that this modification to its rules will remind carriers of the Commission's oversight and high priority regarding carrier performance in this area. Further, with this filing, the Commission will be better able to monitor the industry's response to CPNI privacy issues and to take any necessary steps to ensure that carriers are managing customer CPNI securely.

16. The Commission extends the application of the Commission's CPNI rules to providers of interconnected VoIP service. In the *IP-Enabled Services Notice* and the *EPIC CPNI Notice,* the Commission sought comment on whether to extend the CPNI requirements to VoIP service providers. Since the Commission has not decided whether interconnected VoIP services are telecommunications services or information services as those terms are defined in the Act, nor does it do so in this Order, the Commission analyzes the issues addressed in this Order under its Title I ancillary jurisdiction to encompass both types of service. If the Commission later classifies interconnected VoIP service as a telecommunications service, the providers of interconnected VoIP services would be subject to the requirements of section 222 and the Commission's CPNI rules as telecommunications carriers under Title II.

17. The Commission concludes that it has authority under Title I of the Act to impose CPNI requirements on providers of interconnected VoIP service. Ancillary jurisdiction may be employed, in the Commission's discretion, when Title I of the Act gives the Commission subject matter jurisdiction over the service to be regulated and the assertion of jurisdiction is ''reasonably ancillary to the effective performance of [its] various responsibilities.'' Both predicates for ancillary jurisdiction are satisfied here. First, as the Commission concluded in the *Interim USF Order* and *VoIP 911 Order,* interconnected VoIP services fall within the subject matter jurisdiction granted to it in the Act. Second, the Commission analysis requires it to evaluate whether imposing CPNI obligations is reasonably ancillary to the effective performance of the Commission's various responsibilities. Based on the record in this matter, the Commission finds that sections 222 and 1 of the Act provide the requisite nexus, with additional support from section 706.

18. The Commission takes seriously the protection of customers' private information and commit to remaining vigilant to ensure compliance with applicable privacy laws within its jurisdiction. One way in which the Commission will help protect consumer privacy is through strong enforcement measures. When investigating compliance with the rules and statutory obligations, the Commission will consider whether the carrier has taken reasonable precautions to prevent the unauthorized disclosure of a customer's CPNI. Specifically, the Commission hereby puts carriers on notice that the Commission henceforth will infer from evidence that a pretexter has obtained unauthorized access to a customer's CPNI that the carrier did not sufficiently protect that customer's CPNI. A carrier then must demonstrate that the steps it

has taken to protect CPNI from unauthorized disclosure, including the carrier's policies and procedures, are reasonable in light of the threat posed by pretexting and the sensitivity of the customer information at issue. If the Commission finds at the conclusion of its investigation that the carrier indeed has not taken sufficient steps adequately to protect the privacy of CPNI, the Commission may sanction it for this oversight, including through forfeiture.

19. The Commission offers additional guidance regarding the Commission's expectations that will inform its investigations. The Commission fully expects carriers to take every reasonable precaution to protect the confidentiality of proprietary or personal customer information. Of course, the Commission requires carriers to implement the specific minimum requirements set forth in the Commission's rules. The Commission further expects carriers to take additional steps to protect the privacy of CPNI to the extent such additional measures are feasible for a particular carrier. For instance, although the Commission declines to impose audit trail obligations on carriers at this time, the Commission expects carriers through audits or other measures to take reasonable measures to discover and protect against activity that is indicative of pretexting. Similarly, although the Commission does not specifically require carriers to encrypt their customers' CPNI, the Commission expects a carrier to encrypt its CPNI databases if doing so would provide significant additional protection against the unauthorized access to CPNI at a cost that is reasonable given the technology a carrier already has implemented.

Final Paperwork Reduction Act Analysis

20. This Order contains modified information collection requirements subject to the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. It will be submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the new information collection requirements contained in this proceeding. In addition, pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, see 44 U.S.C. 3506(c)(4), the Commission previously sought specific comment on how it might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

21. In the Order, the Commission assessed the burdens placed on small businesses to notify customers of account changes, to notify law enforcement and customers of unauthorized CPNI disclosure; to obtain opt-in consent prior to sharing CPNI with joint venture partners and independent contractors; to file annually a CPNI certification with the Commission, including an explanation of any actions taken against data brokers and a summary of all consumer complaints received in the past year concerning the unauthorized release of CPNI, and to extend the CPNI rules to providers of interconnected VoIP services, and found that these requirements do not place a significant burden on small businesses.

Final Regulatory Flexibility Analysis

22. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the EPIC CPNI Notice in CC Docket No. 96–115 and the IP-Enabled Services Notice in WC Docket 04–36. The Commission sought written public comment on the proposals in both notices, including comment on the IRFA. The Commission received comments specifically directed toward the IRFA from three commenters in CC Docket No. 96–115 and from three commenters in WC Docket No. 04–36. These comments are discussed below. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

A. Need for, and Objectives of, the Rules

23. The Order strengthens the Commission's rules to protect the privacy of CPNI that is collected and held by providers of communications services. Section 222 of the Communications Act requires telecommunications carriers to take specific steps to ensure that CPNI is adequately protected from unauthorized disclosure. The Order adopts additional safeguards to protect customers' CPNI against unauthorized access and disclosure.

B. Summary of Significant Issues Raised by Public Comments in Response to the IRFA

24. *Comments Received in Response to the EPIC CPNI Notice.* In this section, the Commission responds to comments filed in response to the IRFA. To the extent the Commission received comments raising general small business concerns during the proceeding, those comments are discussed throughout the Order.

25. The Commission disagrees with Alexicon that small carriers are less vulnerable to unauthorized attempts to access CPNI. In fact, Alexicon itself points out that one of its client companies actually experienced an unauthorized access attempt, and thus the Commission finds the steps it takes in the Order are applicable to all carriers. The Commission does, however, agree with commenters that argue the Commission should not adopt many of EPIC's suggested requirements. The Commission also agrees with commenters that argue for flexible rules to allow carriers to determine proper authentication methods for its customers. Therefore, the Commission does not adopt specific authentication methods, or back-up authentication methods for lost or forgotten passwords and instead adopts rules that provide limits on the types of authentication methods that meet section 222's mandate to protect CPNI. Further, the Commission agrees with commenters that small carriers should be provided additional time to implement the requirements that the Commission does adopt in the Order. Thus, the Commission provides small carriers with an additional six month implementation period for the online carrier authentication requirements adopted in the Order.

26. *Comments Received in Response to the IP-Enabled Services Notice.* In this section, the Commission responds to comments filed in response to the IRFA. To the extent the Commission received comments raising general small business concerns during the proceeding, those comments are discussed throughout the Order.

27. The Commission disagrees with the SBA and Francois D. Menard (Menard) that the Commission should postpone acting in this proceeding—thereby postponing extending the application of the CPNI rules to interconnected VoIP service providers—and instead should reevaluate the economic impact and the compliance burdens on small entities and issue a further notice of proposed rulemaking in conjunction with a supplemental IRFA identifying and analyzing the economic impacts on small entities and less burdensome alternatives. The Commission believes the additional steps suggested by SBA and Menard are unnecessary because small entities already have received sufficient notice of the issues addressed in the Order and because the Commission has considered the economic impact on small entities and what ways are feasible to minimize the burdens imposed on those entities, and, to the extent feasible, has implemented those less burdensome alternatives.

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

28. The RFA directs agencies to provide a description of and, where feasible, an estimate of the number of small entities that may be affected by the rules adopted herein. The RFA generally defines the term ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. A small business concern is one which: (1) Is independently owned and operated; (2) is not dominant in its field of operation; and (3) satisfies any additional criteria established by the Small Business Administration (SBA).

29. *Small Businesses.* Nationwide, there are a total of approximately 22.4 million small businesses, according to SBA data.

30. *Small Organizations.* Nationwide, there are approximately 1.6 million small organizations.

31. *Small Governmental Jurisdictions.* The term ''small governmental jurisdiction'' is defined generally as ''governments of cities, towns, townships, villages, school districts, or special districts, with a population of less than fifty thousand.'' Census Bureau data for 2002 indicate that there were 87,525 local governmental jurisdictions in the United States. The Commission estimates that, of this total, 84,377 entities were ''small governmental jurisdictions.'' Thus, the Commission estimates that most governmental jurisdictions are small.

1. Telecommunications Service Entities

a. Wireline Carriers and Service Providers

32. The Commission has included small incumbent local exchange carriers in the present RFA analysis. As noted above, a ''small business'' under the RFA is one that, inter alia, meets the pertinent small business size standard (*e.g.*, a telephone communications business having 1,500 or fewer employees), and ''is not dominant in its field of operation.'' The SBA's Office of Advocacy contends that, for RFA purposes, small incumbent local exchange carriers are not dominant in their field of operation because any such dominance is not ''national'' in scope. The Commission has therefore included small incumbent local exchange carriers in this RFA analysis, although the Commission emphasizes that this RFA action has no effect on Commission analyses and determinations in other, non-RFA contexts.

33. *Incumbent Local Exchange Carriers (LECs).* Neither the Commission nor the SBA has developed a small business size standard specifically for incumbent local exchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 1,303 carriers have reported that they are engaged in the provision of incumbent local exchange services. Of these 1,303 carriers, an estimated 1,020 have 1,500 or fewer employees and 283 have more than 1,500 employees. Consequently, the Commission estimates that most providers of incumbent local exchange service are small businesses that may be affected by its action.

34. *Competitive Local Exchange Carriers, Competitive Access Providers (CAPs), ''Shared-Tenant Service Providers,'' and ''Other Local Service Providers.''* Neither the Commission nor the SBA has developed a small business size standard specifically for these service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 769 carriers have reported that they are engaged in the provision of either competitive access provider services or competitive local exchange carrier services. Of these 769 carriers, an estimated 676 have 1,500 or fewer employees and 93 have more than 1,500 employees. In addition, 12 carriers have reported that they are ''Shared-Tenant Service Providers,'' and all 12 are estimated to have 1,500 or fewer employees. In addition, 39 carriers have reported that they are ''Other Local Service Providers.'' Of the 39, an estimated 38 have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that most providers of competitive local exchange service, competitive access providers, ''Shared-Tenant Service Providers,'' and ''Other Local Service Providers'' are small entities that may be affected by its action.

35. *Local Resellers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 143 carriers have reported that they are engaged in the provision of local resale services. Of these, an estimated 141 have 1,500 or fewer employees and two have more than 1,500 employees. Consequently, the Commission estimates that the majority of local resellers are small entities that may be affected by its action.

36. *Toll Resellers.* The SBA has developed a small business size standard for the category of Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 770 carriers have reported that they are engaged in the provision of toll resale services. Of these, an estimated 747 have 1,500 or fewer employees and 23 have more than 1,500 employees. Consequently, the Commission estimates that the majority of toll resellers are small entities that may be affected by its action.

37. *Payphone Service Providers (PSPs).* Neither the Commission nor the SBA has developed a small business size standard specifically for payphone services providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 613 carriers have reported that they are engaged in the provision of payphone services. Of these, an estimated 609 have 1,500 or fewer employees and four have more than 1,500 employees. Consequently, the Commission estimates that the majority of payphone service providers are small entities that may be affected by its action.

38. *Interexchange Carriers (IXCs).* Neither the Commission nor the SBA has developed a small business size standard specifically for providers of interexchange services. The appropriate size standard under SBA rules is for the category Wired Telecommunications Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 316 carriers have reported that they are engaged in the provision of interexchange service. Of these, an estimated 292 have 1,500 or fewer employees and 24 have more than 1,500 employees. Consequently, the Commission estimates that the majority of IXCs are small entities that may be affected by its action.

39. *Operator Service Providers (OSPs).* Neither the Commission nor the SBA has developed a small business size standard specifically for operator service providers. The appropriate size standard under SBA rules is for the category Wired Telecommunications

Carriers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 23 carriers have reported that they are engaged in the provision of operator services. Of these, an estimated 20 have 1,500 or fewer employees and three have more than 1,500 employees. Consequently, the Commission estimates that the majority of OSPs are small entities that may be affected by its action.

40. *Prepaid Calling Card Providers.* Neither the Commission nor the SBA has developed a small business size standard specifically for prepaid calling card providers. The appropriate size standard under SBA rules is for the category Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. According to Commission data, 89 carriers have reported that they are engaged in the provision of prepaid calling cards. Of these, 88 are estimated to have 1,500 or fewer employees and one has more than 1,500 employees. Consequently, the Commission estimates that all or the majority of prepaid calling card providers are small entities that may be affected by its action.

41. *800 and 800–Like Service Subscribers.* Neither the Commission nor the SBA has developed a small business size standard specifically for 800 and 800-like service (''toll free'') subscribers. The appropriate size standard under SBA rules is for the category Telecommunications Resellers. Under that size standard, such a business is small if it has 1,500 or fewer employees. The most reliable source of information regarding the number of these service subscribers appears to be data the Commission collects on the 800, 888, and 877 numbers in use. According to the Commission's data, at the end of January, 1999, the number of 800 numbers assigned was 7,692,955; the number of 888 numbers assigned was 7,706,393; and the number of 877 numbers assigned was 1,946,538. The Commission does not have data specifying the number of these subscribers that are not independently owned and operated or have more than 1,500 employees, and thus is unable at this time to estimate with greater precision the number of toll free subscribers that would qualify as small businesses under the SBA size standard. Consequently, the Commission estimates that there are 7,692,955 or fewer small entity 800 subscribers; 7,706,393 or fewer small entity 888 subscribers; and 1,946,538 or fewer small entity 877 subscribers.

b. International Service Providers

42. The Commission has not developed a small business size standard specifically for providers of international service. The appropriate size standards under SBA rules are for the two broad census categories of ''Satellite Telecommunications'' and ''Other Telecommunications.'' Under both categories, such a business is small if it has $12.5 million or less in average annual receipts.

43. The first category of Satellite Telecommunications ''comprises establishments primarily engaged in providing point-to-point telecommunications services to other establishments in the telecommunications and broadcasting industries by forwarding and receiving communications signals via a system of satellites or reselling satellite telecommunications.'' For this category, Census Bureau data for 2002 show that there were a total of 371 firms that operated for the entire year. Of this total, 307 firms had annual receipts of under $10 million, and 26 firms had receipts of $10 million to $24,999,999. Consequently, the Commission estimates that the majority of Satellite Telecommunications firms are small entities that might be affected by its action.

44. The second category of Other Telecommunications ''comprises establishments primarily engaged in (1) providing specialized telecommunications applications, such as satellite tracking, communications telemetry, and radar station operations; or (2) providing satellite terminal stations and associated facilities operationally connected with one or more terrestrial communications systems and capable of transmitting telecommunications to or receiving telecommunications from satellite systems.'' For this category, Census Bureau data for 2002 show that there were a total of 332 firms that operated for the entire year. Of this total, 259 firms had annual receipts of under $10 million and 15 firms had annual receipts of $10 million to $24,999,999. Consequently, the Commission estimates that the majority of Other Telecommunications firms are small entities that might be affected by its action.

c. Wireless Telecommunications Service Providers

45. Below, for those services subject to auctions, the Commission notes that, as a general matter, the number of winning bidders that qualify as small businesses at the close of an auction does not necessarily represent the number of small businesses currently in service. Also, the Commission does not generally track subsequent business size unless, in the context of assignments or transfers, unjust enrichment issues are implicated.

46. *Wireless Service Providers.* The SBA has developed a small business size standard for wireless firms within the two broad economic census categories of ''Paging'' and ''Cellular and Other Wireless Telecommunications.'' Under both SBA categories, a wireless business is small if it has 1,500 or fewer employees. For the census category of Paging, Census Bureau data for 2002 show that there were 807 firms in this category that operated for the entire year. Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more. Thus, under this category and associated small business size standard, the majority of firms can be considered small. For the census category of Cellular and Other Wireless Telecommunications, Census Bureau data for 2002 show that there were 1,397 firms in this category that operated for the entire year. Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more. Thus, under this second category and size standard, the majority of firms can, again, be considered small.

47. *Cellular Licensees.* The SBA has developed a small business size standard for wireless firms within the broad economic census category ''Cellular and Other Wireless Telecommunications.'' Under this SBA category, a wireless business is small if it has 1,500 or fewer employees. For the census category of Cellular and Other Wireless Telecommunications, Census Bureau data for 2002 show that there were 1,397 firms in this category that operated for the entire year. Of this total, 1,378 firms had employment of 999 or fewer employees, and 19 firms had employment of 1,000 employees or more. Thus, under this category and size standard, the great majority of firms can be considered small. Also, according to Commission data, 437 carriers reported that they were engaged in the provision of cellular service, Personal Communications Service (PCS), or Specialized Mobile Radio (SMR) Telephony services, which are placed together in the data. The Commission has estimated that 260 of these are small, under the SBA small business size standard.

48. *Common Carrier Paging.* The SBA has developed a small business size standard for wireless firms within the

broad economic census category, ''Cellular and Other Wireless Telecommunications.'' Under this SBA category, a wireless business is small if it has 1,500 or fewer employees. For the census category of Paging, Census Bureau data for 2002 show that there were 807 firms in this category that operated for the entire year. Of this total, 804 firms had employment of 999 or fewer employees, and three firms had employment of 1,000 employees or more. Thus, under this category and associated small business size standard, the majority of firms can be considered small. In the Paging *Third Report and Order*, the Commission developed a small business size standard for ''small businesses'' and ''very small businesses'' for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A ''small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. Additionally, a ''very small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. The SBA has approved these small business size standards. An auction of Metropolitan Economic Area licenses commenced on February 24, 2000, and closed on March 2, 2000. Of the 985 licenses auctioned, 440 were sold. Fifty-seven companies claiming small business status won. Also, according to Commission data, 375 carriers reported that they were engaged in the provision of paging and messaging services. Of those, the Commission estimates that 370 are small, under the SBA-approved small business size standard.

49. *Wireless Communications Services*. This service can be used for fixed, mobile, radiolocation, and digital audio broadcasting satellite uses. The Commission established small business size standards for the wireless communications services (WCS) auction. A ''small business'' is an entity with average gross revenues of $40 million for each of the three preceding years, and a ''very small business'' is an entity with average gross revenues of $15 million for each of the three preceding years. The SBA has approved these small business size standards. The Commission auctioned geographic area licenses in the WCS service. In the auction, there were seven winning bidders that qualified as ''very small business'' entities, and one that qualified as a ''small business'' entity.

50. *Wireless Telephony*. Wireless telephony includes cellular, personal communications services (PCS), and specialized mobile radio (SMR) telephony carriers. As noted earlier, the SBA has developed a small business size standard for ''Cellular and Other Wireless Telecommunications'' services. Under that SBA small business size standard, a business is small if it has 1,500 or fewer employees. According to Commission data, 445 carriers reported that they were engaged in the provision of wireless telephony. The Commission has estimated that 245 of these are small under the SBA small business size standard.

51. *Broadband Personal Communications Service*. The broadband Personal Communications Service (PCS) spectrum is divided into six frequency blocks designated A through F, and the Commission has held auctions for each block. The Commission defined ''small entity'' for Blocks C and F as an entity that has average gross revenues of $40 million or less in the three previous calendar years. For Block F, an additional classification for ''very small business'' was added and is defined as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years.'' These standards defining ''small entity'' in the context of broadband PCS auctions have been approved by the SBA. No small businesses, within the SBA-approved small business size standards bid successfully for licenses in Blocks A and B. There were 90 winning bidders that qualified as small entities in the Block C auctions. A total of 93 small and very small business bidders won approximately 40 percent of the 1,479 licenses for Blocks D, E, and F. On March 23, 1999, the Commission re-auctioned 347 C, D, E, and F Block licenses. There were 48 small business winning bidders. On January 26, 2001, the Commission completed the auction of 422 C and F Broadband PCS licenses in Auction No. 35. Of the 35 winning bidders in this auction, 29 qualified as ''small'' or ''very small'' businesses. Subsequent events, concerning Auction 35, including judicial and agency determinations, resulted in a total of 163 C and F Block licenses being available for grant.

52. *Narrowband Personal Communications Services*. To date, two auctions of narrowband personal communications services (PCS) licenses have been conducted. For purposes of the two auctions that have already been held, ''small businesses'' were entities with average gross revenues for the prior three calendar years of $40 million or less. Through these auctions, the Commission has awarded a total of 41 licenses, out of which 11 were obtained by small businesses. To ensure meaningful participation of small business entities in future auctions, the Commission has adopted a two-tiered small business size standard in the *Narrowband PCS Second Report and Order*. A ''small business'' is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $40 million. A ''very small business'' is an entity that, together with affiliates and controlling interests, has average gross revenues for the three preceding years of not more than $15 million. The SBA has approved these small business size standards. In the future, the Commission will auction 459 licenses to serve Metropolitan Trading Areas (MTAs) and 408 response channel licenses. There is also one megahertz of narrowband PCS spectrum that has been held in reserve and that the Commission has not yet decided to release for licensing. The Commission cannot predict accurately the number of licenses that will be awarded to small entities in future auctions. However, four of the 16 winning bidders in the two previous narrowband PCS auctions were small businesses, as that term was defined. The Commission assumes, for purposes of this analysis that a large portion of the remaining narrowband PCS licenses will be awarded to small entities. The Commission also assumes that at least some small businesses will acquire narrowband PCS licenses by means of the Commission's partitioning and disaggregation rules.

53. *220 MHz Radio Service—Phase I Licensees*. The 220 MHz service has both Phase I and Phase II licenses. Phase I licensing was conducted by lotteries in 1992 and 1993. There are approximately 1,515 such non-nationwide licensees and four nationwide licensees currently authorized to operate in the 220 MHz band. The Commission has not developed a small business size standard for small entities specifically applicable to such incumbent 220 MHz Phase I licensees. To estimate the number of such licensees that are small businesses, the Commission applies the small business size standard under the SBA rules applicable to ''Cellular and Other Wireless Telecommunications'' companies. This category provides that a small business is a wireless company employing no more than 1,500 persons. For the census category Cellular and Other Wireless Telecommunications, Census Bureau data for 1997 show that there were 977 firms in this category,

total, that operated for the entire year. Of this total, 965 firms had employment of 999 or fewer employees, and an additional 12 firms had employment of 1,000 employees or more. Thus, under this second category and size standard, the majority of firms can, again, be considered small. Assuming this general ratio continues in the context of Phase I 220 MHz licensees, the Commission estimates that nearly all such licensees are small businesses under the SBA's small business size standard. In addition, limited preliminary census data for 2002 indicate that the total number of cellular and other wireless telecommunications carriers increased approximately 321 percent from 1997 to 2002.

54. *220 MHz Radio Service—Phase II Licensees*. The 220 MHz service has both Phase I and Phase II licenses. The Phase II 220 MHz service is a new service, and is subject to spectrum auctions. In the *220 MHz Third Report and Order*, the Commission adopted a small business size standard for ''small'' and ''very small'' businesses for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. This small business size standard indicates that a ''small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. A ''very small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues that do not exceed $3 million for the preceding three years. The SBA has approved these small business size standards. Auctions of Phase II licenses commenced on September 15, 1998, and closed on October 22, 1998. In the first auction, 908 licenses were auctioned in three different-sized geographic areas: three nationwide licenses, 30 Regional Economic Area Group (EAG) Licenses, and 875 Economic Area (EA) Licenses. Of the 908 licenses auctioned, 693 were sold. Thirty-nine small businesses won licenses in the first 220 MHz auction. The second auction included 225 licenses: 216 EA licenses and 9 EAG licenses. Fourteen companies claiming small business status won 158 licenses.

55. *800 MHz and 900 MHz Specialized Mobile Radio Licenses*. The Commission awards ''small entity'' and ''very small entity'' bidding credits in auctions for Specialized Mobile Radio (SMR) geographic area licenses in the 800 MHz and 900 MHz bands to firms that had revenues of no more than $15 million in each of the three previous calendar years, or that had revenues of no more than $3 million in each of the previous calendar years, respectively. These bidding credits apply to SMR providers in the 800 MHz and 900 MHz bands that either hold geographic area licenses or have obtained extended implementation authorizations. The Commission does not know how many firms provide 800 MHz or 900 MHz geographic area SMR service pursuant to extended implementation authorizations, nor how many of these providers have annual revenues of no more than $15 million. One firm has over $15 million in revenues. The Commission assumes, for purposes here, that all of the remaining existing extended implementation authorizations are held by small entities, as that term is defined by the SBA. The Commission has held auctions for geographic area licenses in the 800 MHz and 900 MHz SMR bands. There were 60 winning bidders that qualified as small or very small entities in the 900 MHz SMR auctions. Of the 1,020 licenses won in the 900 MHz auction, bidders qualifying as small or very small entities won 263 licenses. In the 800 MHz auction, 38 of the 524 licenses won were won by small and very small entities.

56. *700 MHz Guard Band Licensees*. In the *700 MHz Guard Band Order*, the Commission adopted a small business size standard for ''small businesses'' and ''very small businesses'' for purposes of determining their eligibility for special provisions such as bidding credits and installment payments. A ''small business'' as an entity that, together with its affiliates and controlling principals, has average gross revenues not exceeding $15 million for the preceding three years. Additionally, a ''very small business'' is an entity that, together with its affiliates and controlling principals, has average gross revenues that are not more than $3 million for the preceding three years. An auction of 52 Major Economic Area (MEA) licenses commenced on September 6, 2000, and closed on September 21, 2000. Of the 104 licenses auctioned, 96 licenses were sold to nine bidders. Five of these bidders were small businesses that won a total of 26 licenses. A second auction of 700 MHz Guard Band licenses commenced on February 13, 2001 and closed on February 21, 2001. All eight of the licenses auctioned were sold to three bidders. One of these bidders was a small business that won a total of two licenses.

57. *Rural Radiotelephone Service*. The Commission has not adopted a size standard for small businesses specific to the Rural Radiotelephone Service. A significant subset of the Rural Radiotelephone Service is the Basic Exchange Telephone Radio System (BETRS). The Commission uses the SBA's small business size standard applicable to ''Cellular and Other Wireless Telecommunications,'' *i.e.*, an entity employing no more than 1,500 persons. There are approximately 1,000 licensees in the Rural Radiotelephone Service, and the Commission estimates that there are 1,000 or fewer small entity licensees in the Rural Radiotelephone Service that may be affected by the rules and policies adopted herein.

58. *Air-Ground Radiotelephone Service*. The Commission has not adopted a small business size standard specific to the Air-Ground Radiotelephone Service. The Commission will use SBA's small business size standard applicable to ''Cellular and Other Wireless Telecommunications,'' *i.e.*, an entity employing no more than 1,500 persons. There are approximately 100 licensees in the Air-Ground Radiotelephone Service, and the Commission estimates that almost all of them qualify as small under the SBA small business size standard.

59. *Aviation and Marine Radio Services*. Small businesses in the aviation and marine radio services use a very high frequency (VHF) marine or aircraft radio and, as appropriate, an emergency position-indicating radio beacon (and/or radar) or an emergency locator transmitter. The Commission has not developed a small business size standard specifically applicable to these small businesses. For purposes of this analysis, the Commission uses the SBA small business size standard for the category ''Cellular and Other Telecommunications,'' which is 1,500 or fewer employees. Most applicants for recreational licenses are individuals. Approximately 581,000 ship station licensees and 131,000 aircraft station licensees operate domestically and are not subject to the radio carriage requirements of any statute or treaty. For purposes of the Commission's evaluations in this analysis, the Commission estimates that there are up to approximately 712,000 licensees that are small businesses (or individuals) under the SBA standard. In addition, between December 3, 1998 and December 14, 1998, the Commission held an auction of 42 VHF Public Coast licenses in the 157.1875–157.4500 MHz (ship transmit) and 161.775–162.0125 MHz (coast transmit) bands. For purposes of the auction, the Commission defined a ''small'' business as an entity that, together with controlling interests and affiliates, has average gross revenues for the preceding

three years not to exceed $15 million dollars. In addition, a ''very small'' business is one that, together with controlling interests and affiliates, has average gross revenues for the preceding three years not to exceed $3 million dollars. There are approximately 10,672 licensees in the Marine Coast Service, and the Commission estimates that almost all of them qualify as ''small'' businesses under the above special small business size standards.

60. *Offshore Radiotelephone Service.* This service operates on several UHF television broadcast channels that are not used for television broadcasting in the coastal areas of states bordering the Gulf of Mexico. There are presently approximately 55 licensees in this service. The Commission is unable to estimate at this time the number of licensees that would qualify as small under the SBA's small business size standard for ''Cellular and Other Wireless Telecommunications'' services. Under that SBA small business size standard, a business is small if it has 1,500 or fewer employees.

61. *39 GHz Service.* The Commission created a special small business size standard for 39 GHz licenses—an entity that has average gross revenues of $40 million or less in the three previous calendar years. An additional size standard for ''very small business'' is: an entity that, together with affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. The SBA has approved these small business size standards. The auction of the 2,173 39 GHz licenses began on April 12, 2000 and closed on May 8, 2000. The 18 bidders who claimed small business status won 849 licenses. Consequently, the Commission estimates that 18 or fewer 39 GHz licensees are small entities that may be affected by the rules and polices adopted herein.

62. *Multipoint Distribution Service, Multichannel Multipoint Distribution Service, and ITFS.* Multichannel Multipoint Distribution Service (MMDS) systems, often referred to as ''wireless cable,'' transmit video programming to subscribers using the microwave frequencies of the Multipoint Distribution Service (MDS) and Instructional Television Fixed Service (ITFS). In connection with the 1996 MDS auction, the Commission established a small business size standard as an entity that had annual average gross revenues of less than $40 million in the previous three calendar years. The MDS auctions resulted in 67 successful bidders obtaining licensing opportunities for 493 Basic Trading Areas (BTAs). Of the 67 auction winners, 61 met the definition of a small business. MDS also includes licensees of stations authorized prior to the auction. In addition, the SBA has developed a small business size standard for Cable and Other Program Distribution, which includes all such companies generating $12.5 million or less in annual receipts. According to Census Bureau data for 1997, there were a total of 1,311 firms in this category, total, that had operated for the entire year. Of this total, 1,180 firms had annual receipts of under $10 million and an additional 52 firms had receipts of $10 million or more but less than $25 million. Consequently, the Commission estimates that the majority of providers in this service category are small businesses that may be affected by the rules and policies adopted herein. This SBA small business size standard also appears applicable to ITFS. There are presently 2,032 ITFS licensees. All but 100 of these licenses are held by educational institutions. Educational institutions are included in this analysis as small entities. Thus, the Commission tentatively conclude that at least 1,932 licensees are small businesses.

63. *Local Multipoint Distribution Service.* Local Multipoint Distribution Service (LMDS) is a fixed broadband point-to-multipoint microwave service that provides for two-way video telecommunications. The auction of the 1,030 Local Multipoint Distribution Service (LMDS) licenses began on February 18, 1998 and closed on March 25, 1998. The Commission established a small business size standard for LMDS licenses as an entity that has average gross revenues of less than $40 million in the three previous calendar years. An additional small business size standard for ''very small business'' was added as an entity that, together with its affiliates, has average gross revenues of not more than $15 million for the preceding three calendar years. The SBA has approved these small business size standards in the context of LMDS auctions. There were 93 winning bidders that qualified as small entities in the LMDS auctions. A total of 93 small and very small business bidders won approximately 277 A Block licenses and 387 B Block licenses. On March 27, 1999, the Commission re-auctioned 161 licenses; there were 40 winning bidders. Based on this information, the Commission concludes that the number of small LMDS licenses consists of the 93 winning bidders in the first auction and the 40 winning bidders in the re-auction, for a total of 133 small entity LMDS providers.

64. *218–219 MHz Service.* The first auction of 218–219 MHz spectrum resulted in 170 entities winning licenses for 594 Metropolitan Statistical Area (MSA) licenses. Of the 594 licenses, 557 were won by entities qualifying as a small business. For that auction, the small business size standard was an entity that, together with its affiliates, has no more than a $6 million net worth and, after federal income taxes (excluding any carry over losses), has no more than $2 million in annual profits each year for the previous two years. In the *218–219 MHz Report and Order and Memorandum Opinion and Order,* the Commission established a small business size standard for a ''small business'' as an entity that, together with its affiliates and persons or entities that hold interests in such an entity and their affiliates, has average annual gross revenues not to exceed $15 million for the preceding three years. A ''very small business'' is defined as an entity that, together with its affiliates and persons or entities that hold interests in such an entity and its affiliates, has average annual gross revenues not to exceed $3 million for the preceding three years. The Commission cannot estimate, however, the number of licenses that will be won by entities qualifying as small or very small businesses under its rules in future auctions of 218–219 MHz spectrum.

65. *24 GHz—Incumbent Licensees.* This analysis may affect incumbent licensees who were relocated to the 24 GHz band from the 18 GHz band, and applicants who wish to provide services in the 24 GHz band. The applicable SBA small business size standard is that of ''Cellular and Other Wireless Telecommunications'' companies. This category provides that such a company is small if it employs no more than 1,500 persons. According to Census Bureau data for 1997, there were 977 firms in this category, total, that operated for the entire year. Of this total, 965 firms had employment of 999 or fewer employees, and an additional 12 firms had employment of 1,000 employees or more. Thus, under this size standard, the great majority of firms can be considered small. These broader census data notwithstanding, the Commission believes that there are only two licensees in the 24 GHz band that were relocated from the 18 GHz band, Teligent and TRW, Inc. It is the Commisson's understanding that Teligent and its related companies have less than 1,500 employees, though this may change in the future. TRW is not a small entity. Thus, only one incumbent licensee in the 24 GHz band is a small business entity.

66. *24 GHz—Future Licensees.* With respect to new applicants in the 24 GHz

band, the small business size standard for ''small business'' is an entity that, together with controlling interests and affiliates, has average annual gross revenues for the three preceding years not in excess of $15 million. ''Very small business'' in the 24 GHz band is an entity that, together with controlling interests and affiliates, has average gross revenues not exceeding $3 million for the preceding three years. The SBA has approved these small business size standards. These size standards will apply to the future auction, if held.

2. Cable and OVS Operators

67. *Cable and Other Program Distribution.* This category includes cable systems operators, closed circuit television services, direct broadcast satellite services, multipoint distribution systems, satellite master antenna systems, and subscription television services. The SBA has developed small business size standard for this census category, which includes all such companies generating $12.5 million or less in revenue annually. According to Census Bureau data for 2002, there were a total of 1,191 firms in this category that operated for the entire year. Of this total, 1,087 firms had annual receipts of under $10 million, and 43 firms had receipts of $10 million or more but less than $25 million. Consequently, the Commission estimates that the majority of providers in this service category are small businesses that may be affected by the rules and policies adopted herein.

68. *Cable System Operators.* The Commission has developed its own small business size standards for cable system operators, for purposes of rate regulation. Under the Commission's rules, a ''small cable company'' is one serving fewer than 400,000 subscribers nationwide. In addition, a ''small system'' is a system serving 15,000 or fewer subscribers.

69. *Cable System Operators (Telecom Act Standard).* The Communications Act of 1934, as amended, also contains a size standard for small cable system operators, which is ''a cable operator that, directly or through an affiliate, serves in the aggregate fewer than 1 percent of all subscribers in the United States and is not affiliated with any entity or entities whose gross annual revenues in the aggregate exceed $250,000,000.'' The Commission has determined that there are approximately 67,700,000 subscribers in the United States. Therefore, an operator serving fewer than 677,000 subscribers shall be deemed a small operator, if its annual revenues, when combined with the total annual revenues of all its affiliates, do not exceed $250 million in the aggregate. Based on available data, the Commission estimates that the number of cable operators serving 677,000 subscribers or fewer, totals 1,450. The Commission neither requests nor collects information on whether cable system operators are affiliated with entities whose gross annual revenues exceed $250 million, and therefore is unable, at this time, to estimate more accurately the number of cable system operators that would qualify as small cable operators under the size standard contained in the Communications Act of 1934.

70. *Open Video Services.* Open Video Service (OVS) systems provide subscription services. The SBA has created a small business size standard for Cable and Other Program Distribution. This standard provides that a small entity is one with $12.5 million or less in annual receipts. The Commission has certified approximately 25 OVS operators to serve 75 areas, and some of these are currently providing service. Affiliates of Residential Communications Network, Inc. (RCN) received approval to operate OVS systems in New York City, Boston, Washington, DC, and other areas. RCN has sufficient revenues to assure that they do not qualify as a small business entity. Little financial information is available for the other entities that are authorized to provide OVS and are not yet operational. Given that some entities authorized to provide OVS service have not yet begun to generate revenues, the Commission concludes that up to 24 OVS operators (those remaining) might qualify as small businesses that may be affected by the rules and policies adopted herein.

3. Internet Service Providers

71. *Internet Service Providers.* The SBA has developed a small business size standard for Internet Service Providers (ISPs). ISPs ''provide clients access to the Internet and generally provide related services such as Web hosting, Web page designing, and hardware or software consulting related to Internet connectivity.'' Under the SBA size standard, such a business is small if it has average annual receipts of $21 million or less. According to Census Bureau data for 2002, there were 2,529 firms in this category that operated for the entire year. Of these, 2,437 firms had annual receipts of under $10 million, and 47 firms had receipts of $10 million or more but less then $25 million. Consequently, the Commission estimates that the majority of these firms are small entities that may be affected by its action.

4. Other Internet-Related Entities

72. *Web Search Portals.* The Commission's action pertains to interconnected VoIP services, which could be provided by entities that provide other services such as e-mail, online gaming, Web browsing, video conferencing, instant messaging, and other, similar IP-enabled services. The Commission has not adopted a size standard for entities that create or provide these types of services or applications. However, the census bureau has identified firms that ''operate Web sites that use a search engine to generate and maintain extensive databases of Internet addresses and content in an easily searchable format. Web search portals often provide additional Internet services, such as e-mail, connections to other Web sites, auctions, news, and other limited content, and serve as a home base for Internet users.'' The SBA has developed a small business size standard for this category; that size standard is $6 million or less in average annual receipts. According to Census Bureau data for 1997, there were 195 firms in this category that operated for the entire year. Of these, 172 had annual receipts of under $5 million, and an additional nine firms had receipts of between $5 million and $9,999,999. Consequently, the Commission estimates that the majority of these firms are small entities that may be affected by its action.

73. *Data Processing, Hosting, and Related Services.* Entities in this category ''primarily * * * provid[e] infrastructure for hosting or data processing services.'' The SBA has developed a small business size standard for this category; that size standard is $21 million or less in average annual receipts. According to Census Bureau data for 1997, there were 3,700 firms in this category that operated for the entire year. Of these, 3,477 had annual receipts of under $10 million, and an additional 108 firms had receipts of between $10 million and $24,999,999. Consequently, the Commission estimates that the majority of these firms are small entities that may be affected by its action.

74. *All Other Information Services.* ''This industry comprises establishments primarily engaged in providing other information services (except new syndicates and libraries and archives).'' The Commission's action pertains to interconnected VoIP services, which could be provided by entities that provide other services such as email, online gaming, web browsing, video conferencing, instant messaging,

and other, similar IP-enabled services. The SBA has developed a small business size standard for this category; that size standard is $6 million or less in average annual receipts. According to Census Bureau data for 1997, there were 195 firms in this category that operated for the entire year. Of these, 172 had annual receipts of under $5 million, and an additional nine firms had receipts of between $5 million and $9,999,999. Consequently, the Commission estimates that the majority of these firms are small entities that may be affected by its action.

75. *Internet Publishing and Broadcasting.* ''This industry comprises establishments engaged in publishing and/or broadcasting content on the Internet exclusively. These establishments do not provide traditional (non-Internet) versions of the content that they publish or broadcast.'' The SBA has developed a small business size standard for this new (2002) census category; that size standard is 500 or fewer employees. To assess the prevalence of small entities in this category, the Commission will use 1997 Census Bureau data for a relevant, now-superseded census category, ''All Other Information Services.'' The SBA small business size standard for that prior category was $6 million or less in average annual receipts. According to Census Bureau data for 1997, there were 195 firms in the prior category that operated for the entire year. Of these, 172 had annual receipts of under $5 million, and an additional nine firms had receipts of between $5 million and $9,999,999. Consequently, the Commission estimates that the majority of the firms in this current category are small entities that may be affected by its action.

76. *Software Publishers.* These companies may design, develop or publish software and may provide other support services to software purchasers, such as providing documentation or assisting in installation. The companies may also design software to meet the needs of specific users. The SBA has developed a small business size standard of $21 million or less in average annual receipts for all of the following pertinent categories: Software Publishers, Custom Computer Programming Services, and Other Computer Related Services. For Software Publishers, Census Bureau data for 1997 indicate that there were 8,188 firms in the category that operated for the entire year. Of these, 7,633 had annual receipts under $10 million, and an additional 289 firms had receipts of between $10 million and $24, 999,999. For providers of Custom Computer Programming Services, the Census Bureau data indicate that there were 19,334 firms that operated for the entire year. Of these, 18,786 had annual receipts of under $10 million, and an additional 352 firms had receipts of between $10 million and $24,999,999. For providers of Other Computer Related Services, the Census Bureau data indicate that there were 5,524 firms that operated for the entire year. Of these, 5,484 had annual receipts of under $10 million, and an additional 28 firms had receipts of between $10 million and $24,999,999. Consequently, the Commission estimates that the majority of the firms in each of these three categories are small entities that may be affected by its action.

5. Equipment Manufacturers

77. The equipment manufacturers described in this section are merely indirectly affected by the Commission's current action, and therefore are not formally a part of this RFA analysis. The Commission has included them, however, to broaden the record in this proceeding and to alert them to its decisions.

78. *Wireless Communications Equipment Manufacturers.* The SBA has established a small business size standard for Radio and Television Broadcasting and Wireless Communications Equipment Manufacturing. Examples of products in this category include ''transmitting and receiving antennas, cable television equipment, GPS equipment, pagers, cellular phones, mobile communications equipment, and radio and television studio and broadcasting equipment'' and may include other devices that transmit and receive IP-enabled services, such as personal digital assistants (PDAs). Under the SBA size standard, firms are considered small if they have 750 or fewer employees. According to Census Bureau data for 1997, there were 1,215 establishments in this category that operated for the entire year. Of those, there were 1,150 that had employment of under 500, and an additional 37 that had employment of 500 to 999. The percentage of wireless equipment manufacturers in this category was approximately 61.35%, so the Commission estimates that the number of wireless equipment manufacturers with employment of under 500 was actually closer to 706, with an additional 23 establishments having employment of between 500 and 999. Consequently, the Commission estimates that the majority of wireless communications equipment manufacturers are small entities that may be affected by its action.

79. *Telephone Apparatus Manufacturing.* This category ''comprises establishments primarily engaged primarily in manufacturing wire telephone and data communications equipment.'' Examples of pertinent products are ''central office switching equipment, cordless telephones (except cellular), PBX equipment, telephones, telephone answering machines, and data communications equipment, such as bridges, routers, and gateways.'' The SBA has developed a small business size standard for this category of manufacturing; that size standard is 1,000 or fewer employees. According to Census Bureau data for 1997, there were 598 establishments in this category that operated for the entire year. Of these, 574 had employment of under 1,000, and an additional 17 establishments had employment of 1,000 to 2,499. Consequently, the Commission estimates that the majority of these establishments are small entities that may be affected by its action.

80. *Electronic Computer Manufacturing.* This category ''comprises establishments primarily engaged in manufacturing and/or assembling electronic computers, such as mainframes, personal computers, workstations, laptops, and computer servers.'' The SBA has developed a small business size standard for this category of manufacturing; that size standard is 1,000 or fewer employees. According to Census Bureau data for 1997, there were 563 establishments in this category that operated for the entire year. Of these, 544 had employment of under 1,000, and an additional 11 establishments had employment of 1,000 to 2,499. Consequently, the Commission estimates that the majority of these establishments are small entities that may be affected by its action.

81. *Computer Terminal Manufacturing.* ''Computer terminals are input/output devices that connect with a central computer for processing.'' The SBA has developed a small business size standard for this category of manufacturing; that size standard is 1,000 or fewer employees. According to Census Bureau data for 1997, there were 142 establishments in this category that operated for the entire year, and all of the establishments had employment of under 1,000. Consequently, the Commission estimates that the majority or all of these establishments are small entities that may be affected by it action.

82. *Other Computer Peripheral Equipment Manufacturing.* Examples of

peripheral equipment in this category include keyboards, mouse devices, monitors, and scanners. The SBA has developed a small business size standard for this category of manufacturing; that size standard is 1,000 or fewer employees. According to Census Bureau data for 1997, there were 1061 establishments in this category that operated for the entire year. Of these, 1,046 had employment of under 1,000, and an additional six establishments had employment of 1,000 to 2,499. Consequently, the Commission estimates that the majority of these establishments are small entities that may be affected by its action.

83. *Fiber Optic Cable Manufacturing.* These establishments manufacture ''insulated fiber-optic cable from purchased fiber-optic strand.'' The SBA has developed a small business size standard for this category of manufacturing; that size standard is 1,000 or fewer employees. According to Census Bureau data for 1997, there were 38 establishments in this category that operated for the entire year. Of these, 37 had employment of under 1,000, and one establishment had employment of 1,000 to 2,499. Consequently, the Commission estimates that the majority of these establishments are small entities that may be affected by its action.

84. *Other Communication and Energy Wire Manufacturing.* These establishments manufacture ''insulated wire and cable of nonferrous metals from purchased wire.'' The SBA has developed a small business size standard for this category of manufacturing; that size standard is 1,000 or fewer employees. According to Census Bureau data for 1997, there were 275 establishments in this category that operated for the entire year. Of these, 271 had employment of under 1,000, and four establishments had employment of 1,000 to 2,499. Consequently, the Commission estimates that the majority or all of these establishments are small entities that may be affected by its action.

85. *Audio and Video Equipment Manufacturing.* These establishments manufacture ''electronic audio and video equipment for home entertainment, motor vehicle, public address and musical instrument amplifications.'' The SBA has developed a small business size standard for this category of manufacturing; that size standard is 750 or fewer employees. According to Census Bureau data for 1997, there were 554 establishments in this category that operated for the entire year. Of these, 542 had employment of under 500, and nine establishments had employment of 500 to 999. Consequently, the Commission estimates that the majority of these establishments are small entities that may be affected by its action.

86. *Electron Tube Manufacturing.* These establishments are ''primarily engaged in manufacturing electron tubes and parts (except glass blanks).'' The SBA has developed a small business size standard for this category of manufacturing; that size standard is 750 or fewer employees. According to Census Bureau data for 1997, there were 158 establishments in this category that operated for the entire year. Of these, 148 had employment of under 500, and three establishments had employment of 500 to 999. Consequently, the Commission estimates that the majority of these establishments are small entities that may be affected by its action.

87. *Bare Printed Circuit Board Manufacturing.* These establishments are ''primarily engaged in manufacturing bare (i.e., rigid or flexible) printed circuit boards without mounted electronic components.'' The SBA has developed a small business size standard for this category of manufacturing; that size standard is 500 or fewer employees. According to Census Bureau data for 1997, there were 1,389 establishments in this category that operated for the entire year. Of these, 1,369 had employment of under 500, and 16 establishments had employment of 500 to 999. Consequently, the Commission estimates that the majority of these establishments are small entities that may be affected by its action.

88. *Semiconductor and Related Device Manufacturing.* These establishments manufacture ''computer storage devices that allow the storage and retrieval of data from a phase change, magnetic, optical, or magnetic/optical media.'' The SBA has developed a small business size standard for this category of manufacturing; that size standard is 500 or fewer employees. According to Census Bureau data for 1997, there were 1,082 establishments in this category that operated for the entire year. Of these, 987 had employment of under 500, and 52 establishments had employment of 500 to 999.

89. *Electronic Capacitor Manufacturing.* These establishments manufacture ''electronic fixed and variable capacitors and condensers.'' The SBA has developed a small business size standard for this category of manufacturing; that size standard is 500 or fewer employees. According to Census Bureau data for 1997, there were 128 establishments in this category that operated for the entire year. Of these, 121 had employment of under 500, and four establishments had employment of 500 to 999.

90. *Electronic Resistor Manufacturing.* These establishments manufacture ''electronic resistors, such as fixed and variable resistors, resistor networks, thermistors, and varistors.'' The SBA has developed a small business size standard for this category of manufacturing; that size standard is 500 or fewer employees. According to Census Bureau data for 1997, there were 118 establishments in this category that operated for the entire year. Of these, 113 had employment of under 500, and 5 establishments had employment of 500 to 999.

91. *Electronic Coil, Transformer, and Other Inductor Manufacturing.* These establishments manufacture ''electronic inductors, such as coils and transformers.'' The SBA has developed a small business size standard for this category of manufacturing; that size standard is 500 or fewer employees. According to Census Bureau data for 1997, there were 448 establishments in this category that operated for the entire year. Of these, 446 had employment of under 500, and two establishments had employment of 500 to 999.

92. *Electronic Connector Manufacturing.* These establishments manufacture ''electronic connectors, such as coaxial, cylindrical, rack and panel, pin and sleeve, printed circuit and fiber optic.'' The SBA has developed a small business size standard for this category of manufacturing; that size standard is 500 or fewer employees. According to Census Bureau data for 1997, there were 347 establishments in this category that operated for the entire year. Of these, 332 had employment of under 500, and 12 establishments had employment of 500 to 999.

93. *Printed Circuit Assembly (Electronic Assembly) Manufacturing.* These are establishments ''primarily engaged in loading components onto printed circuit boards or who manufacture and ship loaded printed circuit boards.'' The SBA has developed a small business size standard for this category of manufacturing; that size standard is 500 or fewer employees. According to Census Bureau data for 1997, there were 714 establishments in this category that operated for the entire year. Of these, 673 had employment of under 500, and 24 establishments had employment of 500 to 999.

94. *Other Electronic Component Manufacturing*. These are establishments ''primarily engaged in loading components onto printed circuit boards or who manufacture and ship loaded printed circuit boards.'' The SBA has developed a small business size standard for this category of manufacturing; that size standard is 500 or fewer employees. According to Census Bureau data for 1997, there were 1,835 establishments in this category that operated for the entire year. Of these, 1,814 had employment of under 500, and 18 establishments had employment of 500 to 999.

95. *Computer Storage Device Manufacturing*. These establishments manufacture ''computer storage devices that allow the storage and retrieval of data from a phase change, magnetic, optical, or magnetic/optical media.'' The SBA has developed a small business size standard for this category of manufacturing; that size standard is 1,000 or fewer employees. According to Census Bureau data for 1997, there were 209 establishments in this category that operated for the entire year. Of these, 197 had employment of under 500, and eight establishments had employment of 500 to 999.

D. Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

96. The Commission is requiring telecommunications carriers and providers of interconnected VoIP service to collect certain information and take other actions to comply with its rules regarding the use of CPNI. For example, carriers must have an officer, as an agent of the carrier, sign and file with the Commission a compliance certificate on an annual basis stating that the officer has personal knowledge that the carrier has established procedures that are adequate to ensure compliance with the CPNI rules. The carrier must also provide a statement accompanying the certificate explaining how its operating procedures ensure that it is or is not in compliance with the CPNI rules. Further, the carrier must include an explanation of any actions taken against data brokers and a summary of all consumer complaints received in the past year concerning the unauthorized release of CPNI. Additionally, carriers must obtain opt-in approval before sharing CPNI with their joint venture partners or independent contractors for the purposes of marketing communications-related services to customers. Also, carriers are required to maintain a record of any discovered breaches, notifications to the United States Secret Service (USSS) and the Federal Bureau of Investigation (FBI) regarding those breaches, as well as the USSS and FBI response to those notifications for a period of at least two years.

97. The Commission also imposes other requirements on telecommunications carriers and providers of interconnected VoIP service. Specifically, the Order prohibits carriers from releasing call detail information over the phone during customer-initiated telephone calls except by those methods provided for in the Order. The Order also requires that a carrier not permit customers to gain access to an online account without first properly authenticating the customer and, for subsequent access, without a customer password or response to a back-up authentication method for lost or forgotten passwords, neither of which may be based on a carrier prompt for readily available biographical information, or account information. For the rules pertaining to online carrier authentication, the Commission provides carriers that satisfy the definition of a ''small entity'' or a ''small business concern'' under the RFA or SBA an additional six months to implement these rules.

98. The Order also requires that carriers notify customers through a carrier-originated voicemail or text message to the telephone number of record, or by mail or email to the address of record whenever a password, customer response to a back-up means of authentication for lost or forgotten passwords, online account, or address of record is created or changed. Further, the Order requires that carriers notify the USSS and the FBI no later than seven days after a reasonable determination of a CPNI breach.

E. Steps Taken to Minimize Significant Economic Impact on Small Entities, and Significant Alternatives Considered

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

100. The notices invited comment on a number of issues related to small entities. For example, the Commission sought comment on the effect the various proposals described in the *EPIC CPNI Notice* will have on small entities, and on what effect alternative rules would have on those entities. Additionally, the Commission invited comment on ways in which the Commission can achieve its goal of protecting consumers while at the same time imposing minimal burdens on small telecommunications service providers. With respect to any of the Commission consumer protection regulations already in place, the Commission sought comment on whether it has adopted any provisions for small entities that the Commission should similarly consider in this proceeding? The Commission also invited comment on whether the problems identified by EPIC were better or worse at smaller carriers. The Commission invited comment on whether small carriers should be exempt from password-related security procedures to protect CPNI. The Commission invited comment on the benefits and burdens of recording audit trails for the disclosure of CPNI on small carriers. The Commission invited comment on whether requiring a small carrier to encrypt its stored data would be unduly burdensome. The Commission solicited comment on the cost to a small carrier of notifying a customer upon release of CPNI. The Commission sought comment on whether the Commission should amend its rules to require carriers to file annual certifications concerning CPNI and whether this requirement should extend to only telecommunications carriers that are not small telephone companies as defined by the Small Business Administration, and whether small carriers should be subject to different CPNI-related obligations.

101. The Commission has considered each of the alternatives described above, and in this Order, imposes minimal regulation on small entities to the extent consistent with its goal of ensuring that carriers and providers of interconnected VoIP service protect against the unauthorized release of CPNI. Specifically, the Commission extended the implementation date for the rules pertaining to online authentication by six months so that small businesses will have additional time to come into compliance with the Order's rules.

102. As stated above, the Commission must assess the interests of small businesses in light of the overriding public interest of protecting against the unlawful release of CPNI. The Order discusses that CPNI is made up of very personal data. Therefore, the

Commission concluded that it was important for all telecommunications carriers and providers of interconnected VoIP service, including small businesses, to comply with the rules the Commission adopts in this Order six months after the Order's effective date or on receipt of OMB approval, as required by the Paperwork Reduction Act, whichever is later. For example, the Commission concluded that carriers and providers of interconnected VoIP service must stop releasing call detail information based on customer-initiated telephone calls except by those methods provided for in the Order. Additionally, the Commission concluded that it was important for all telecommunications carriers and providers of interconnected VoIP service to report breaches of CPNI data to law enforcement. The Commission therefore rejected solutions that would exempt small businesses. The record indicated that exempting small carriers from these regulations would compromise the Commission's goal of protecting all Americans from the unauthorized release of CPNI.

103. *Report to Congress:* The Commission will send a copy of the Order, including this FRFA, in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the Order, including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the Order and FRFA (or summaries thereof) will also be published in the **Federal Register**.

Ordering Clauses

104. Accordingly, *It is ordered* that pursuant to sections 1, 4(i), 4(j), 222, and 303(r) of the Communications Act of 1934, as amended, 47 U.S.C. 151, 154(i)–(j), 222, 303(r), this Report and Order and Further Notice of Proposed Rulemaking in CC Docket No. 96–115 and WC Docket No. 04–36 is adopted, and that Part 64 of the Commission's rules, 47 CFR Part 64, is amended as set forth in Appendix B. The Order shall become effective upon publication in the **Federal Register** subject to OMB approval for new information collection requirements or six months after the Order's effective date, whichever is later.

105. *It Is Further Ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, shall send a copy of this Report and Order and Further Notice of Proposed Rulemaking, including the Final Regulatory Flexibility Analysis and the Initial Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 64

Customer proprietary network information, Reporting and recordkeeping requirements, Telecommunications.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Final Rules

■ For the reasons discussed in the preamble, the FCC amends 47 CFR part 64 as follows:

PART 64—MISCELLANEOUS RULES RELATING TO COMMON CARRIERS

■ 1. The authority citation for part 64 continues to read as follows:

Authority: 47 U.S.C. 154, 254(k); secs. 403(b)(2)(B),(c), Pub. L. 104–104, 110 Stat. 56. Interpret or apply 47 U.S.C. 201, 218, 222, 225, 226, 228, and 254(k) unless otherwise noted.

■ 2. Revise § 64.2003 to read as follows:

§ 64.2003 Definitions.

(a) *Account information.* ''Account information'' is information that is specifically connected to the customer's service relationship with the carrier, including such things as an account number or any component thereof, the telephone number associated with the account, or the bill's amount.

(b) *Address of record.* An ''address of record,'' whether postal or electronic, is an address that the carrier has associated with the customer's account for at least 30 days.

(c) *Affiliate.* The term ''affiliate'' has the same meaning given such term in section 3(1) of the Communications Act of 1934, as amended, 47 U.S.C. 153(1).

(d) *Call detail information.* Any information that pertains to the transmission of specific telephone calls, including, for outbound calls, the number called, and the time, location, or duration of any call and, for inbound calls, the number from which the call was placed, and the time, location, or duration of any call.

(e) *Communications-related services.* The term ''communications-related services'' means telecommunications services, information services typically provided by telecommunications carriers, and services related to the provision or maintenance of customer premises equipment.

(f) *Customer.* A customer of a telecommunications carrier is a person or entity to which the telecommunications carrier is currently providing service.

(g) *Customer proprietary network information (CPNI).* The term ''customer proprietary network information (CPNI)'' has the same meaning given to such term in section 222(h)(1) of the Communications Act of 1934, as amended, 47 U.S.C. 222(h)(1).

(h) *Customer premises equipment (CPE).* The term ''customer premises equipment (CPE)'' has the same meaning given to such term in section 3(14) of the Communications Act of 1934, as amended, 47 U.S.C. 153(14).

(i) *Information services typically provided by telecommunications carriers.* The phrase ''information services typically provided by telecommunications carriers'' means only those information services (as defined in section 3(20) of the Communication Act of 1934, as amended, 47 U.S.C. 153(20)) that are typically provided by telecommunications carriers, such as Internet access or voice mail services. Such phrase ''information services typically provided by telecommunications carriers,'' as used in this subpart, shall not include retail consumer services provided using Internet Web sites (such as travel reservation services or mortgage lending services), whether or not such services may otherwise be considered to be information services.

(j) *Local exchange carrier (LEC).* The term ''local exchange carrier (LEC)'' has the same meaning given to such term in section 3(26) of the Communications Act of 1934, as amended, 47 U.S.C. 153(26).

(k) *Opt-in approval.* The term ''opt-in approval'' refers to a method for obtaining customer consent to use, disclose, or permit access to the customer's CPNI. This approval method requires that the carrier obtain from the customer affirmative, express consent allowing the requested CPNI usage, disclosure, or access after the customer is provided appropriate notification of the carrier's request consistent with the requirements set forth in this subpart.

(l) *Opt-out approval.* The term ''opt-out approval'' refers to a method for obtaining customer consent to use, disclose, or permit access to the customer's CPNI. Under this approval method, a customer is deemed to have consented to the use, disclosure, or access to the customer's CPNI if the customer has failed to object thereto within the waiting period described in § 64.2008(d)(1) after the customer is provided appropriate notification of the carrier's request for consent consistent with the rules in this subpart.

(m) *Readily available biographical information.* ''Readily available

biographical information'' is information drawn from the customer's life history and includes such things as the customer's social security number, or the last four digits of that number; mother's maiden name; home address; or date of birth.

(n) *Subscriber list information (SLI).* The term ''subscriber list information (SLI)'' has the same meaning given to such term in section 222(h)(3) of the Communications Act of 1934, as amended, 47 U.S.C. 222(h)(3).

(o) *Telecommunications carrier or carrier.* The terms ''telecommunications carrier'' or ''carrier'' shall have the same meaning as set forth in section 3(44) of the Communications Act of 1934, as amended, 47 U.S.C. 153(44). For the purposes of this subpart, the term ''telecommunications carrier'' or ''carrier'' shall include an entity that provides interconnected VoIP service, as that term is defined in section 9.3 of these rules.

(p) *Telecommunications service.* The term ''telecommunications service'' has the same meaning given to such term in section 3(46) of the Communications Act of 1934, as amended, 47 U.S.C. 153(46).

(q) *Telephone number of record.* The telephone number associated with the underlying service, not the telephone number supplied as a customer's ''contact information.''

(r) *Valid photo ID.* A ''valid photo ID'' is a government-issued means of personal identification with a photograph such as a driver's license, passport, or comparable ID that is not expired.

■ 3. Section 64.2005 is amended by revising paragraph (c)(3) to read as follows:

§ 64.2005 Use of customer proprietary network information without customer approval.

* * * * *

(c) * * *

(3) LECs, CMRS providers, and entities that provide interconnected VoIP service as that term is defined in § 9.3 of this chapter, may use CPNI, without customer approval, to market services formerly known as adjunct-to-basic services, such as, but not limited to, speed dialing, computer-provided directory assistance, call monitoring, call tracing, call blocking, call return, repeat dialing, call tracking, call waiting, caller I.D., call forwarding, and certain centrex features.

* * * * *

■ 4. Section 64.2007 is amended by revising paragraph (b) to read as follows:

§ 64.2007 Approval required for use of customer proprietary network information.

* * * * *

(b) *Use of Opt-Out and Opt-In Approval Processes.* A telecommunications carrier may, subject to opt-out approval or opt-in approval, use its customer's individually identifiable CPNI for the purpose of marketing communications-related services to that customer. A telecommunications carrier may, subject to opt-out approval or opt-in approval, disclose its customer's individually identifiable CPNI, for the purpose of marketing communications-related services to that customer, to its agents and its affiliates that provide communications-related services. A telecommunications carrier may also permit such persons or entities to obtain access to such CPNI for such purposes. Except for use and disclosure of CPNI that is permitted without customer approval under section § 64.2005, or that is described in this paragraph, or as otherwise provided in section 222 of the Communications Act of 1934, as amended, a telecommunications carrier may only use, disclose, or permit access to its customer's individually identifiable CPNI subject to opt-in approval.

■ 5. Section 64.2009 is amended by revising paragraph (e) to read as follows:

§ 64.2009 Safeguards required for use of customer proprietary network information.

* * * * *

(e) A telecommunications carrier must have an officer, as an agent of the carrier, sign and file with the Commission a compliance certificate on an annual basis. The officer must state in the certification that he or she has personal knowledge that the company has established operating procedures that are adequate to ensure compliance with the rules in this subpart. The carrier must provide a statement accompanying the certificate explaining how its operating procedures ensure that it is or is not in compliance with the rules in this subpart. In addition, the carrier must include an explanation of any actions taken against data brokers and a summary of all customer complaints received in the past year concerning the unauthorized release of CPNI. This filing must be made annually with the Enforcement Bureau on or before March 1 in EB Docket No. 06–36, for data pertaining to the previous calendar year.

* * * * *

■ 6. Section 64.2010 is added to subpart U to read as follows:

§ 64.2010 Safeguards on the disclosure of customer proprietary network information.

(a) *Safeguarding CPNI.* Telecommunications carriers must take reasonable measures to discover and protect against attempts to gain unauthorized access to CPNI. Telecommunications carriers must properly authenticate a customer prior to disclosing CPNI based on customer-initiated telephone contact, online account access, or an in-store visit.

(b) *Telephone access to CPNI.* Telecommunications carriers may only disclose call detail information over the telephone, based on customer-initiated telephone contact, if the customer first provides the carrier with a password, as described in paragraph (e) of this section, that is not prompted by the carrier asking for readily available biographical information, or account information. If the customer does not provide a password, the telecommunications carrier may only disclose call detail information by sending it to the customer's address of record, or by calling the customer at the telephone number of record. If the customer is able to provide call detail information to the telecommunications carrier during a customer-initiated call without the telecommunications carrier's assistance, then the telecommunications carrier is permitted to discuss the call detail information provided by the customer.

(c) *Online access to CPNI.* A telecommunications carrier must authenticate a customer without the use of readily available biographical information, or account information, prior to allowing the customer online access to CPNI related to a telecommunications service account. Once authenticated, the customer may only obtain online access to CPNI related to a telecommunications service account through a password, as described in paragraph (e) of this section, that is not prompted by the carrier asking for readily available biographical information, or account information.

(d) *In-store access to CPNI.* A telecommunications carrier may disclose CPNI to a customer who, at a carrier's retail location, first presents to the telecommunications carrier or its agent a valid photo ID matching the customer's account information.

(e) *Establishment of a Password and Back-up Authentication Methods for Lost or Forgotten Passwords.* To establish a password, a telecommunications carrier must authenticate the customer without the use of readily available biographical information, or account information.

Telecommunications carriers may create a back-up customer authentication method in the event of a lost or forgotten password, but such back-up customer authentication method may not prompt the customer for readily available biographical information, or account information. If a customer cannot provide the correct password or the correct response for the back-up customer authentication method, the customer must establish a new password as described in this paragraph.

(f) *Notification of account changes.* Telecommunications carriers must notify customers immediately whenever a password, customer response to a back-up means of authentication for lost or forgotten passwords, online account, or address of record is created or changed. This notification is not required when the customer initiates service, including the selection of a password at service initiation. This notification may be through a carrier-originated voicemail or text message to the telephone number of record, or by mail to the address of record, and must not reveal the changed information or be sent to the new account information.

(g) *Business customer exemption.* Telecommunications carriers may bind themselves contractually to authentication regimes other than those described in this section for services they provide to their business customers that have both a dedicated account representative and a contract that specifically addresses the carriers' protection of CPNI.

■ 7. Section 64.2011 is added to subpart U to read as follows:

§ 64.2011 Notification of customer proprietary network information security breaches.

(a) A telecommunications carrier shall notify law enforcement of a breach of its customers' CPNI as provided in this section. The carrier shall not notify its customers or disclose the breach publicly, whether voluntarily or under state or local law or these rules, until it has completed the process of notifying law enforcement pursuant to paragraph (b) of this section.

(b) As soon as practicable, and in no event later than seven (7) business days, after reasonable determination of the breach, the telecommunications carrier shall electronically notify the United States Secret Service (USSS) and the Federal Bureau of Investigation (FBI) through a central reporting facility. The Commission will maintain a link to the reporting facility at *http://www.fcc.gov/eb/cpni.*

(1) Notwithstanding any state law to the contrary, the carrier shall not notify customers or disclose the breach to the public until 7 full business days have passed after notification to the USSS and the FBI except as provided in paragraphs (b)(2) and (b)(3) of this section.

(2) If the carrier believes that there is an extraordinarily urgent need to notify any class of affected customers sooner than otherwise allowed under paragraph (b)(1) of this section, in order to avoid immediate and irreparable harm, it shall so indicate in its notification and may proceed to immediately notify its affected customers only after consultation with the relevant investigating agency. The carrier shall cooperate with the relevant investigating agency's request to minimize any adverse effects of such customer notification.

(3) If the relevant investigating agency determines that public disclosure or notice to customers would impede or compromise an ongoing or potential criminal investigation or national security, such agency may direct the carrier not to so disclose or notify for an initial period of up to 30 days. Such period may be extended by the agency as reasonably necessary in the judgment of the agency. If such direction is given, the agency shall notify the carrier when it appears that public disclosure or notice to affected customers will no longer impede or compromise a criminal investigation or national security. The agency shall provide in writing its initial direction to the carrier, any subsequent extension, and any notification that notice will no longer impede or compromise a criminal investigation or national security and such writings shall be contemporaneously logged on the same reporting facility that contains records of notifications filed by carriers.

(c) *Customer notification.* After a telecommunications carrier has completed the process of notifying law enforcement pursuant to paragraph (b) of this section, it shall notify its customers of a breach of those customers' CPNI.

(d) *Recordkeeping.* All carriers shall maintain a record, electronically or in some other manner, of any breaches discovered, notifications made to the USSS and the FBI pursuant to paragraph (b) of this section, and notifications made to customers. The record must include, if available, dates of discovery and notification, a detailed description of the CPNI that was the subject of the breach, and the circumstances of the breach. Carriers shall retain the record for a minimum of 2 years.

(e) *Definitions.* As used in this section, a ''breach'' has occurred when a person, without authorization or exceeding authorization, has intentionally gained access to, used, or disclosed CPNI.

(f) This section does not supersede any statute, regulation, order, or interpretation in any State, except to the extent that such statute, regulation, order, or interpretation is inconsistent with the provisions of this section, and then only to the extent of the inconsistency.

[FR Doc. E7–10732 Filed 6–7–07; 8:45 am]

BILLING CODE 6712–01–P

Federal Register

Friday,
June 8, 2007

Part V

The President

Proclamation 8155—Flag Day and National Flag Week, 2007

Federal Register
Vol. 72, No. 110
Friday, June 8, 2007

Presidential Documents

Title 3—

The President

Proclamation 8155 of June 5, 2007

Flag Day and National Flag Week, 2007

By the President of the United States of America

A Proclamation

The American Flag represents freedom and has been an enduring symbol of our Nation's ideals since the earliest days of our Nation. Wherever it flies, we are reminded of America's unity and in the great cause of liberty and justice for all.

Two hundred and thirty years ago, the Second Continental Congress officially made the Stars and Stripes the symbol of America. The Founders declared that the 13 stars gracing the original flag represented ''a new constellation,'' just as America embodied new hope and new light for mankind. Today, our flag continues to convey the bold spirit of a proud and determined Nation.

Americans have long flown our flag as a sign of patriotism and gratitude for the blessings of liberty. We also pledge allegiance to the flag as an expression of loyalty to our country and to the belief in the American creed of freedom and justice. By displaying and showing respect for the flag, we honor the ideals upon which our democracy rests and show appreciation for the freedoms we enjoy today. Flying the flag can also be an expression of thanks for the men and women who have served and sacrificed in defense of our freedoms—from the early patriots of the Continental Army to the courageous Americans in uniform who are defending those freedoms around the world today.

During Flag Day and National Flag Week, we honor Old Glory and reflect on the foundations of our freedom. As citizens of this great Nation, we are proud of our heritage, grateful for our liberty, and confident in our future.

To commemorate the adoption of our flag, the Congress, by joint resolution approved August 3, 1949, as amended (63 Stat. 492), designated June 14 of each year as ''Flag Day'' and requested that the President issue an annual proclamation calling for its observance and for the display of the flag of the United States on all Federal Government buildings. The Congress also requested, by joint resolution approved June 9, 1966, as amended (80 Stat. 194), that the President issue annually a proclamation designating the week in which June 14 occurs as ''National Flag Week'' and calling upon all citizens of the United States to display the flag during that week.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, do hereby proclaim June 14, 2007, as Flag Day and the week beginning June 10, 2007, as National Flag Week. I direct the appropriate officials to display the flag on all Federal Government buildings during that week, and I urge all Americans to observe Flag Day and National Flag Week by flying the Stars and Stripes from their homes and other suitable places. I also call upon the people of the United States to observe with pride and all due ceremony those days from Flag Day through Independence Day, also set aside by the Congress (89 Stat. 211), as a time to honor America, to celebrate our heritage in public gatherings and activities, and to publicly recite the Pledge of Allegiance to the Flag of the United States of America.

IN WITNESS WHEREOF, I have hereunto set my hand this fifth day of June, 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. 07–2892
Filed 6–7–07; 10:12 am]
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Cessna; comments due by 6-11-07; published 4-12-07 [FR E7-06826]

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Unified carrier registration plan and agreement fees; comments due by 6-13-07; published 5-29-07 [FR 07-02652]

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Hazardous materials:

Cargo tank motor vehicles, specification cylinders, and pressure receptacles; manufacture, maintenance, and use; comments due by 6-11-07; published 4-12-07 [FR E7-06942]

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Loan guaranty:

Housing loans in default; servicing, liquidating, and claims procedures; comments due by 6-15-07; published 6-1-07 [FR E7-10630]

LIST OF PUBLIC LAWS

This is a continuing list of public bills from the current session of Congress which have become Federal laws. It may be used in conjunction with ''P L U S'' (Public Laws Update Service) on 202–741–6043. This list is also available online at *http://www.archives.gov/federal-register/laws.html*.

The text of laws is not published in the **Federal Register** but may be ordered in ''slip law'' (individual pamphlet) form from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402 (phone, 202–512–1808). The text will also be made available on the Internet from GPO Access at *http://www.gpoaccess.gov/plaws/index.html*. Some laws may not yet be available.

H.R. 414/P.L. 110–29

To designate the facility of the United States Postal Service located at 60 Calle McKinley, West in Mayaguez, Puerto Rico, as the ''Miguel Angel García Méndez Post Office Building''. (June 1, 2007; 121 Stat. 219)

H.R. 437/P.L. 110–30

To designate the facility of the United States Postal Service located at 500 West Eisenhower Street in Rio Grande City, Texas, as the ''Lino Perez, Jr. Post Office''. (June 1, 2007; 121 Stat. 220)

H.R. 625/P.L. 110–31

To designate the facility of the United States Postal Service located at 4230 Maine Avenue in Baldwin Park, California, as the ''Atanacio Haro-Marin Post Office''. (June 1, 2007; 121 Stat. 221)

H.R. 1402/P.L. 110–32

To designate the facility of the United States Postal Service located at 320 South Lecanto Highway in Lecanto, Florida, as the ''Sergeant Dennis J. Flanagan Lecanto Post Office Building''. (June 1, 2007; 121 Stat. 222)

H.R. 2080/P.L. 110–33

To amend the District of Columbia Home Rule Act to conform the District charter to revisions made by the Council of the District of Columbia relating to public education. (June 1, 2007; 121 Stat. 223)

Last List May 31, 2007

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