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

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

21 CFR Part 526

Intramammary Dosage Forms; Cephapirin Sodium

AGENCY: Food and Drug Administration, HHS.

ACTION: Final rule.

SUMMARY: The Food and Drug Administration (FDA) is amending the animal drug regulations to reflect approval of supplemental new animal drug applications (NADAs) filed by Fort Dodge Animal Health, Division of Wyeth. The supplemental NADAs provide for revisions to the labeling of two cephapirin sodium products administered by intramammary infusion to lactating cows for the treatment of mastitis.

DATES: This rule is effective January 17, 2008.

FOR FURTHER INFORMATION CONTACT: Joan C. Gotthardt, Center for Veterinary Medicine (HFV–130), Food and Drug Administration, 7500 Standish Pl., Rockville, MD 20855, 240–276–8342, e-mail: *joan.gotthardt@fda.hhs.gov*.

SUPPLEMENTARY INFORMATION: Fort Dodge Animal Health, Division of Wyeth, 800 Fifth St. NW., Fort Dodge, IA 50501, filed supplements to NADA 97–222 that revise labeling of CEFA-LAK (cephapirin sodium) and TODAY (cephapirin sodium) Intramammary Infusion administered to lactating cows for the treatment of mastitis. The application is approved as of December 20, 2007, and the regulations are amended in 21 CFR 526.365 to reflect the approval and a current format.

Approval of these supplemental NADAs did not require review of additional safety or effectiveness data or information. Therefore, a freedom of information summary is not required.

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

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

List of Subjects in 21 CFR Part 526

Animal drugs.

■ Therefore, under the Federal Food, Drug, and Cosmetic Act and under authority delegated to the Commissioner of Food and Drugs and redelegated to the Center for Veterinary Medicine, 21 CFR part 526 is amended as follows:

PART 526—INTRAMAMMARY DOSAGE FORMS

■ 1. The authority citation for 21 CFR part 526 continues to read as follows:

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

■ 2. In § 526.365, revise the section heading and paragraph (d) to read as follows:

§ 526.365 Cephapirin sodium.

* * * * *

(d) *Conditions of use in lactating cows*—(1) *Amount.* Infuse one dose into each infected quarter immediately after the quarter has been completely milked out. Do not milk out for 12 hours. Repeat once only in 12 hours.

(2) *Indications for use.* For the treatment of mastitis in lactating cows caused by susceptible strains of *Streptococcus agalactiae* and *Staphylococcus aureus* including strains resistant to penicillin.

(3) *Limitations.* If improvement is not noted within 48 hours after treatment, consult your veterinarian. Milk that has been taken from animals during treatment and for 96 hours after the last treatment must not be used for food. Treated animals must not be slaughtered for food until 4 days after the last treatment.

Dated: January 4, 2008.

Bernadette Dunham,

Deputy Director, Center for Veterinary Medicine.

[FR Doc. E8–816 Filed 1–16–08; 8:45 am]

BILLING CODE 4160–01–S

DEPARTMENT OF THE INTERIOR

National Park Service

36 CFR Part 13

RIN 1024–AD38

National Park System Units in Alaska

AGENCY: National Park Service, Interior.

ACTION: Final rule.

SUMMARY: This rule revises the special regulations for the NPS-administered areas in Alaska to update provisions governing subsistence use of timber, river management, ORV use, fishing, and camping. The revision also updates definitions, prohibits pets in certain areas, and establishes wildlife viewing distances in several park areas.

DATES: This rule is effective on February 19, 2008.

FOR FURTHER INFORMATION CONTACT: National Park Service, Victor Knox, Deputy Regional Director, Alaska Regional Office, 240 West 5th Ave., Anchorage, AK 99501. Telephone: (907) 644–3501. E-mail: *akro_regulations@nps.gov*. Fax: (907) 644–3816.

SUPPLEMENTARY INFORMATION:

Background

On December 27, 2006, the NPS published in the **Federal Register** proposed revised special regulations for the NPS-administered areas in Alaska. Each park area in Alaska has a compendium consisting of the compiled designations, closures, openings, permit requirements, and other provisions established by the Superintendent under the discretionary authority granted in 36 CFR 1.5 and elsewhere in regulations. It is the policy of the NPS to review these provisions on a regular basis for possible addition to the general and special park regulations in part 13. The provisions in this final rule are additions or changes to individual park regulations in part 13, subparts H–W. Where these provisions have applicability to several or all Alaska

park areas, they generally are included as additions to part 13, subparts A–F.

Most of the following regulations have resulted from the current review of compendium provisions. Additionally, several changes to the part 13 regulations unrelated to the compendium review are included as indicated. We are consolidating all routine changes in a single rulemaking document for administrative efficiency and the convenience of the public. Comments received and the corresponding NPS response are summarized below. Modifications to the proposed rule are listed under Changes to the Final Rule. As used within this document, the terms ''we,'' ''our,'' and ''us'' refer to the National Park Service.

Summary of Comments

The proposed rule was published for public comment on December 27, 2006 (71 FR 77657), with the comment period lasting until February 26, 2007. The National Park Service received 12 timely written responses. All of the responses were either separate letters or e-mail messages. Of the 12 written responses, one was from the State of Alaska, five were from non-governmental organizations (including one consolidated response from seven signatory groups), and six were submitted by individuals. Many proposed changes either received supporting comments or no comments. These sections are being adopted as proposed unless noted otherwise below. The proposed sections that did receive substantive comments are discussed below.

General Comments

1. The NPS received two comments critical of the public notice provided for the proposed rule. One of the two also objected to the timing of the **Federal Register** notice during the holiday season, and the other said the 60-day comment period was too short.

NPS Response: One of the commenters appears to have confused this rulemaking with another NPS initiative to prepare a users' guide for inholder access. This rulemaking does not change the current rules applicable to inholder access. Concerning the timing of public notice and the length of the comment period, publication in the **Federal Register** with a 60-day comment period is standard. In situations where the standard comment period appears insufficient, it can be extended. However, the number and range of comments received for this rulemaking indicates that the notice and comment period resulted in sufficient public involvement.

Section 13.1 Definitions

2. The NPS received five comments opposing the removal of the definition for the term ''adequate and feasible'' from Part 13.

NPS Response: The commenters opposing the removal of this phrase mistakenly believe that inclusion of the term in Part 13 has a substantive effect regarding access to inholdings in NPS areas. The term ''adequate and feasible'' is no longer used in the NPS Part 13 regulations and, consequently, does not have any effect on managing access to inholdings. The Department of the Interior moved the regulations for access to inholdings from the NPS regulations to Departmental multi-agency regulations at 43 CFR 36.10 in 1986. A slightly revised definition for ''adequate and feasible'' was adopted by the Department at that time as 43 CFR 36.10(a)(1). It is this definition as used in the Departmental regulations that applies to access to inholdings in Alaska park areas. The NPS definition was inadvertently left in Part 13 in 1986 when the other regulations were removed. The current proposal to remove it from Part 13 is a nonsubstantive administrative correction of this omission.

Specific Comments

Section 13.485 Subsistence Use of Timber and Plant Material

3. The NPS received six comments concerning this section. One commenter asserted that use of timber for a house should be a one-time-only authorization. Two commenters, an individual and a corporation, supported the change to allow cutting dead timber for house logs. The individual's support was qualified by a need for NPS management oversight of harvest levels. Three commenters (a single comment plus a joint comment by two individuals) felt that deletion of the word ''live'' in section (a) for cutting timber will create confusion concerning the section (b) allowance for gathering dead timber for firewood without a permit. Also, the joint comment suggested that the word change in section (b) suggests a possible intent to charge a fee or possibly to eliminate subsistence use of timber. As an alternative to deleting ''live'' in section (a), the joint comment proposed deleting ''for firewood'' in section (b) to achieve the same result. Finally, the joint comment urged retention of the definition of ''temporarily'' and suggested that the proposed change in section (c) makes the section less clear and may be a pretext to permanent closure of some areas to subsistence use of timber. A residents' group commented that the proposed change in section (a) to read, ''Unless otherwise provided'', will cause section (b) to supersede section (a), while the proposed deletion of the word ''live'' in section (a) suggests that section (a) is intended to have some application to section (b) gathering of firewood. The group also stated that the proposed changes will cause confusion about the relationship between the general timber gathering provisions of section 13.35 and the proposed changes for subsistence in section 13.485. Finally, the residents' group opposed the broader management discretion proposed for temporary closures in section (c).

NPS Response: The NPS does not agree that the cutting of timber for house logs should be limited to one-time use. Circumstances could arise where additional house logs would be needed. The current NPS timber cutting and gathering regulations and the proposed changes are focused on allowing customary and traditional use with an appropriate level of oversight to protect park unit purposes and values. NPS has no intent to eliminate or charge a fee for subsistence use of timber.

We appreciate the concern regarding the distinction between section (a) timber cutting and section (b) timber gathering. While the suggestion to delete the firewood limitation in section (b) rather than ''live'' in section (a) would achieve some of the same results, we believe the value of maintaining the current distinction between cutting and gathering is a more important consideration.

The comment opposing the deletion of the definition of ''temporarily'' in subsection (c) brought to light an unintended change to this section. The intended change was only to the introductory text of paragraph (c), not to paragraph (c)(1). The definition of ''temporarily'' was not intended to be proposed for change and will be retained.

The NPS does not intend to permanently close areas to subsistence use of timber and plant materials as suggested by several comments. The expanded description of circumstances in which temporary closures might be considered is intended to clarify the parameters of the management options in section (c). Modifying subsection (c) as proposed will allow managers additional flexibility to protect park unit resources while allowing subsistence uses of timber and plant material.

Finally, we note that the proposed change in the introductory sentence of section (a), ''Unless otherwise provided

for in this section'', was intended as an administrative clarification that would not change the meaning of the sentence. It is now apparent, as suggested by several comments, that the proposal would change the meaning of the sentence. For that reason, this change will not be adopted and the original text, ''Notwithstanding any other provision of this part'', will remain unchanged.

Sections 13.1008, 13.1118, 13.1604, and 13.1912 Solid Waste Disposal

4. The NPS received eight comments on this proposed change, seven of which were supportive. One commenter opposed allowing solid waste disposal sites to be located less than a mile from visitor campgrounds, centers, or similar sites. Two commenters requested the NPS clarify that landowners remain free to dispose of solid waste on private lands within the park. The State of Alaska suggested the exceptions be extended to all park units in Alaska.

NPS Response: In many areas in Alaska, it would not be practical or possible to locate sites more than one mile from certain visitor facilities for environmental, economic, or other reasons. Therefore, the NPS is making a limited exception to this provision so long as it would not degrade park resources. Regarding disposal of solid waste on private property, landowners remain free to dispose of solid waste on their own private property within park boundaries in compliance with other State and Federal regulations. The NPS proposed this provision in part to provide an alternative to landowners disposing of waste on their property and combat unlawful dumping on park lands. The regulation was not extended to all park areas in Alaska because it is not anticipated to be necessary in the foreseeable future.

Sections 13.920, 13.1106, and 13.1206 Wildlife Distance Conditions

5. The NPS received four comments on these provisions, of which two were critical. One comment called the conditions difficult to assess and enforce. The other comment recommended a 250-yard limit requirement rather than 50 yards.

NPS Response: The NPS appreciates the comment regarding assessing and enforcing the distance requirements; however, these distance conditions are necessary to mitigate the impacts associated with human activity in close proximity to wildlife while accommodating park visitors in these park areas. With respect to the proposal on engaging in photography within 50 yards of a bear in Katmai, Aniakchak, and Alagnak, the NPS has determined that additional time is needed to consider this proposal and it has therefore been removed from this final rule.

Sections 13.1106 and 13.1310 Pets

6. The NPS received one comment on the pet restrictions in Kenai Fjords and Glacier Bay. While generally supportive, the commenter recommended more areas for closure and, with respect to Kenai Fjords, that the closure be extended to year round.

NPS Response: While the NPS appreciates the support for these provisions, the NPS does not believe further closures are necessary at this point to protect park resources.

Section 13.1109 Off-Road Vehicle Use in Glacier Bay National Preserve

7. The NPS received one comment in support of the proposed regulation.

NPS Response: The NPS appreciates the support. Significant expansion of the trail network and resource impacts have required that ORV use in Glacier Bay National Preserve be limited to designated locations. This restriction complies with the criteria in ANILCA section 205 and implementing regulations at 36 CFR 13.40(c). This regulation applies to individuals using ORVs for commercial fishing as well as for subsistence, recreation, and other purposes.

Section 13.1210 Firearms

8. The NPS received one comment in support of this provision and further stating that firearms should be allowed in all Alaskan parks for personal protection from big game.

NPS Response: The NPS appreciates the support for this provision. Expanding the authorization, however, to carry loaded firearms in the remaining Alaska park areas where it is prohibited is not currently warranted.

Section 13.1304 Harding Icefield Trail

9. The NPS received one comment from the State of Alaska on this provision. The State questioned whether NPS really intended to make the closure year round, whereas the current compendium closure is only applicable in the summer.

NPS Response: The NPS appreciates the comment. This oversight has been corrected.

Section 13.1324 Bicycles

10. The NPS received one comment on bicycle use in Kenai Fjords. One commenter stated that the provision is not necessary because these areas are already closed to bicycle use.

NPS Response: The NPS appreciates the confusion between the applicability of the NPS general regulations and Alaska-specific provisions. For this reason, the NPS is delineating specific areas within the Exit Glacier Developed Area where bicycles are allowed and where they are prohibited.

Section 13.1326 Snowmachines

11. The NPS received one comment on the proposed snowmachine regulation for Kenai Fjords. While the commenter agreed with the end result of the provision, the commenter requested that the NPS clarify that the regulation does not infer that recreational snowmachining is authorized under ANILCA section 1110(a).

NPS Response: We appreciate the confusion between the applicability of the NPS general regulations and NPS regulations specific to Alaska. Nationwide NPS regulations in 36 CFR part 2 prohibit the use of snowmachines except on designated routes and water surfaces that are used by motor vehicles or motorboats during other seasons. The regulations further direct that routes and water surfaces designated for snowmachine use be promulgated as special regulations. In Alaska, snowmachines are also allowed for traditional activities and for travel to and from villages and homesites under ANILCA section 1110(a). This provision does not address whether recreational snowmachining is or is not a traditional activity under section 1110(a) in Kenai Fjords. While recreational use of snowmachines is not a traditional activity in the former Mt. McKinley National Park pursuant to 36 CFR 13.950, this term has not been defined for Kenai Fjords. When other Alaska parks begin the process of identifying traditional activities, the NPS will look to the circumstances specific to each park area. To address public safety concerns and visitor conflicts in the Exit Glacier Developed Area (EGDA), the NPS is delineating specific areas within the EGDA where snowmachines may be operated and where they are prohibited.

Changes to the Final Rule

Based on the preceding comments and responses, the NPS has made the following changes to the proposed rule language:

- *Subpart P, 13.1304 Exit Glacier Developed Area.* For clarity the NPS is reorganizing § 13.1304. This change will make Subpart P easier to use by introducing new sections and eliminating the levels of subdivision in § 13.1304.
- *13.550, 13.604, and 13.1206 Wildlife Distance Conditions.* The NPS

has decided to drop the requirement that individuals cease engaging in photography within 50 yards of a bear. The NPS is still considering this provision for future regulation, but needs more time to evaluate it.

• *13.485 Subsistence Use of Timber and Plant Material.* The proposed language ''Unless otherwise provided'' in paragraphs (a) and (c) has been changed back to ''Notwithstanding any other provision of this part.'' The NPS is also correcting an unintended change to subsection (c)(1). The proposed change was meant to be in the introductory text of paragraph (c) rather than replacing (c)(1).

• *13.1109 Off-Road Vehicle Use in Glacier Bay National Preserve.* The proposed regulation referred to this area as the Dry Bay area. Because this is not a defined term, it has been changed to Glacier Bay National Preserve. This change is not considered substantive as it is intended to refer to the same area, but only in a more exact way.

• *13.1308 Harding Icefield Trail.* The proposed language has been changed to limit the trailside camping closure from March 1 through November 1, consistent with the 2007 compendium.

• *13.1604 Solid Waste Disposal.* Paragraph (c) was changed and paragraph (d) was added to be consistent with section 13.1912 applicable to Wrangell-St. Elias National Park and Preserve.

Compliance With Other Laws

Regulatory Planning and Review (Executive Order 12866)

This document is not a significant rule and has not been reviewed by the Office of Management and Budget under Executive Order 12866.

(1) This rule will not have an effect of $100 million or more on the economy. It will not adversely affect in a material way the economy, productivity, competition, jobs, the environment, public health or safety, or State, local, or tribal governments or communities. A qualitative cost/benefit analysis was conducted to examine specific costs and benefits associated with the proposed rule. That analysis concludes that positive net benefits would be generated by each component of the proposed regulatory action, and hence by the regulatory action overall. Further, governmental processes in NPS-administered areas in Alaska would be improved. Therefore, it is anticipated that economic efficiency would be improved by this proposed regulatory action.

(2) This rule will not create a serious inconsistency or otherwise interfere with an action taken or planned by another agency. This is an agency-specific rule that will not interfere with other agencies or local government plans, policies, or controls. The proposals included with this rulemaking apply to areas managed by the National Park Service and do not conflict with other federal regulations. Several proposals are specifically intended to improve consistency between State and NPS areas. The review process used to develop the rulemaking proposals included consultation with the State of Alaska to seek views of appropriate officials and to provide consistency with state rules on adjacent lands as well as active participation where NPS is proposing variation from similar state regulations.

(3) This rule does not alter the budgetary effects of entitlements, grants, user fees, or loan programs, or the rights and obligations of their recipients. No grants or other forms of monetary supplements are involved.

(4) This rule does not raise novel legal or policy issues. This rule implements existing legislative enactments, judicial interpretations, and regulatory provisions. It is not a completely new proposal, but rather a continuation of the rulemaking process begun in 1980 to promulgate only those regulations necessary to interpret the law and to provide for the health and safety of the public and the environment. This process is intended to increase participation and cooperation in the evolution of NPS regulations for Alaska.

Regulatory Flexibility Act

The Department of the Interior certifies that this rule 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.*). The economic effects of this rule are local in nature and positive or negligible in scope. This rule either implements rules unrelated to business activity or makes permanent various temporary and emergency rules under which area businesses have been operating. This rule will have no effect or in some cases a salutary effect by eliminating year to year uncertainty for park visitors.

A qualitative Regulatory Flexibility threshold analysis was conducted to examine potential impacts to small entities. The analysis concludes that, since no significant costs are anticipated for any component of the rule, significant economic impacts would not be imposed on a substantial number of small entities.

Small Business Regulatory Enforcement Fairness Act

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. Expenses related to compliance with various provisions of this proposed rule are slight. No new user fees or charges are proposed. Any incidental costs from this rule would be small and generally would not be additional to those already associated with visiting park areas.

b. Will not cause a major increase in costs or prices for consumers, individual industries, federal, state, or local government agencies, or geographic regions. The provisions of this rule will generally continue existing rules and use patterns for the park areas in Alaska.

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. The various provisions of this rule do not apply differently to U.S.-based enterprises and foreign-based enterprises.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501, *et seq.*):

a. This rule will not ''significantly or uniquely'' affect small governments. A Small Government Agency Plan is not required. This rule is an agency-specific rule and imposes no other requirements on small governments. Several of the provisions are based on State of Alaska statutes. This consistency between the State of Alaska and the National Park Service is a benefit to visitors.

b. This rule will not produce a Federal mandate of $100 million or greater in any year, i.e., it is not a ''significant regulatory action'' under the Unfunded Mandates Reform Act.

Takings (Executive Order 12630)

In accordance with Executive Order 12630, the rule does not have significant takings implications. A takings implications assessment is not required because no taking of property will occur as a result of this final rule.

Federalism (Executive Order 13132)

In accordance with Executive Order 13132, the rule does not have sufficient federalism implications to warrant the preparation of a Federalism Assessment. The rule is limited in effect to federal lands and waters administered by the NPS and does not have a substantial

direct effect on state and local government in Alaska. The rule was initiated in part at the request of the State of Alaska and was developed in close consultation with the State of Alaska and, as such, promotes the principles of federalism.

Civil Justice Reform (Executive Order 12988)

In accordance with Executive Order 12988, the Office of the Solicitor has determined that this rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order.

Paperwork Reduction Act

This regulation does not require an information collection under the Paperwork Reduction Act.

National Environmental Policy Act

We have analyzed this rule in accordance with the criteria of the National Environmental Policy Act and 516 DM. This rule does not constitute a major Federal action significantly affecting the quality of the human environment. The rule has generally been determined to be categorically excluded from further NEPA analysis in accordance with Departmental Guidelines in 516 DM 6 (49 FR 21438), and NPS procedures in Reference Manual-12.3.4.A(8), and, other than as noted below, there are no applicable exceptions to categorical exclusions (516 DM 2, Appendix 2; RM–12.3.5). A categorical exclusion does not apply to the special regulation (§ 13.1109) designating off-road vehicle routes at Glacier Bay National Preserve, for which an environmental assessment has been prepared. The categorical exclusion and environmental assessment, are available at the Alaska Regional Office, 240 West 5th Avenue, Anchorage, Alaska, 99501, 907–644–3533 or can be viewed at *http://parkplanning.nps.gov/projectHome.cfm?parkId=12&projectId=15909.*

Government-to-Government Relationship With Tribes

In accordance with Executive Order 13175 ''Consultation and Coordination with Indian Tribal Governments'' (65 FR 67249); the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951); the Department of the Interior-Alaska Policy on Government-to-Government Relations with Alaska Native Tribes dated January 18, 2001; part 512 of the Departmental Manual, Chapter 2 ''Departmental Responsibilities for Indian Trust Resources''; and various park consultation agreements with tribal governments, the potential effects on federally-recognized Indian tribes have been evaluated, and it has been determined that there are no potential effects.

While the consultation agreements noted above have not resulted in findings of potential effects, review of this rule has been facilitated by the relationships established through government-to-government consultation.

Drafting Information: The principal contributors to this rule are: Jim Ireland, Kenai Fjords National Park; Vic Knox, Jay Liggett, Chuck Passek, Jane Hendrick, Andee Sears and Paul Hunter, Alaska Regional Office; and Jerry Case, Regulations Program Manager, NPS, Washington, DC.

List of Subjects in 36 CFR Part 13

Alaska, National Parks, Reporting and recordkeeping requirements.

■ In consideration of the foregoing, 36 CFR part 13 is amended as set forth below:

PART 13—NATIONAL PARK SYSTEM UNITS IN ALASKA

■ 1. The authority citation for part 13 is revised to read as follows:

Authority: 16 U.S.C. 1, 3, 462(k), 3101, *et seq.*; Subpart N also issued under 16 U.S.C. 1a–2(h), 20, 1361, 1531, 3197; Pub. L. 105–277, 112 Stat. 2681–259, October 21, 1998; Pub. L. 106–31, 113 Stat. 72, May 21, 1999; Sec. 13.1204 also issued under Sec. 1035, Pub. L. 104–333, 110 Stat. 4240.

§ 13.1 [Amended]

■ 2. Amend § 13.1 as follows:

■ a. Remove the definition of ''adequate and feasible access''; and

■ b. In the definition of ''National Preserve,'' remove the term ''Alagnak National Wild and Scenic River'' and add in its place the term ''Alagnak Wild River.''

§ 13.440 [Amended]

■ 3. Amend § 13.440 by removing paragraph (b) and redesignate paragraph (c) as (b).

■ 4. Amend § 13.485 by revising paragraph (a) and the introductory text of paragraph (c), to read as follows:

§ 13.485 Subsistence use of timber and plant material

(a) Notwithstanding any other provision of this part, the non-commercial cutting of standing timber by local rural residents for appropriate subsistence uses, such as firewood or house logs, may be permitted in park areas where subsistence uses are allowed as follows:

(1) For standing timber of diameter greater than three inches at ground height, the Superintendent may permit cutting in accordance with the specifications of a permit if such cutting is determined to be compatible with the purposes for which the park area was established; and

(2) For standing timber of diameter less than three inches at ground height, cutting is authorized unless restricted by the Superintendent.

* * * * *

(c) Notwithstanding any other provision of this part, the Superintendent, after notice and public hearing in the affected vicinity and other locations as appropriate, may temporarily close all or any portion of a park area to subsistence uses of a particular plant population. The Superintendent may make a closure under this paragraph only if necessary for reasons of public safety, administration, resource protection, protection of historic or scientific values, conservation of endangered or threatened species, or the purposes for which the park area was established, or to ensure the continued viability of the plant population. For purposes of this section, the term ''temporarily'' shall mean only so long as reasonably necessary to achieve the purposes of the closure.

* * * * *

■ 5. Add a new subpart H (consisting of § 13.550) to read as follows:

Subpart H—Special Regulations—Alagnak Wild River

§ 13.550 Wildlife distance conditions

(a) Approaching a bear or any large mammal within 50 yards is prohibited.

(b) Continuing to occupy a position within 50 yards of a bear that is using a concentrated food source, including, but not limited to, animal carcasses, spawning salmon, and other feeding areas is prohibited.

(c) Continuing to engage in fishing within 50 yards of a bear is prohibited.

(d) The prohibitions in this section do not apply to persons—

(1) Engaged in a legal hunt;

(2) On a designated bear viewing structure;

(3) In compliance with a written protocol approved by the Superintendent; or

(4) Who are otherwise directed by a park employee.

■ 6. Amend § 13.604 by redesignating paragraph (c) as paragraph (d) and adding new paragraph (c) to read as follows:

§ 13.604 Wildlife distance conditions

* * * * *

(c) Continuing to engage in fishing within 50 yards of a bear is prohibited.

* * * * *

■ 7. Add §§ 13.918 and 13.920 in subpart L to read as follows:

§ 13.918 Sable Pass Wildlife Viewing Area

(a) Entry into the Sable Pass Wildlife Viewing Area is prohibited from May 1 to September 30 unless authorized by the Superintendent.

(b) The Sable Pass Wildlife Viewing Area means the area within one mile of the shoulder of the Park Road between Mile 38.2 and Mile 42.8, excluding the Tattler Creek drainage. A map showing the specific boundaries of the closure is available for inspection at the park visitor center.

§ 13.920 Wildlife distance conditions

(a) *Bears.* The following are prohibited:

(1) Approaching within 300 yards of a bear; or

(2) Engaging in photography within 300 yards of a bear.

(b) *Other wildlife.* The following are prohibited:

(1) Approaching within 25 yards of a moose, caribou, Dall sheep, wolf, an active raptor nest, or occupied den site; or

(2) Engaging in photography within 25 yards of a moose, caribou, Dall sheep, wolf, an active raptor nest, or occupied den site.

(c) *Prohibitions.* The prohibitions in this section do not apply to persons—

(1) Within a motor vehicle or a hard sided building;

(2) Within 2 yards of their motor vehicle or entrance to a hard sided building that is 25 yards or more from a bear;

(3) Engaged in legal hunting or trapping activities;

(4) In compliance with a written protocol approved by the Superintendent;

(5) Who are otherwise directed by a park employee; or

(6) In accordance with a permit from the Superintendent.

■ 8. Add § 13.1008 in subpart M to read as follows:

§ 13.1008 Solid waste disposal.

(a) A solid waste disposal site may accept non-National Park Service solid waste generated within the boundaries of the park area.

(b) A solid waste disposal site may be located within one mile of facilities as defined by this part so long as it does not degrade natural or cultural resources of the park area.

■ 9. Add § 13.1106 to read as follows:

§ 13.1106 Pets.

Pets are prohibited except—

(a) On the Bartlett Cove Public Use Dock;

(b) On the beach between the Bartlett Cove Public Use Dock and the National Park Service Administrative Dock;

(c) Within 100 feet of Bartlett Cove Developed Area park roads or parking areas unless otherwise posted;

(d) On a vessel on the water; or

(e) Within Glacier Bay National Preserve.

■ 10. Add § 13.1108 to read as follows:

§ 13.1108 Alsek Corridor.

(a) A permit is required to enter the Alsek Corridor. A map showing the boundaries of the Alsek Corridor is available from the park visitor center. Failure to obtain a permit is prohibited.

(b) Group size is limited to 15 persons except that specific concession permit holders are limited to 25 persons.

(c) Camping is prohibited for more than one night each at Walker Glacier, Alsek Spit and Gateway Knob plus one additional night at any one of these three locations. Camping is prohibited for more than four nights total among the three locations.

(d) Except at Glacier Bay National Preserve, campfires must be lighted and maintained inside a fire pan within ½ mile of the Alsek River.

(e) Disposal of solid human body waste within the Alsek Corridor is prohibited. This waste must be carried to and disposed of at the NPS—designated facility.

■ 11. Add § 13.1109 to read as follows:

§ 13.1109 Off-road vehicle use in Glacier Bay National Preserve.

The use of off-road vehicles is authorized only on designated routes and areas in Glacier Bay National Preserve. The use of off-road vehicles in all other areas in Glacier Bay National Preserve is prohibited. A map of designated routes and areas is available at park headquarters.

■ 12. Add § 13.1118 to read as follows:

§ 13.1118 Solid waste disposal.

(a) A solid waste disposal site may accept non-National Park Service solid waste generated within the boundaries of the park area.

(b) A solid waste disposal site may be located within one mile of facilities as defined by this part so long as it does not degrade natural or cultural resources of the park area.

■ 13. Amend § 13.1206 by redesignating paragraph (c) as paragraph (d) and adding a new paragraph (c) to read as follows:

§ 13.1206 Wildlife distance conditions.

(c) Continuing to engage in fishing within 50 yards of a bear is prohibited.

* * * * *

■ 14. Add § 13.1210 to read as follows:

§ 13.1210 Firearms.

The superintendent may designate areas or routes within Katmai National Park where a firearm may be carried.

* * * * *

■ 15. Revise subpart P to read as follows:

Subpart P—Special Regulations—Kenai Fjords National Park

General Provisions

Sec.

13.1302 Subsistence.
13.1304 Ice fall hazard zones.
13.1306 Public use cabins.
13.1308 Harding Icefield Trail.
13.1310 Pets.
13.1312 Climbing and walking on Exit Glacier.
13.1316 Commercial transport of passengers by motor vehicles.

Exit Glacier Development Area (EGDA)

13.1318 Location of the EGDA.
13.1320 Camping.
13.1322 Food storage.
13.1324 Bicycles.
13.1326 Snowmachines.
13.1328 EGDA closures and restrictions.

General Provisions

§ 13.1302 Subsistence.

Subsistence uses are prohibited in, and the provisions of Subpart F of this part shall not apply to, Kenai Fjords National Park.

§ 13.1304 Ice fall hazard zones.

Entering an ice fall hazard zone is prohibited. These zones will be designated with signs, fences, rope barriers, or similar devices.

§ 13.1306 Public use cabins.

(a) Camping within 500 feet of the North Arm or Holgate public use cabin is prohibited except by the cabin permit holder on a designated tent site, or as otherwise authorized by the Superintendent.

(b) Camping within the 5-acre NPS-leased parcel surrounding the Aialik public use cabin is prohibited except by the cabin permit holder on a designated tent site, or as otherwise authorized by the Superintendent.

(c) Lighting or maintaining a fire within 500 feet of the North Arm or Holgate public use cabins is prohibited except by the cabin permit holder in NPS established receptacles, or as otherwise authorized by the Superintendent.

§ 13.1308 Harding Icefield Trail.

The Harding Icefield Trail from the junction with the main paved trail near Exit Glacier to the emergency hut near the terminus is closed to—

(a) Camping within ⅛ mile of the trail from March 1 through November 1; and

(b) Bicycles or other wheeled devices.

§ 13.1310 Pets.

(a) Pets are prohibited—

(1) In the Exit Glacier Developed Area except in the parking lot, on the Exit Glacier road, or other areas designated by the superintendent;

(2) Along the coast within the area extending from the mean high tide line to one quarter mile inland after May 30 and before November 1.

(b) The restrictions in this section do not apply to dogs when sufficient snow exists for skiing or dog sled use and the dogs are restrained as part of a sled dog team or for the purposes of skijoring.

§ 13.1312 Climbing and walking on Exit Glacier.

Except for areas designated by the Superintendent, climbing or walking on, in, or under Exit Glacier is prohibited within ½ mile of the glacial terminus from May 1 through October 31, and during other periods as determined by the Superintendent. Restrictions and exceptions will be available for inspection at the park visitor center, on bulletin boards or signs, or by other appropriate means.

§ 13.1316 Commercial transport of passengers by motor vehicles.

Commercial transport of passengers by motor vehicles on Exit Glacier Road is allowed without a written permit. However, if required to protect public health and safety or park resources, or to provide for the equitable use of park facilities, the Superintendent may establish a permit requirement with appropriate terms and conditions for the transport of passengers. Failure to comply with permit terms and conditions is prohibited.

Exit Glacier Developed Area (EGDA)

§ 13.1318 Location of the EGDA.

(a) A map showing the boundaries of the EGDA is available at the park visitor center.

(b) For the purpose of this subpart, the EGDA means:

(1) From the park boundary to Exit Glacier Campground Entrance Road, all park areas within 350 meters (383 yards) of the centerline of the Exit Glacier Road;

(2) From Exit Glacier Campground Entrance Road to the end of the main paved trail, all park areas within 500 meters (546 yards) of any paved surface; or

(3) All park areas within 300 meters (328 yards) of the terminus of Exit Glacier.

§ 13.1320 Camping.

Within the EGDA, camping is prohibited except in designated sites within the Exit Glacier Campground, or as authorized by the Superintendent.

§ 13.1322 Food storage.

Cooking, consuming, storing or preparing food in the Exit Glacier Campground is prohibited except in designated areas.

§ 13.1324 Bicycles.

Within the EGDA, the use of a bicycle is prohibited except on the Exit Glacier Road and parking areas.

§ 13.1326 Snowmachines.

The use of snowmachines is prohibited within the EGDA, except—

(a) On Exit Glacier Road;

(b) In parking areas;

(c) On a designated route through the Exit Glacier Campground to Exit Creek;

(d) Within Exit Creek; and

(e) For NPS administrative activities.

§ 13.1328 EGDA closures and restrictions.

The Superintendent may prohibit or otherwise restrict activities in the EGDA to protect public health, safety, or park resources, or to provide for the equitable and orderly use of park facilities. Information on closures and restrictions will be available at the park visitor information center. Violating closures or restrictions is prohibited.

Subpart S—[Amended]

■ 16. Add § 13.1604 to subpart S to read as follows:

§ 13.1604 Solid waste disposal.

(a) A solid waste disposal site may accept non-National Park Service solid waste generated within the boundaries of the park area.

(b) A solid waste disposal site may be located within one mile of facilities as defined by this part so long as it does not degrade natural or cultural resources of the park area.

(c) A transfer station located wholly on nonfederal lands within Lake Clark National Park and Preserve may be operated without the permit required by §§ 6.4(b) and 6.9(a) only if:

(1) The solid waste is generated within the boundaries of the park area;

(2) The Regional Director determines that the operation will not degrade any of the natural or cultural resources of the park area; and

(3) The transfer station complies with the provisions of part 6 of this chapter.

(d) For purposes of this section, a transfer station means a public use facility for the deposit and temporary storage of solid waste, excluding a facility for the storage of a regulated hazardous waste.

Subpart V—[Amended]

■ 17. Add § 13.1912 to subpart V to read as follows:

§ 13.1912 Solid waste disposal.

(a) A solid waste disposal site may accept non-National Park Service solid waste generated within the boundaries of the park area.

(b) A solid waste disposal site may be located within one mile of facilities as defined by this part so long as it does not degrade natural or cultural resources of the park area.

(c) A transfer station located wholly on nonfederal lands within Wrangell-St. Elias National Park and Preserve may be operated without the permit required by §§ 6.4(b) and 6.9(a) only if:

(1) The solid waste is generated within the boundaries of the park area;

(2) The Regional Director determines that the operation will not degrade any of the natural or cultural resources of the park area; and

(3) The transfer station complies with the provisions of part 6 of this chapter.

(d) For purposes of this section, a transfer station means a public use facility for the deposit and temporary storage of solid waste, excluding a facility for the storage of a regulated hazardous waste.

Dated: December 17, 2007.

Lyle Laverty,

Assistant Secretary, Fish and Wildlife and Parks.

[FR Doc. E8–748 Filed 1–16–08; 8:45 am]

BILLING CODE 4310–EF–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2007–0644; FRL–8516–9]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Revisions to Stage II Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Maryland State Implementation Plan

(SIP). The revisions will allow the Maryland Department of the Environment to utilize inspections of Stage I and Stage II systems by a certified inspector. EPA is approving these revisions to the Maryland SIP in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on March 17, 2008 without further notice, unless EPA receives adverse written comment by February 19, 2008. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2007–0644 by one of the following methods:

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

B. *E-mail: fernandez.cristina@epa.gov.*

C. *Mail:* EPA–R03–OAR–2007–0644, Cristina Fernandez, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

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

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2007–0644. 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 electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, *i.e.*, CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland 21230.

FOR FURTHER INFORMATION CONTACT: Catherine L. Magliocchetti, (215) 814–2174, or by e-mail at *magliocchetti.catherine@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information is arranged as follows:

I. What Action Is EPA Taking Today?
II. Why Is EPA Taking This Action?
III. How Did EPA Review the Commonwealth's Submittal?
IV. What Final Action Is EPA Taking Today?
V. Statutory and Executive Order Reviews

I. What Action Is EPA Taking Today?

EPA is approving revisions to the Maryland State Implementation Plan (SIP), which were submitted by the Maryland Department of the Environment (MDE). These changes, which include amendments to Regulation .01 and new Regulation .05–1 under COMAR 26.11.24 Stage II Vapor Recovery at Gasoline Dispensing Facilities amend Maryland's existing Stage II regulatory requirements. Specifically, the amendments and additions will allow MDE to utilize inspections of Stage I and Stage II systems by a certified inspector under COMAR 26.10.03.10. During one calendar year, approximately one-third of those stations required to be inspected would be inspected by certified inspectors. Based upon the inspections reports, MDE will be able to better target state-conducted inspections.

II. Why Is EPA Taking This Action?

MDE revised its Stage II requirements in order to enhance its inspection efficiency. EPA is approving these revisions as necessary for attainment and maintenance of the ozone standard in the State of Maryland.

III. How Did EPA Review the State's Submittal?

Maryland's SIP revisions (#07–02) were submitted by MDE on February 15, 2007. EPA evaluated MDE's revised Stage II requirements to verify that the revisions were consistent with the previously approved Stage II regulations for the State and met the requirements found in EPA's Stage II enforcement and technical documentation. The revisions were also reviewed for compliance with the CAA.

IV. What Final Action Is EPA Taking Today?

EPA is approving a SIP revision request submitted by MDE that allows for use of third party inspectors of Stage I and Stage II systems.

We are publishing this rule without prior proposal because the Agency views this as a non-controversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on March 17, 2008 without further notice unless EPA receives adverse comment by February 19, 2008. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

V. Statutory and Executive Order Reviews

A. General Requirements

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

Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. 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 CAA. 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 CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by *March 17, 2008.* 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 revisions to Maryland's Stage II regulations, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: January 8, 2008.

Donald S. Welsh,

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 V—Maryland

■ 2. In § 52.1070, the table in paragraph (c) is amended by revising the entry for COMAR 26.11.24.01 and adding an entry for COMARS 26.11.24.05–1 to read as follows:

§ 52.1070 Identification of plan.

* * * * *

(c) * * *

EPA-APPROVED REGULATIONS IN THE MARYLAND SIP

Code of Maryland administrative regulations (COMAR) citation	Title/subject	State effective date	EPA approval date	Additional explanation/citation at 40 CFR 52.1100
*	*	*	*	*
26.11.24	Stage II vapor recovery at gasoline dispensing facilities			
26.11.24.01	Definitions	1/29/07	1/17/08 [Insert page number where the document begins].	Addition of ''Certified Inspector'' and ''Vapor Recovery System.''
*	*	*	*	*
26.11.24.05–1	Inspections by a Certified Inspector.	1/29/07	1/17/08 [Insert page number where the document begins].	
*	*	*	*	*

* * * * *

[FR Doc. E8–579 Filed 1–16–08; 8:45 am]
BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2006–1011; FRL–8517–2]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revisions to Stage II Requirements in Allegheny County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is approving revisions to the Commonwealth of Pennsylvania State Implementation Plan which were submitted on November 21, 2006 by the Pennsylvania Department of Environmental Protection (PADEP). These revisions modify and clarify the existing regulatory requirements for the control of volatile organic compounds from gasoline dispensing facilities in Allegheny County. The revisions modify the compliance dates and make other minor technical amendments to the efficiency and compliance testing portions of the Stage II regulations in Allegheny County. EPA is approving these revisions to the Commonwealth of Pennsylvania's State Implementation Plan in accordance with the requirements of the Clean Air Act (CAA).

DATES: This rule is effective on March 17, 2008 without further notice, unless EPA receives adverse written comment by February 19, 2008. If EPA receives such comments, it will publish a timely withdrawal of the direct final rule in the **Federal Register** and inform the public that the rule will not take effect.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2006–1011 by one of the following methods:

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

B. *E-mail: fernandez.cristina@epa.gov*

C. *Mail:* EPA–R03–OAR–2006–1011, Cristina Fernandez, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

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

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2006–1011. 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 electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105; and the Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201.

FOR FURTHER INFORMATION CONTACT: Catherine L. Magliocchetti, (215) 814–2174, or by e-mail at *magliocchetti.catherine@epa.gov.*

SUPPLEMENTARY INFORMATION: Throughout this document, whenever ''we,'' ''us,'' or ''our'' is used, we mean EPA. This supplementary information is arranged as follows:

I. What Action Is EPA Taking Today?
II. Why Is EPA Taking This Action?
III. How Did EPA Review the Commonwealth's Submittal?
IV. What Final Action is EPA Taking Today?
V. Statutory and Executive Order Reviews

I. What Action Is EPA Taking Today?

EPA is approving revisions to the Commonwealth of Pennsylvania State Implementation Plan (SIP), which were submitted on November 21, 2006 by PADEP. These changes to Allegheny County's Article XXI Air Pollution Control Rules and Regulations amend the existing Stage II regulatory requirements to conform with 25 PA Code, Chapter 129, Standards for Sources, section 129.82, Control of volatile organic compounds (VOCs) from gasoline dispensing facilities. Specifically, the revisions incorporate revised compliance dates for Allegheny County, and make other minor technical amendments. The revised Stage II compliance dates are all now in the past, so gasoline dispensing facilities with throughputs greater than 10,000 gallons per month are subject to these regulations. In the case of independent small business marketers, as defined in Section 324 of the CAA, the regulation does not apply if the throughput is less than 50,000 gallons per month. Allegheny County has also revised its regulations to establish functional testing and certification requirements, as well as recordkeeping requirements consistent with EPA's regulations. The regulation also establishes a 95% efficiency for Stage II vapor recovery systems in Allegheny County, consistent with EPA requirements.

II. Why Is EPA Taking This Action?

EPA is approving these SIP revisions to the Commonwealth of Pennsylvania SIP. The Allegheny County Health Department (ACHD) revised its Stage II VOC control requirements in order to follow revisions to Stage II requirements that were made at the State level. EPA is approving these revisions as necessary for attainment and maintenance of the ozone standard in Southwest Pennsylvania.

III. How Did EPA Review the Commonwealth's Submittal?

The Commonwealth of Pennsylvania's SIP revisions were submitted by the Pennsylvania Department of Environmental Protection (PADEP) on November 21, 2006. EPA evaluated the Commonwealth's revised Stage II requirements for Allegheny County to verify that the revisions were consistent with the previously approved Stage II regulations for the Commonwealth and met the requirements found in EPA's Stage II enforcement and technical documentation. The revisions were also reviewed for compliance with the CAA.

IV. What Final Action Is EPA Taking Today?

EPA is approving a SIP revision request submitted by PADEP that makes compliance schedule changes and minor technical amendments to Allegheny County's Article XXI Air Pollution Control Rules and Regulations amending the existing Stage II regulatory requirements, controlling the emission of VOCs from gasoline dispensing facilities.

We are publishing this rule without prior proposal because the Agency views this as a non-controversial amendment and anticipates no adverse comment. However, in the ''Proposed Rules'' section of today's **Federal Register**, EPA is publishing a separate document that will serve as the proposal to approve the SIP revision if adverse comments are filed. This rule will be effective on March 17, 2008 without further notice unless EPA receives adverse comment by February 19, 2008. If EPA receives adverse comment, EPA will publish a timely withdrawal in the **Federal Register** informing the public that the rule will not take effect. EPA will address all public comments in a subsequent final rule based on the proposed rule. EPA will not institute a second comment period on this action. Any parties interested in commenting must do so at this time.

V. Statutory and Executive Order Reviews

A. General Requirements

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 *et seq.*). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4). This rule also does not have tribal implications because it will not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, as specified by Executive Order 13175 (65 FR 67249, November 9, 2000). This action also does not have Federalism implications because it does not have substantial direct effects on the States, on the relationship between the national government and the States, or on the distribution of power and responsibilities among the various levels of government, as specified in Executive Order 13132 (64 FR 43255, August 10, 1999). This action merely approves a state rule implementing a Federal requirement, and does not alter the relationship or the distribution of power and responsibilities established in the CAA. 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 CAA. 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 CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501 *et seq.*).

B. Submission to Congress and the Comptroller General

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

C. Petitions for Judicial Review

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by *March 17, 2008*. 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 revisions to Allegheny County's Stage II regulations, may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Ozone, Reporting and recordkeeping requirements, Volatile organic compounds.

Dated: January 8, 2008.

Donald S. Welsh,

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 (c)(2) is amended by revising the entry for Article XXI, Section 2105.14 to read as follows:

§ 52.2020 Identification of plan.

* * * * *

(c) * * *

(2) * * *

Article XX or XXI citation	Title/subject	State effective date	EPA approval date	Additional explanation/ § 52.2063 citation
*	*	*	*	*
Part E—Source Emission and Operating Standards				
*	*	*	*	*
Subpart 1—VOC Sources				
*	*	*	*	*
2105.14	Gasoline Dispensing Facilities—Stage II Control.	7/10/05	1/17/08 *[Insert page number where the document begins].*	
*	*	*	*	*

* * * * *

[FR Doc. E8–583 Filed 1–16–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2007–1075; FRL–8506–2]

Revisions to the California State Implementation Plan, Kern County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Direct final rule.

SUMMARY: EPA is taking direct final action to approve revisions to the Kern County Air Pollution Control District (KCAPCD) portion of the California State Implementation Plan (SIP). These revisions concern particulate matter (PM–10) emissions from ambient dust, propellant testing, and rocket testing. We are approving local rules under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: This rule is effective on March 17, 2008 without further notice, unless EPA receives adverse comments by February 19, 2008. If we receive such comments, we will publish a timely withdrawal in the **Federal Register** to notify the public that this direct final rule will not take effect.

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2007–1075, by one of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov*. Follow the on-line instructions.
- *E-mail: steckel.andrew@epa.gov*.
- *Mail or deliver:* Andrew Steckel (Air-4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

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: Al Petersen, EPA Region IX, (415) 947–4118, *petersen.alfred@epa.gov*.

SUPPLEMENTARY INFORMATION: Throughout this document, ''we,'' ''us'' and ''our'' refer to EPA.

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I. The State's Submittal

A. What rules did the State submit?

Table 1 lists the rules we are approving with the dates that the rules were adopted or amended by the local air agency and submitted by the California Air Resources Board (CARB).

TABLE 1.—SUBMITTED RULES

Local agency	Rule #	Rule title	Amended	Submitted
KCAPCD	404.1	Particulate Matter Concentration	01/24/07	08/24/07
KCAPCD	431	Propellant Combustion and Rocket Testing	03/08/07	08/24/07

On September 17, 2007, the submittal of KCAPCD Rules 404.1 and 431 was determined to meet the completeness criteria in 40 CFR part 51 appendix V, which must be met before formal EPA review.

B. Are there other versions of these rules?

A version of KCAPCD Rule 404.1 was approved into the SIP on September 22, 1972, 37 FR 19812). There are no versions of Rule 431 in the SIP.

C. What are the purposes of the new rule and rule revisions?

Section 110(a) of the Clean Air Act (CAA) requires states to submit regulations that control volatile organic compounds, nitrogen oxides, particulate matter, and other air pollutants which harm human health and the environment. These rules were developed as part of local air districts' programs to control these pollutants.

The purposes of the submitted KCAPCD Rule 404.1 revisions relative to the SIP rule are as follows:

- 404.1.II: Exemptions are added to the rule for (a) equipment that combusts only liquid fuels, gaseous fuels, or waste gases and only emits combustion contaminants, (b) rocket test stand operation with less than 75 pounds of propellant, and (c) fires set in accordance with Rule 416.
- 404.1.III: The particulate emission standard for existing sources is deleted and the standard for new sources of 0.1 grains per cubic foot is extended to include all sources.
- 404.1.IV: Test methods are added to the rule.

The purposes of new KCAPCD Rule 431 are as follows:

- 431.I,II: The rule applicability and definitions are provided.
- 431.III: Exemptions to the rule are provided for (a) rocket test stand operation with less than 75 pounds of propellant, (b) emergency disposal by a qualified bomb squad, (c) combustion for fire training, (d) rocket propulsion systems that do not require propellant, and (e) rocket propellants composed primarily of liquid fuels.
- 431.IV: A rocket test plan is required for the combustion of rocket propellants at a permitted test stand unless (a) a rocket motor contains less than 500 pounds of propellant or a rocket engine contains less than 1000 pounds of propellant and (b) CARB has designated the day of the test a permissible burn day.
- 431.V: The requirements are provided for a test plan that include a toxic risk analysis and identification of those meteorological conditions under which propellant testing will cause insignificant risk to the nearest receptor.
- 431.VI,VII: The recordkeeping requirements and compliance schedule are provided.

EPA's technical support document (TSD) has more information about these rules.

II. EPA's Evaluation and Action

A. How is EPA evaluating the rules?

Generally, SIP rules must be enforceable (see section 110(a) of the CAA) and must not relax existing requirements (see sections 110(l) and 193). SIP rules in moderate PM–10 nonattainment areas must require for significant sources reasonably available control measures (RACM), including reasonably available control technology (RACT) (see section 189(b)). KCAPCD regulates a PM–10 attainment area (see 40 CFR part 81), so KCAPCD Rules 404.1 and 431 need not fulfill the requirements of RACM/RACT.

Guidance and policy documents that we used to help evaluate rules consistently include the following:

- *Requirements for Preparation, Adoption, and Submittal of Implementation Plans,* U.S. EPA, 40 CFR part 51.
- *PM–10 Guideline Document* (EPA–452/R–93–008).

B. Do the rules meet the evaluation criteria?

We believe that KCAPCD Rules 404.1 and 431 are consistent with the relevant policy and guidance regarding enforceability, RACM/RACT, and SIP relaxations and should be given full approval. The TSD has more information on our evaluation.

C. Public Comment and Final Action

As authorized in section 110(k)(3) of the CAA, EPA is fully approving the submitted rules because we believe they fulfill all relevant requirements. We do not think anyone will object to this approval, so we are finalizing it without proposing it in advance. However, in the Proposed Rules section of this **Federal Register**, we are simultaneously proposing approval of the same submitted rule. If we receive adverse comments by February 19, 2008, we will publish a timely withdrawal in the **Federal Register** to notify the public that the direct final approval will not take effect and we will address the comments in a subsequent final action based on the proposal. If we do not receive timely adverse comments, the direct final approval will be effective without further notice on March 17, 2008. This will incorporate the rule into the federally enforceable SIP.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

III. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves state law as meeting Federal requirements and imposes no additional requirements beyond those imposed by state law. Accordingly, the Administrator certifies that this rule will not have a significant economic impact on a substantial number of small entities under the Regulatory Flexibility Act (5 U.S.C. 601 et seq.). Because this rule approves pre-existing requirements under state law and does not impose any additional enforceable duty beyond that required by state law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

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

because it 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.*).

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

Under section 307(b)(1) of the Clean Air Act, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by *March 17, 2008*. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in 40 CFR Part 52

Environmental protection, Air pollution control, Incorporation by reference, Intergovernmental relations, Particulate matter, Reporting and recordkeeping requirements.

Dated: November 23, 2007.

Alexis Strauss,

Acting Regional Administrator, Region IX.

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

PART 52—[AMENDED]

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

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

Subpart F—California

■ 2. Section 52.220 is amended by adding paragraph (c)(351)(i)(D) to read as follows:

§ 52.220 Identification of plan.

* * * * *

(c) * * *

(351) * * *

(i) * * *

(D) Kern County Air Pollution Control District.

(*1*) Rule 404.1, adopted on April 18, 1972 and amended on January 24, 2007.

(*i*) Resolution No. *2007–001–01*, Reference No. *Item 5*, Adoption of Amendments to Rules and Regulations of the Kern County Air Pollution Control District; to Wit: Rule 404.1.

(*2*) Rule 431, adopted on January 24, 2007 and amended on March 8, 2007.

(*i*) Resolution No. *2007–003–03*, Reference No. *Item 3*, Amendments to Rules and Regulations of the Kern County Air Pollution Control District; To Wit: Rule 431 (Propellant Combustion and Rocket Testing).

* * * * *

[FR Doc. E8–161 Filed 1–16–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 62

[EPA–R07–OAR–2007–0943; FRL–8517–7]

Approval and Promulgation of State Plans for Designated Facilities and Pollutants; Missouri; Clean Air Mercury Rule

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final rule.

SUMMARY: EPA is taking final action to approve the State Plan submitted by Missouri on May 18, 2007, and revisions submitted on September 6, 2007. The plan addresses the requirements of EPA's Clean Air Mercury Rule (CAMR), promulgated on May 18, 2005, and subsequently revised on June 9, 2006. EPA has determined that the submitted State Plan fully meets the CAMR requirements for Missouri.

CAMR requires States to regulate emissions of mercury (Hg) from large coal-fired electric generating units (EGUs). CAMR establishes State budgets for annual EGU Hg emissions and requires States to submit State Plans to ensure that annual EGU Hg emissions will not exceed the applicable State budget. States have the flexibility to choose which control measures to adopt to achieve the budgets, including participating in the EPA-administered CAMR cap-and-trade program. In the State Plan that EPA is approving today, Missouri has met the CAMR requirements by electing to participate in the EPA trading program.

DATES: This rule is effective on February 19, 2008.

ADDRESSES: EPA has established a docket for this action under Docket ID No. EPA–R07–OAR–2007–0943. All documents in the docket are listed on the *http://www.regulations.gov* Web site. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically through *http://www.regulations.gov* or in hard copy at the Environmental Protection Agency, Air Planning and Development Branch, 901 North 5th Street, Kansas City, Kansas 66101. The Regional Office's official hours of business are Monday through Friday, 8 to 4:30 excluding Federal holidays. The interested persons wanting to examine these documents should make an appointment with the office at least 24 hours in advance.

FOR FURTHER INFORMATION CONTACT: Michael Jay at (913) 551–7460 or by e-mail at *jay.michael@epa.gov*.

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I. What Action Is EPA Taking?

EPA is taking final action to approve Missouri's State Plan, submitted on May

18, 2007, and revisions submitted on September 6, 2007. In its State Plan, Missouri has met CAMR by requiring certain coal-fired EGUs to participate in the EPA-administered cap-and-trade program addressing Hg emissions. EPA proposed to approve Missouri's request to amend the State's Plan on September 27, 2007 (72 FR 54872). No comments were received. EPA is finalizing the approval as proposed based on the rationale stated in the proposal and in this final action.

II. What Is the Regulatory History of CAMR?

CAMR was published by EPA on May 18, 2005 (70 FR 28606, ''Standards of Performance for New and Existing Stationary Sources: Electric Utility Steam Generating Units; Final Rule''). In this rule, acting pursuant to its authority under section 111(d) of the Clean Air Act (CAA), 42 U.S.C. 7411(d), EPA required that all States and the District of Columbia (all of which are referred to herein as States) meet Statewide annual budgets limiting Hg emissions from coal-fired EGUs (as defined in 40 CFR 60.24(h)(8)) under CAA section 111(d). EPA required all States to submit State Plans with control measures that ensure that total, annual Hg emissions from the coal-fired EGUs located in the respective States do not exceed the applicable statewide annual EGU mercury budget. Under CAMR, States may implement and enforce these reduction requirements by participating in the EPA-administered cap-and-trade program or by adopting any other effective and enforceable control measures.

CAA section 111(d) requires States, and along with CAA section 301(d) and the Tribal Air Rule (40 CFR part 49) allows Tribes granted treatment as States (TAS), to submit State Plans to EPA that implement and enforce the standards of performance. CAMR explains what must be included in State Plans to address the requirements of CAA section 111(d). The State Plans were due to EPA by November 17, 2006. Under 40 CFR 60.27(b), the Administrator will approve or disapprove the State Plans.

III. What Are the General Requirements of CAMR State Plans?

CAMR establishes Statewide annual EGU Hg emission budgets and is to be implemented in two phases. The first phase of reductions starts in 2010 and continues through 2017. The second phase of reductions starts in 2018 and continues thereafter. CAMR requires States to implement the budgets by either: (1) Requiring coal-fired EGUs to participate in the EPA-administered cap-and-trade program; or (2) adopting other coal-fired EGU control measures of the respective State's choosing and demonstrating that such control measures will result in compliance with the applicable State annual EGU Hg budget.

Each State Plan must require coal-fired EGUs to comply with the monitoring, recordkeeping, and reporting provisions of 40 CFR part 75 concerning Hg mass emissions. Each State Plan must also show that the State has the legal authority to adopt emission standards and compliance schedules necessary for attainment and maintenance of the State's annual EGU Hg budget and to require the owners and operators of coal-fired EGUs in the State to meet the monitoring, recordkeeping, and reporting requirements of 40 CFR part 75.

IV. How Can States Comply With CAMR?

Each State Plan must impose control requirements that the State demonstrates will limit Statewide annual Hg emissions from new and existing coal-fired EGUs to the amount of the State's applicable annual EGU Hg budget. States have the flexibility to choose the type of EGU control measures they will use to meet the requirements of CAMR. EPA anticipates that many States will choose to meet the CAMR requirements by selecting an option that requires EGUs to participate in the EPA-administered CAMR cap-and-trade program. EPA also anticipates that many States may choose to control Statewide annual Hg emissions for new and existing coal-fired EGUs through an alternative mechanism other than the EPA-administered CAMR cap-and-trade program. Each State that chooses an alternative mechanism must include with its plan a demonstration that the State Plan will ensure that the State will meet its assigned State annual EGU Hg emission budget.

A State submitting a State Plan that requires coal-fired EGUs to participate in the EPA-administered CAMR cap-and-trade program may either adopt regulations that are substantively identical to the EPA model Hg trading rule (40 CFR part 60, subpart HHHH) or incorporate by reference the model rule. CAMR provides that States may only make limited changes from the model rule if the States want to participate in the EPA-administered trading program. A State Plan may deviate from the model rule only by altering the allowance allocation provisions to provide for State-specific allocation of Hg allowances using a methodology chosen by the State. A State's alternative allowance allocation provisions must meet certain allocation timing requirements and must ensure that total allocations for each calendar year will not exceed the State's annual EGU Hg budget for that year.

V. Analysis of Missouri's CAMR State Plan Submittal

A. State Budgets

In this action, EPA is taking final action to approve Missouri's State Plan that adopts the annual EGU Hg budgets established for the State in CAMR, i.e., 1.393 tons for EGU Hg emissions in 2010–2017 and 0.55 tons for EGU Hg emissions in 2018 and thereafter. Missouri's State Plan sets these budgets as the total amount of allowances available for allocation for each year under the EPA-administered CAMR cap-and-trade program.

B. CAMR State Plan

The Missouri State Plan requires coal-fired EGUs to participate in the EPA-administered CAMR cap-and-trade program. The State Plan incorporates by reference the EPA model Hg trading rule but has adopted an alternative allowance allocation methodology. States may establish in their State Plan submissions a different Hg allowance allocation methodology that will be used to allocate allowances to sources in the States if certain requirements are met concerning the timing of submission of units' allocations to the Administrator for recordation and the total amount of allowances allocated for each control period. In adopting alternative Hg allowance allocation methodologies, States have flexibility with regard to:

1. The cost to recipients of the allowances, which may be distributed for free or auctioned;

2. The frequency of allocations;

3. The basis for allocating allowances, which may be distributed, for example, based on historical heat input or electric and thermal output; and

4. The use of allowance set-asides and, if used, their size.

In Missouri's alternative allowance methodology, Missouri has chosen to distribute Hg allowances directly based upon Table I in 10 CSR 10–6.368. The table permanently allocates to designated units the entirety of Missouri's mercury allowances for both phases of the program. Accordingly, Missouri has not provided allowances for the establishment of set-aside accounts.

Missouri's State Plan requires coal-fired EGUs to comply with the

monitoring, recordkeeping, and reporting provisions of 40 CFR part 75 concerning Hg mass emissions. Missouri's State Plan also demonstrates that the State has the legal authority to adopt emission standards and compliance schedules necessary for attainment and maintenance of the State's annual EGU Hg budget and to require the owners and operators of coal-fired EGUs in the State to meet the monitoring, recordkeeping, and reporting requirements of 40 CFR part 75. Missouri cites Section 643.050 and 643.055 of the Missouri Air Conservation Law, as containing the legal authority for the Missouri Air Conservation Commission to adopt the State's rule that allows for Missouri's participation in the nationwide cap-and-trade program.

EPA's review of Missouri's State Plan has found that it meets the requirements of CAMR. As a result, EPA is taking final action to approve Missouri's State Plan.

VI. Statutory and Executive Order Reviews

Under Executive Order 12866 (58 FR 51735, October 4, 1993), this action is not a ''significant regulatory action'' and therefore is not subject to review by the Office of Management and Budget. For this reason, this action is also not subject to Executive Order 13211, ''Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use'' (66 FR 28355, May 22, 2001). This action merely approves State law as meeting Federal requirements and imposes no additional requirements beyond those imposed by State law. Accordingly, the Administrator certifies that this rule would 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 action approves pre-existing requirements under State law and does not impose any additional enforceable duty beyond that required by State law, it does not contain any unfunded mandate or significantly or uniquely affect small governments, as described in the Unfunded Mandates Reform Act of 1995 (Pub. L. 104–4).

This action also does not have Tribal implications because it would not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes, 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. It does not alter the relationship or the distribution of power and responsibilities established in the CAA. This action 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.

Executive Order 12898, ''Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations,'' requires Federal agencies to consider the impact of programs, policies, and activities on minority populations and low-income populations. EPA guidance [1] states that EPA is to assess whether minority or low-income populations face risk or a rate of exposure to hazards that is significant and that ''appreciably exceed[s] or is likely to appreciably exceed the risk or rate to the general population or to the appropriate comparison group.'' (EPA, 1998) Because this rule merely approves a state rule implementing the Federal standard established by CAMR, EPA lacks the discretionary authority to modify today's regulatory decision on the basis of environmental justice considerations. However, EPA has already considered the impact of CAMR, including this Federal standard, on minority and low-income populations. In the context of EPA's CAMR published in the **Federal Register** on May 18, 2005, in accordance with Executive Order 12898, the Agency has considered whether CAMR may have disproportionate negative impacts on minority or low income populations and determined it would not.

In reviewing State Plan submissions, EPA's role is to approve State choices, provided that they meet the criteria of the CAA. 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 State Plan for failure to use VCS. It would thus be inconsistent with applicable law for EPA, when it reviews a State Plan submission, to use VCS in place of a State Plan submission that otherwise satisfies the provisions of the CAA. Thus, the requirements of section 12(d) of the National Technology Transfer and Advancement Act of 1995 (15 U.S.C. 272 note) do not apply. This rule does not impose an information collection burden under the provisions of the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*).

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

Under section 307(b)(1) of the CAA, petitions for judicial review of this action must be filed in the United States Court of Appeals for the appropriate circuit by March 17, 2008. Filing a petition for reconsideration by the Administrator of this final rule does not affect the finality of this rule for the purposes of judicial review nor does it extend the time within which a petition for judicial review may be filed, and shall not postpone the effectiveness of such rule or action. This action may not be challenged later in proceedings to enforce its requirements. (See section 307(b)(2).)

List of Subjects in Part 62

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

Dated: January 8, 2008.

John B. Askew,

Regional Administrator, Region 7.

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

PART 62—[AMENDED]

■ 1. The authority citation for part 62 continues to read as follows:

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

[1] U.S. Environmental Protection Agency, 1998. Guidance for Incorporating Environmental Justice Concerns in EPA's NEPA Compliance Analyses. Office of Federal Activities, Washington, DC, April, 1998.

Subpart AA—Missouri

■ 2. Subpart AA is amended by adding an undesignated center heading and § 62.6362 to read as follows:

Mercury Emissions From Coal-Fired Electric Steam Generating Units

§ 62.6362 Identification of Plan.

(a) *Identification of plan.* Section 111(d) plan and associated State regulation 10 CSR 10–6.368, Control of Mercury Emissions From Electric Generating Units, as adopted in Missouri's Code of State Regulations on April 30, 2007.

(b) *Identification of sources.* The plan applies to all new and existing mercury budget units meeting the applicability requirements in Missouri's State rule 10 CSR 10–6.368.

(c) *Effective date.* The effective date for the portion of the plan applicable to mercury budget units as described in Missouri State rule 10 CSR 10–6.368 is February 19, 2008.

[FR Doc. E8–807 Filed 1–16–08; 8:45 am]

BILLING CODE 6560–50–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CG Docket No. 03–123; FCC 07–186]

Telecommunications Relay Services and Speech-to-Speech Services for Individuals With Hearing and Speech Disabilities

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission adopts new cost recovery methodologies regarding compensation for the provision of Telecommunications Relay Services (TRS) from the Interstate TRS Fund (the Fund). Those cost recovery methodologies will result in fairer, more predictable rates that better reflect the actual costs and market realities of providing TRS. The Commission also: adopts new per-minute compensation rates for the various forms of TRS; clarifies the nature of certain cost categories and extent to which they are compensable from the Fund; reaffirms the role that the TRS Advisory Council is to play in the oversight of TRS; and announces its intent of additional and more comprehensive auditing of TRS providers to ensure Fund integrity.

DATES: 47 CFR 64.604 (c)(5)(iii)(C) contains information collection requirements that have not been approved by the Office of Management and Budget (OMB). The Commission will publish a separate document in the **Federal Register** announcing the effective date for the amendment and information collection requirements. Interested parties (including the general public, OMB, and other Federal agencies) that wish to submit written comments on the PRA information collection requirements must do so on or before March 17, 2008.

ADDRESSES: Interested parties may submit PRA comments identified by OMB Control Number 3060–0463, by any of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *Federal Communications Commission's Web Site: http://www.fcc.gov/cgb/ecfs/.* Follow the instructions for submitting comments.
- *E-mail:* Parties who choose to file by email should submit their comments to *PRA@fcc.gov.* Please include CG Docket Number 03–123 and OMB Control Number 3060–0463 in the subject line of the message.
- *Mail:* Parties who choose to file by paper should submit their comments to Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: Thomas Chandler, Consumer and Governmental Affairs Bureau, Disability Rights Office at (202) 418–1475 (voice), (202) 418–0597 (TTY), or e-mail at *Thomas.Chandler@fcc.gov.* For additional information concerning the PRA information collection requirements contained in this document, contact Cathy Williams at (202) 418–2918, or via the Internet at *PRA@fcc.gov.*

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* Report and Order and Declaratory Ruling (*2007 TRS Cost Recovery Order*), document FCC 07–186, adopted October 26, 2007, and released November 19, 2007, in CG Docket No. 03–123. Document FCC 07–186 addresses issues arising from the Commission's Further Notice of Proposed Rulemaking, *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities (2006 TRS Cost Recovery FNPRM),* CG Docket No. 03–123, FCC 06–106, published at 71 FR 54009, September 13, 2006. The full text of document FCC 07–186 and copies of any subsequently filed documents in this matter will be available for public inspection and copying during regular business hours at the FCC Reference Information Center, Portals II, 445 12th Street, SW., Room CY–A257, Washington, DC 20554. Document FCC 07–186 and copies of subsequently filed documents in this matter also may be purchased from the Commission's duplicating contractor at Portals II, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. Customers may contact the Commission's duplicating contractor at its Web site *http://www.bcpiweb.com* or by calling 1–800–378–3160. To request materials in accessible formats for people with disabilities (Braille, large print, electronic files, audio format), send an e-mail to *fcc504@fcc.gov* or call the Consumer and Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY). Document FCC 07–186 can also be downloaded in Word or Portable Document Format (PDF) at: *http://www.fcc.gov/cgb/dro/trs.html.*

Paperwork Reduction Act of 1995 Analysis

Document FCC 07–186 contains modified information collection requirements subject to the PRA of 1995. It will be submitted to OMB for review under section 3507 of the PRA. OMB, the general public, and other Federal agencies are invited to comment on the modified information collection requirements contained in this proceeding. Public and agency comments are due March 17, 2008. In addition, the Commission notes pursuant to the Small Business Paperwork Relief Act of 2002, Public Law 107–198, *see* 44 U.S.C. 3506 (c)(4), that the Commission previously sought specific comment on how it may ''further reduce the information collection burden for small business concerns with fewer than 25 employees.''

Synopsis

1. In the *2006 TRS Cost Recovery FNPRM,* the Commission sought comment on four issues concerning the compensation of relay providers from the Fund. First, the Commission sought comment on the adoption of an alternative cost recovery methodology for traditional TRS, STS services, and IP Relay services based on the Multi-state Average Rate Structure (MARS) plan, under which the compensation rate would be based on a weighted average of competitively bid intrastate rates. The Commission sought comment on

whether adoption of the MARS plan would result in a more efficient provision of service and a fairer, more reasonable compensation rate, as well as on how the MARS plan would be implemented and whether the rates for those TRS forms should continue to be set for a one-year period or for longer.

2. Second, the Commission sought comment on the adoption of an alternative cost recovery methodology for VRS. The Commission emphasized the need for a cost recovery methodology that would result in more predictable rates that more closely approximate the reasonable actual costs of providing VRS services. Accordingly, the Commission sought comment on whether changes should be made to the existing cost recovery methodology, or whether a new methodology should be adopted. The Commission proposed various new methodologies, including compensating each provider based on the provider's actual, reasonable costs, seeking competitive bids, or using a ''true-up'' based on each provider's reasonable actual costs. The Commission also sought comment on whether the VRS compensation rate should be set for a two-year period, rather than a one-year period.

3. Third, the Commission sought comment on the extent to which certain types of costs—including marketing and outreach expenses, overhead costs, legal and lobbying expenses, start-up expenses, and executive compensation—are compensable from the Fund. Finally, the Commission sought comment on the steps it might take to ensure the integrity of the Fund and that compensation is paid consistent with the statute. Specifically, the Commission sought comment on the oversight of the Fund administrator, presently the National Exchange Carrier Association (NECA), the oversight of the providers, and ways to deter waste, fraud, and abuse.

4. The *2007 TRS Cost Recovery Order* resolves the issues on which the Commission sought comment in the *2006 TRS Cost Recovery FNPRM.* First, the Commission adopts the MARS plan as the cost recovery methodology for interstate traditional TRS, interstate STS, interstate CTS, and interstate and intrastate IP CTS. Presently, the compensation rates are based on a weighted average of the providers' projected minutes of use of the service, and their projected costs of providing these minutes, for a future two-year period. Because the current methodology is based on projections only, it does not result in rates that satisfactorily correlate to the providers' actual costs. Adopting the MARS plan, in contrast, will produce a rate that better approximates actual costs, and therefore will promote the efficient recovery of all costs. It also will eliminate the costs, burdens, and uncertainties associated with evaluating, correcting, and re-evaluating provider data.

5. The Commission will calculate one MARS rate applicable to both interstate traditional TRS and interstate STS based on state rates for intrastate TRS and STS, and adopt a separate MARS rate for interstate CTS and IP CTS based on state rates for intrastate CTS. Regardless, for both rates, the rate calculation mechanism will be the same. Generally, each January, the Fund administrator will request that the following information be filed on a per-state basis for the previous calendar year: (1) The per-minute compensation rate(s) for intrastate traditional TRS, intrastate STS, and intrastate CTS; (2) whether the rate applies to session or conversation minutes; (3) the number of session and conversation minutes for intrastate traditional TRS, intrastate STS, and intrastate CTS, (4) other amounts paid to the provider(s) for the relevant calendar year, if the per-minute compensation rate does not reflect the total costs paid by the state to the provider(s) for the relay service(s); and (5) other factors bearing on the rate averages, such as mid-year rate changes.

6. The Fund administrator will multiply each state's respective intrastate traditional TRS and intrastate STS, and intrastate CTS, rates by the number of either intrastate session minutes or conversation minutes, whichever the state rates are based upon, and then total each state's total dollar amount for each rate. The Fund administrator will then divide the total dollar amount(s) for all the states (including costs not reflected in the rate) by the applicable total of all states' intrastate conversation minutes (even if some states do not base their rate on conversation minutes) for each service (*e.g.*, intrastate traditional TRS and intrastate STS in one calculation, intrastate CTS in the other).

7. The Fund administrator will file the MARS plan rate(s), as calculated, with the Commission by May 1st of each year, and the proposed MARS rate for each service and an explanation of how it was calculated will be placed on public notice. The Commission will then release by June 30 of each year an order adopting the compensation rate for the following July 1st to June 30th Fund year. The Commission will monitor the implementation of the MARS plan and, if necessary, take further steps to ensure that the MARS rate compensates providers for their reasonable costs of providing service.

8. Beginning March 1, 2008, and for the remainder of the 2007–08 Fund year, the MARS plan per-minute rate of $1.592 shall apply for interstate traditional TRS and interstate STS. This rate is a result of the calendar 2006 intrastate TRS and STS data filed by 49 states and Puerto Rico, which show that a total of $100,738,030 was spent to pay for 63,275,205 conversation minutes, which translates to $1.592 per minute.

9. The Commission believes that this rate is reasonable because it is based on competitively bid state rates. For interstate STS, however, the Commission will add an additional $1.131 per minute, resulting in a total of $2.723, because of concerns that outreach efforts toward the STS community have not been effective. Each STS provider must allocate this additional $1.131 per minute toward outreach efforts directed at the STS community. For interstate CTS and interstate and intrastate IP CTS, the Commission adopts a 2007–2008 compensation rate of $1.629 per minute. This rate is based on calendar 2006 intrastate captioned telephone service data from the 39 states that provided this service in 2006, which shows that $15,867,338, was spent to pay for 9,739,138 conversation minutes, which translates to $1.629 per minute.

10. Second, for IP Relay, the Commission declines to adopt a cost recovery methodology based on the MARS plan because there are no state rates for this service. Instead, the Commission adopts a cost recovery methodology based on price caps. As a general matter, the price cap plan adjusts a base rate upward for inflation and other, additional costs not reflected in the inflation adjustment, then downward for improved efficiencies. In so doing, the price cap plan applies three factors—an Inflation Factor, an Efficiency (or ''X'') Factor, and Exogenous Costs—to a base rate. The Inflation Factor will be the Gross Domestic Product—Price Index (GDP–PI)). The Efficiency Factor will be set as a figure equal to the Inflation Factor, less 0.5 percent (or 0.005) to account for productivity gains.

11. The Exogenous Costs will be those costs beyond the control of the IP Relay providers that are not reflected in the inflation adjustment, such as additional costs that they incur to satisfy new, Commission-adopted service requirements. As a result of the basic price cap plan formula, which multiplies the base rate by a factor that reflects an increase due to inflation, and then offsets it by a decrease due to

efficiencies, the rate for a particular year generally will equal the rate for the previous year, reduced by 0.5 percent (*i.e.*, $\text{Rate}_{\text{Year Y}} = \text{Rate}_{\text{Year Y}-1}(1-0.005)$). Adopting this methodology for IP Relay will encourage IP Relay providers to become more efficient in providing the service.

12. The Commission adopts the price cap plan for three years, with the first rate period being the 2007–2008 Fund year. The rates will then continue, with annual adjustments for productivity gains, through the 2009–2010 Fund Year. The Commission will then assess what the base rate should be for the following three year period.

13. Beginning March 1, 2008, the per-minute rate of $1.293 shall apply for inter- and intrastate IP Relay. NECA presented IP Relay rates ranging between $1.16 and $1.28, the latter reflecting both 2006 actual costs adjusted for inflation and a rate based on providers' projected minutes of use and costs, unadjusted. The Commission believes that the current rate reasonably compensates providers based on the cost data and the rates proposed by NECA, and that adopting the base rate for a three year period will add additional stability and predictability to the IP Relay rates. This rate shall continue through the 2009–2010 Fund year, subject to annual adjustment under the price cap plan.

14. Third, for VRS, the Commission adopts a tiered-rate cost recovery methodology which compensates VRS providers at different per-minute rates for monthly call minutes that fall within predetermined total call volume ranges. The VRS rates will be based on the providers' projected costs and minutes of use, and other data the VRS providers submit to the Fund administrator, subject to appropriate review and, where necessary, disallowances. Specifically, this tiered-rate approach is intended to reflect likely cost differentials between small providers (including new entrants); mid-level providers who are established but who do not hold a dominant market share; and large, dominant providers who are in the best position to achieve cost synergies.

15. This tiered-rate approach will allow providers that handle a relatively small amount of minutes and therefore have relatively higher per-minute costs to receive compensation on a monthly basis more likely to accurately correlate to their actual costs. Conversely, providers that handle a larger number of minutes, and therefore have lower per-minute costs, will also receive compensation on a monthly basis more likely to accurately correlate to their actual costs. Furthermore, under the tiered approach, all providers would be compensated on a ''cascading'' basis, such that providers would be compensated at the same rate for the minutes falling within a specific tier. In other words, all providers will be compensated at the highest rate for those minutes falling within the first tier; at the middle rate for those minutes falling within the middle tier, and at the lower rate for all additional minutes.

16. The Commission will set the tiers and their corresponding per-minute rates for a three-year period, and will reduce the rates annually by 0.5 percent while allowing providers to seek exogenous cost adjustments for new costs imposed that are beyond the providers' control. The 0.5 percent annual downward adjustment will reduce Fund expenditures and encourage VRS providers to gain efficiencies in providing VRS services. The Commission believes that these tiers are appropriate to promote competition, and ensure that the newer providers are compensated for their actual costs and that the larger, more established providers are not overcompensated.

17. Beginning March 1, 2008, the three following call volume tiers and their corresponding per-minute rates shall apply for VRS: For the first 50,000 monthly minutes, $6.77; for monthly minutes between 50,001 and 500,000, $6.50; and for monthly minutes exceeding 500,000, $6.30. Those tiers, the number and size of which will be reevaluated every three years, are based on the data regarding total monthly VRS minutes that the various providers have submitted to NECA. That data indicates, first, that the newer providers generally provide less than 50,000 minutes per month. For those providers offering a relatively small number of minutes, it is appropriate to base the rate on the providers' projected costs and minutes of use. As NECA's filing data reflects, the rate based on the providers' projected demand and cost data, without any disallowances, is $6.77.

18. The Commission believes that this rate fairly reflects the actual reasonable costs of the newer or smaller providers offering VRS in compliance with all non-waived mandatory minimum standards. Second, the NECA filing data indicates that more established providers provide monthly minutes ranging in the low hundreds of thousands. For those established but non-dominant providers, the Commission believes it is appropriate to base the rate on the $6.77 rate noted above, less marketing and certain undisputed cost disallowances. The resulting rate is $6.50. Finally, the NECA filing data shows that the dominant provider provides minutes ranging in the millions. Such call volumes lead to economies of scale that result in lower per-minute costs. Accordingly, the Commission adopts a rate of $6.30 for this third and final tier. This rate will encourage providers with large numbers of minutes to become more efficient.

19. Fourth, in addition to adopting new cost recovery methodologies and compensation rates, the Commission clarifies the extent to which certain cost categories are compensable from the Fund. Specifically, the Commission concludes that indirect overhead costs are not reasonable costs of providing TRS; accordingly, to be compensable, overhead costs must be directly related to, and directly support, the provision of relay service. The Commission also concludes that, to encourage competition in the VRS market, entry costs or start-up expenses of new entities seeking to provide VRS are compensable, but must be amortized in accordance with generally accepted accounting principles so that they are recovered over time and will not skew the rate in a particular year. Also, executive compensation is compensable to the extent that it is reasonable and is for services that ''directly support the provision of TRS.'' In determining what constitutes reasonable compensation, the Commission will consider bonuses, stock options, and other forms of compensation.

20. With respect to other, miscellaneous costs, financial transaction costs or fees unrelated to the provision of relay service, such as those relating to the sale or change in ownership or structure of a relay service entity, are not compensable expenses. Also, costs attributable to consumer premises equipment such as relay hardware and software used by the consumer, including installation, maintenance costs, and testing, are not compensable. The Commission will scrutinize the providers' submitted costs to ensure that such consumer premises equipment costs are not directly or indirectly included.

21. Finally, with respect to management and oversight of the Fund, the Commission reaffirms the role that the TRS Advisory Council may play in the oversight of TRS—including in the development of new cost recovery guidelines and compensation rate proposals, and further addressing of the compensability of certain cost categories—and expresses that the Council also can address other matters as assigned by the Commission. In

addition, the Commission announces its intention of additional and more comprehensive auditing of TRS providers to ensure Fund integrity, by, for example, reviewing the underlying documentation supporting submitted cost and demand data, as well as minutes submitted for compensation.

22. The Commission also concludes that there should be more transparency to the rate setting process. The Commission realizes, however, that the interest in transparency must be balanced against the providers' interest in the confidentiality of their cost and demand data, an interest reflected in the Commission's rules. The Commission believes the MARS plan will make more transparent the determination of the traditional TRS, STS, CTS, and IP CTS rates. Not only does the Commission anticipate listing the State rates used in calculating the MARS rates and setting forth the final calculation that divides total costs by total minutes to determine the rate, but there are no cost adjustments to provider specific data in the determination of these rates, which furthers the goal of transparency.

23. In the Declaratory Ruling portion of the *2007 TRS Cost Recovery Order,* the Commission reiterates its prior rulings that a TRS provider may not offer any direct or indirect, financial or other tangible, incentive to a TRS user or third party to encourage TRS users to make TRS calls that they would not otherwise make, including calls designed to elicit customer feedback on quality of service. Nor may a relay provider condition a user's ongoing use or possession of relay equipment, or the receipt of different or upgraded equipment, on the user making relay calls through its service or the service of any other provider. In other words, providers cannot give consumers equipment as part of outreach efforts or for other purposes, and then require that the equipment be relinquished if the consumer fails to maintain a certain call volume. Not only do such practices likely require the impermissible use of the providers' call database, and the impermissible monitoring of consumers' calls, they also constitute impermissible financial incentives.

24. In addition, relay providers may not use a consumer or call database to contact relay users for lobbying or any other purpose. The Commission has made clear that TRS customer profile information cannot be used for any purpose other than handling relay calls. Therefore, for example, a provider may not contact its customers, by an automated message, postcards, or otherwise, to inform them about pending TRS compensation issues and urge them to contact the Commission about the compensation rates. Similarly, a provider may not use call data to monitor the TRS use by its customers (or the customers of other providers) and to determine whether they are making a sufficient number of calls to warrant further benefits from the provider.

Final Regulatory Flexibility Certification

25. The Regulatory Flexibility Act of 1980, as amended (RFA), requires that a regulatory flexibility analysis be prepared for rulemaking proceedings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' 5 U.S.C. 605(b). The RFA generally defines ''small entity'' as having the same meaning as the terms ''small business,'' ''small organization,'' and ''small governmental jurisdiction.'' 5 U.S.C. 601(6). In addition, the term ''small business'' has the same meaning as the term ''small business concern'' under the Small Business Act. 5 U.S.C. 601(3). 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). Small Business Act, 15 U.S.C. 632.

26. The *2007 TRS Cost Recovery Order* addresses issues related to cost recovery methodologies for various forms of TRS. The *2007 TRS Cost Recovery Order* adopts a single cost recovery methodology based on the ''MARS'' plan for interstate traditional TRS, interstate STS, interstate CTS, and interstate and intrastate IP CTS. Beginning with the 2007–2008 Fund year, a single MARS rate will be calculated and will apply to interstate traditional TRS and interstate STS, interstate CTS, and IP CTS. Because states generally negotiate and pay separate rates for captioned telephone service, a separate MARS rate will be calculated and will apply to interstate captioned telephone service.

27. The Commission concludes that the MARS methodology, as proposed, cannot be applied to IP Relay because there are no state rates for these services. The Commission, therefore, continues to use a cost recovery methodology for IP Relay based on the providers' projected demand and cost data that reasonably compensates the providers for the provision of IP Relay service. The Commission also concludes that adopting the proposed price cap plan for IP Relay will encourage IP Relay providers to become more efficient in providing the service. The Commission believes that the price cap plan for IP Relay will not have a significant economic impact on a substantial number of small businesses.

28. The Commission concludes that adoption of the MARS plan for Interstate Traditional TRS, Interstate STS, Interstate CTS, and IP CTS for setting the rate eliminates the need to file the much more voluminous cost and demand data that providers presently must submit under the current cost recovery methodology to the Fund administrator. The Commission, therefore, concludes that the effect of the adoption of the MARS plan would be to lessen the reporting burden on small businesses. Accordingly, the Commission does not believe that these actions will have a significant economic impact on a substantial number of small businesses.

29. The Commission further believes that the decision to set a standard for how ''reasonable'' costs should be compensable under the present cost recovery methodology for all forms of TRS, as well as a standard for what ''reasonable'' costs should include, will provide guidance for the providers, and therefore, benefits small businesses in two ways. This includes setting a standard for whether, and to what extent, marketing and outreach expenses, overhead costs, and executive compensation are compensable from the Fund. First, it provides predictability, and secondly, it eliminates uncertainties with whether the costs submitted would be compensable or not. Eliminating uncertainties will lessen the reporting burden on small businesses. The Commission therefore concludes that the requirements of the *2007 TRS Cost Recovery Order* will not have a significant economic impact on a substantial number of small entities.

30. The Commission expressed concern, based on comparisons of VRS providers' cost and demand projections with their actual historical data, that some VRS providers have received compensation significantly in excess of their actual costs. The Commission has also observed that providers' demand forecasts for VRS generally have been lower than actual demand, resulting in overcompensation to providers for completed minutes under the current per-minute cost recovery scheme.

31. The Commission, therefore, adopts three compensation rate tiers for VRS. These tiers are intended to reflect likely cost differentials between small providers; mid-level providers who are established but who do not hold a dominant market share; and large, dominant providers who are in the best

position to achieve cost synergies. As a general matter, the three-tiered approach is based on market data reflecting the number of monthly minutes submitted to NECA by the various providers. The data reflects that the newer providers generally provide less than 100,000 minutes per month; that other, more established providers (with the exception of the dominant provider) generally provide monthly minutes ranging in the low hundreds of thousands; and that the dominant provider provides minutes ranging in the millions. The Commission, therefore, believes that using three tiers is appropriate to ensure both that, in furtherance of promoting competition, the newer providers will cover their costs, and the larger and more established providers are not overcompensated due to economies of scale.

32. By adopting a tiered approach, providers that handle a relatively small number of minutes and therefore have relatively higher per-minute costs will receive compensation on a monthly basis that will likely more accurately correlate to their actual costs. Conversely, providers that handle a larger number of minutes, and that therefore have lower per-minute costs, will also receive compensation on a monthly basis that likely more accurately correlates to their actual costs. Furthermore, the Commission concludes that under such a tiered approach, all providers will be compensated on a ''cascading'' basis, such that providers will be compensated at the same rate for the minutes falling within a specific tier. In other words, all providers will be compensated at the highest rate for those minutes falling within the first tier; at the middle rate for those minutes falling within the middle tier, and at the lower rate for all additional minutes. The Commission believes that using tiered rates, rather than a single, weighted average rate, will more fairly compensate all providers for their reasonable actual costs of providing service. Since fair compensation will benefit all providers equally, imposing no separate and adverse impact on smaller entities, the Commission further concludes that its tiered rates will not have a significant economic impact on a substantial number of small entities.

33. Because the Commission recognizes that potential STS users are not being made aware of the availability of STS, the Commission adds an additional amount to the STS compensation rate for outreach efforts. The Commission also requires that STS providers file a report annually with NECA and the Commission on their specific outreach efforts directly attributable to the additional support for STS outreach. Since STS providers will be compensated an additional amount for outreach, the Commission concludes that requiring STS providers to file an annual report will not have a significant economic impact on a substantial number of small entities.

34. Finally, in order to be compensated for the costs of providing TRS, the providers are required to meet the applicable TRS mandatory minimum standards as required in 47 CFR 64.604. *See generally* 47 CFR 64.604(c)(5)(iii)(E). Reasonable costs of compliance with the *2007 TRS Cost Recovery Order* are compensable from the Fund. Thus, because the providers will recoup the costs of compliance within a reasonable period, the Commission asserts that the providers will not be detrimentally burdened. Therefore, the Commission certifies that the requirements of the *2007 TRS Cost Recovery Order* will not have a significant economic impact on a substantial number of small entities.

35. The Commission also notes that, with specific regard to the issue of whether a substantial number of small entities will be affected, of the 13 providers affected by the ruling adopted herein, there are only three small entities that will be affected by the Commission's action. The SBA has developed a small business size standard for Wired Telecommunications Carriers, which consists of all such firms having 1,500 or fewer employees. 13 CFR 121.201, NAICS code 517110. Currently, thirteen providers are providing various forms of TRS and being compensated from the Interstate TRS Fund: Ameritech; AT&T Corp.; CapTel, Inc.; Communication Access Center for the Deaf and Hard of Hearing, Inc.; GoAmerica; Hamilton Relay, Inc.; Hands On; Healinc; Nordia Inc.; Snap Telecommunications, Inc.; Sorenson; Sprint and Verizon. The Commission notes that 3 of 13 providers noted above are small entities under the SBA's small business size standard. Because three of the affected providers will be promptly compensated within a reasonable period for complying with the *2007 TRS Cost Recovery Order,* the Commission concludes that the number of small entities affected by the Commission's decision in the *2007 TRS Cost Recovery Order* is not substantial.

36. Therefore, for all of the reasons stated above, the Commission certifies that the requirements of the *2007 TRS Cost Recovery Order* will not have a significant economic impact on these small entities.

37. The Commission will send a copy of the *2007 TRS Cost Recovery Order,* including a copy of this Final Regulatory Flexibility Certification, in a report to Congress pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A). In addition, the *2007 TRS Cost Recovery Order* and this final certification will be sent to the Chief Counsel for Advocacy of the SBA.

Congressional Review Act

The Commission will send a copy of the *2007 TRS Cost Recovery Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, *see* 5 U.S.C. 801(a)(1)(A).

Ordering Clauses

Pursuant to Sections 1, 2, and 225 of the Communications Act of 1934, as amended, 47 U.S.C. 151, 152, and 225, the *2007 TRS Cost Recovery Order* IS ADOPTED.

An annual compensation rate shall apply to interstate traditional TRS and interstate STS based on the MARS plan and the intrastate traditional TRS and STS rate(s) paid by the states, as provided in the *2007 TRS Cost Recovery Order.*

An annual compensation rate shall apply to interstate CTS and interstate and intrastate IP CTS based on the MARS plan and the intrastate CTS rate paid by the states, as provided in the *2007 TRS Cost Recovery Order.*

A compensation rate shall apply to interstate and intrastate IP Relay based on price caps, and the rate shall be set for three-year periods, subject to adjustment, beginning with the 2007–2008 Fund year, as provided in the *2007 TRS Cost Recovery Order.*

Tiered compensation rates shall apply to interstate and intrastate VRS based on minutes of use, and the rates shall be set for three-year periods, subject to adjustment, beginning with the 2007–2008 Fund year, as provided in the *2007 TRS Cost Recovery Order.*

Effective March 1, 2008, the following per-minute compensation rates shall apply, as provided herein: for interstate traditional TRS: $1.592; for interstate STS: $2.723; for interstate CTS and interstate and intrastate IP CTS: $1.629; for interstate and intrastate IP Relay: $1.293; and for interstate and intrastate VRS: (1) For the first 50,000 monthly minutes: $6.77; (2) for monthly minutes between 50,001 and 500,000: $6.50; and (3) for monthly minutes above 500,000: $6.30.

The amendment to section 64.604 of the Commission's rules *is adopted.*

The *2007 TRS Cost Recovery Order shall be effective* February 19, 2008,

except § 64.604 (c)(5)(iii)(C) of the Commission's rules, which contains information collection requirements that are not effective until approved by OMB. The Commission will publish a separate document in the **Federal Register** announcing the effective date of the rule.

The Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of the *2007 TRS Cost Recovery Order,* including the Final Regulatory Flexibility Certification, to the Chief Counsel for Advocacy of the Small Business Administration.

List of Subjects in 47 CFR Part 64

Individuals with disabilities, Reporting and recordkeeping requirements, Telecommunications.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rule Changes

■ For the reasons discussed in the preamble, the Federal Communications Commission 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), Public Law 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. Section 64.604 is amended by revising paragraph (c)(5)(iii)(C) to read as follows:

§ 64.604 Mandatory minimum standards.

* * * * *

(c) * * *

(5) * * *

(iii) * * *

(C) *Data collection from TRS providers.* TRS providers shall provide the administrator with true and adequate data, and other historical, projected and state rate related information reasonably requested by the administrator, necessary to determine TRS Fund revenue requirements and payments. TRS providers shall provide the administrator with the following: total TRS minutes of use, total interstate TRS minutes of use, total TRS operating expenses and total TRS investment in general accordance with part 32 of this chapter, and other historical or projected information reasonably requested by the administrator for purposes of computing payments and revenue requirements. The administrator and the Commission shall have the authority to examine, verify and audit data received from TRS providers as necessary to assure the accuracy and integrity of TRS Fund payments.

* * * * *

[FR Doc. E8–759 Filed 1–16–08; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 99–25 FCC 05–75]

Creation of a Low Power Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final rule; announcement of effective date.

SUMMARY: The Federal Communications Commission adopted rules to promote the operation and expansion of the low power FM (LPFM) service. These rules require Office of Management and Budget (OMB) approval to become effective. This document announces the effective date of these rules.

DATES: The rules published on July 7, 2005, 70 FR 39182 amending 47 CFR 73.870(a) and 73.871(c) are effective January 17, 2008.

FOR FURTHER INFORMATION CONTACT: For information on this proceeding, contact Holly Saurer, *Holly.Saurer@fcc.gov,* (202) 418–7283, of the Media Bureau. Questions concerning the OMB control number should be directed to Cathy Williams, Federal Communications Commission, (202) 418–2918 or via the Internet at *Cathy.Williams@fcc.gov.*

SUPPLEMENTARY INFORMATION: The Federal Communications Commission has received OMB approval for the rule changes published at 70 FR 39182, July 7, 2005. Through this document, the Commission announces that it received this approval on August 30, 2005.

In a Second Order on Reconsideration, released on March 17, 2005, FCC 05–75, and published in the **Federal Register** on July 7, 2005, 70 FR 39182, the Federal Communications Commission adopted rules which contained information collection requirements subject to that Paperwork Reduction Act. On August 30, 2005, the Office of Management and Budget approved the information collection requirements contained in 47 CFR 73.870(a) and 73.871(c). This information collection is assigned OMB Control Number 3060–0920. This publication satisfies the requirement that the Commission publish a document announcing the effective date of the rule changes requiring OMB approval.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–778 Filed 1–16–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 73

[MB Docket No. 99–25; FCC 07–204]

Creation of a Low Power Radio Service

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: In this document, the Commission adopts rules and provides guidance to efforts to promote the operation and expansion of the low power FM (LPFM) service. The Commission solicited and reviewed comments regarding the status of LPFM service, and found that to promote the service, it was necessary to make rule changes related to ownership and technical issues.

DATES: The rules will become effective March 17, 2008.

FOR FURTHER INFORMATION CONTACT: For additional information on this proceeding, contact Holly Saurer, *Holly.Saurer@fcc.gov* of the Media Bureau, Policy Division, (202) 418–2120.

SUPPLEMENTARY INFORMATION: This is a summary of the Commission's *Third Report and Order*, FCC 07–204, adopted on November 27, 2007, and released on December 11, 2007. The full text of this document is available for public inspection and copying during regular business hours in the FCC Reference Center, Federal Communications Commission, 445 12th Street, SW., CY–A257, Washington, DC 20554. These documents will also be available via ECFS (*http://www.fcc.gov/cgb/ecfs/*). (Documents will be available electronically in ASCII, Word 97, and/or Adobe Acrobat.) The complete text may be purchased from the Commission's copy contractor, 445 12th Street, SW., Room CY–B402, Washington, DC 20554. To request this document in accessible formats (computer diskettes, large print, audio recording, and Braille), send an e-mail to *fcc504@fcc.gov* or call the Commission's Consumer and

Governmental Affairs Bureau at (202) 418–0530 (voice), (202) 418–0432 (TTY).

Summary of the Third Report and Order

I. Introduction

1. In March 2005, the Commission released a *Second Order on Reconsideration* (Second Order), 70 FR 39182, July 7, 2005 and *Further Notice of Proposed Rulemaking* (FNPRM), 70 FR 39217, July 7, 2005 as part of its ongoing efforts to promote the operation and expansion of the low power FM (LPFM) service. In the *Second Order*, the Commission made minor changes to the LPFM rules. The accompanying *FNPRM* sought comment on a number of issues related to ownership and eligibility restrictions for LPFM licensees, as well as technical matters related to the LPFM service. This *Third Report and Order* resolves the issues raised in the *FNPRM*. In so doing, this Order advances the Commission's goal ''to ensure that we maximize the value of LPFM service without harming the interests of full-power FM stations or other Commission licensees.'' In light of changed circumstances since we last considered the issue of protection rights for LPFM stations from subsequently authorized full-service stations, we also find it necessary to consider certain rule changes to avoid the potential loss of LPFM stations. Accordingly, we issue a *Second Further Notice of Proposed Rulemaking* (*Second FNPRM*) to seek comment on these changes.

II. Background

2. In January 2000, the Commission adopted rules to establish two classes of LPFM facilities: (a) The LP100 class, consisting of stations with a maximum power of 100 Watts effective radiated power (ERP) at 30 meters antenna height above average terrain (HAAT), providing an FM service radius (1 mV/m or 60 dBμ) of approximately 3.5 miles (5.6 kilometers); and (b) the LP10 class, consisting of stations with a maximum of 10 Watts ERP at 30 meters HAAT, providing an FM service radius of approximately one to two miles (1.6 to 3.2 kilometers). The *Report and Order*, 65 FR 7615, February 15, 2000 announcing those classes imposed separation requirements for LPFM stations to protect full-power FM stations operating on the co-, first-, and second-adjacent channels, as well as stations operating on intermediate frequency (IF) channels. The *Report and Order* concluded, however, that imposition of a third-adjacent channel separation requirement would restrict unnecessarily the number of LPFM stations that could be authorized, and therefore declined to impose that requirement.

3. The *Report and Order* also established ownership and eligibility rules for the LPFM service. The Commission restricted LPFM service to noncommercial educational (NCE) operations, restricted licensee eligibility to applicants with no attributable interests in any other broadcast station or other media subject to our ownership rules, and prohibited the assignment or transfer of LPFM stations. The Commission also determined that, during the two years following the first LPFM filing window, no entity would be permitted to own more than one LPFM station and that ownership should be restricted to local entities. To choose among entities filing mutually exclusive applications for LPFM licenses, the *Report and Order* set forth a point system that favors local ownership and locally-originated programming, with ties between competing applicants resolved by either voluntary time-sharing agreements between such applicants or, in the event that they cannot so agree, the imposition of ''involuntary time-sharing,'' with each tied and grantable applicant awarded an equal, successive and non-renewable license term of no less than one year, for a combined total eight-year term. Finally, the *Report and Order* directed the then-Mass Media Bureau to establish filing windows for LP100 applications.

4. The Commission revised and clarified some of its LPFM rules in a September 2000 *Memorandum Opinion and Order on Reconsideration* (Reconsideration Order), 65 FR 67289, November 9, 2000. The *Reconsideration Order* declined to adopt the more restrictive channel separation requirements urged by certain petitioners. Instead, the Commission adopted complaint and license modification procedures to address unexpected third-channel interference problems caused by LPFM stations. The *Reconsideration Order* modified spacing standards to require LPFM stations to protect radio reading services. Beyond the issue of interference, the Commission increased ownership flexibility for universities, state and local governments, and entities operating public safety or transportation services. Finally, the *Reconsideration Order* addressed a number of technical and ownership issues and clarified the eligibility rules for certain groups.

5. After the Commission declined to impose third-adjacent channel separation requirements in the *Reconsideration Order*, Congress directed the agency to do so in the Making Appropriations for the Government of The District of Columbia for FY 2001 Act (2001 DC Appropriations Act). In that legislation, Congress instructed the Commission to prescribe third-adjacent channel spacing standards for LPFM stations and to deny LPFM applications of applicants that previously had engaged in the unlicensed operation of a radio station. The 2001 DC Appropriations Act also directed the Commission to evaluate the likelihood of interference to existing FM stations if LPFM stations were not subject to the third-adjacent channel spacing requirement.

6. As a result of the spacing requirement imposed by the 2001 DC Appropriations Act, a number of facilities proposed in otherwise technically grantable applications became short-spaced to existing full-power FM stations or translators, leading to the eventual dismissal of those applications. To evaluate the likelihood of interference in the absence of a third-adjacent channel separation requirement, the Commission selected an independent third party—the Mitre Corporation—to conduct field tests. The Commission then sought public comment on Mitre's reported findings. In February 2004, the Commission submitted its report to Congress, recommending that, based on the Mitre study, Congress ''modify the statute to eliminate the third-adjacent channel distan[ce] separation requirements for LPFM stations.''

7. In the March 2005 *Second Order*, the Commission reexamined some of the rules governing the LPFM service, noting that the rules might need adjustment in light of the experiences of LPFM applicants and licensees. The Commission also took into account comments made at a February 2005 forum on LPFM that had addressed ''achievements by LPFM stations and the challenges faced as the service mark[ed] its fifth year.'' The *Second Order* clarified that ''local program origination,'' as that term is used in § 73.872(b)(2) of the Commission's rules, does not include the airing of satellite-fed programming. The *Second Order* also modified slightly the definitions of ''minor change'' and ''minor amendment.''

8. In the accompanying *FNPRM*, the Commission sought comment on a number of issues with respect to LPFM ownership restrictions and eligibility. The Commission asked whether LPFM licenses should be assignable or transferable and whether the temporary restrictions on multiple ownership of

LPFM stations and on non-local ownership should be extended or allowed to sunset. Because ''introducing some level of transferability to the LPFM service is critical,'' the Commission delegated to the Media Bureau the authority to waive the prohibition on the assignment or transfer of a LPFM station contained in § 73.865 of the rules on a case-by-case basis and cited examples of circumstances in which the grant of such a waiver might be appropriate:

> a sudden change in the majority of a governing board with no change in the organization's mission; development of a partnership or cooperative effort between local community groups, one of which is the licensee; and transfer to another local entity upon the inability of the current licensee to continue operation. * * *

The Commission noted, however, that ''until we have further considered the transferability issue, we do not believe that waiver is appropriate to permit the for-profit sale of an LPFM station to any entity or the transfer of an LPFM station to a non-local entity or an entity that owns another LPFM station.''

9. The Commission also proposed certain changes to the rules governing the formation and duration of voluntary and involuntary time-sharing arrangements among mutually exclusive LPFM applicants. The *FNPRM* also considered a number of changes to the LPFM technical rules. The Commission proposed to extend the construction period for LPFM stations and to allow time-sharing applicants greater flexibility to amend their applications to relocate the transmitter to a central location. The *FNPRM* also sought comment on the relationship between the LPFM and full-power FM services. Noting that thousands of FM translator applications remained pending from the 2003 filing window, the Commission froze the processing of those applications and sought comment on possible adjustments to the co-equal status of LPFM stations and FM translators with regard to interference between them. The Commission also sought comment on whether LPFM stations should be protected from interference from subsequently authorized FM stations. Finally, the Commission denied a request by the Media Access Project (MAP) to schedule ''regular'' filing windows for LPFM new station applications and major modification applications.

10. During the seven years since we created the LPFM service, that service has flourished for the most part, but also has encountered unique obstacles. To date, the Media Bureau has received 3236 applications for new LPFM construction permits, of which 1,286 have been granted. Currently, there are 809 LPFM stations operating throughout the country. At the same time, the Media Bureau was compelled to cancel 17 station licenses and 95 construction permits for failure by the holder to satisfy certain procedural and/or technical requirements. In view of this practical experience with LPFM service, we now turn to the issues raised in the *FNPRM*. In resolving those issues, we seek to increase the number of LPFM stations that are on the air and providing service to the public, and to promote the continued operation of LPFM stations already broadcasting, while avoiding interference to existing FM service.

III. Discussion

A. Ownership and Eligibility

1. Alienability of Authorizations

a. Changes in Board Membership

11. Section 73.865 of the rules provides that ''[a]n LPFM authorization may not be transferred or assigned except for a transfer or assignment that involves: (1) Less than a substantial change in ownership or control; or (2) An involuntary assignment of license or transfer of control.'' The *Reconsideration Order* clarified that the gradual change of a licensee's governing board or membership body is a permissible ''insubstantial change,'' even if the majority of current members joined after the station's authorization was granted. As the *FNPRM* noted, however, ''[o]ur rules * * * do not permit a sudden change in the board or membership of an LPFM licensee, which would constitute an impermissible transfer of control.'' Panelists at the February 2000 LPFM forum and other parties concerned with the viability of LPFM stations remarked that the proscription of sudden changes in governing board membership causes unnecessary complications for LPFM licensees. Responding to that concern, the *FNPRM* proposed to amend our rules to permit sudden changes of more than 50 percent of the membership of governing boards.

12. As commenters have since observed, frequent elections and changes in governing board membership are common among volunteer organizations and other entities that operate LPFM stations. As LPFM station KVLP–LP noted, experience on the board of an LPFM station can confer valuable leadership experience to community members, leading community groups to encourage frequent shuffling of board membership. Unsurprisingly, then, most commenters favor amending our rules to permit transfers of control in the case of a sudden change in a majority of a governing board's membership so long as the overall mission of the organization remains unchanged.

13. We agree. In crafting our LPFM rules, the Commission intended to preserve the integrity of the LPFM service and of the local organizations operating LPFM stations. We did not intend, however, to hamper the customary governance procedures of those organizations or to make LPFM less ''accessible to community groups.'' To the extent that our rules have blocked that access, we now remove that inadvertent barrier and adopt the *FNPRM*'s proposal to allow sudden changes of more than 50 percent of the membership of governing boards. Accordingly, we will amend § 73.865 of our rules to clarify that transfers of control involving a sudden change of more than 50 percent of an LPFM licensee's governing board shall not be deemed ''a substantial change in ownership and control.''

b. Assignments and Transfers

14. The *FNPRM* sought comment on whether the rules should permit the sale of LPFM authorizations, for some or no consideration, and whether they should impose a holding period by the initial permittee and licensee. Noting that at least 221 construction permits have lapsed due to the permittee's failure to construct facilities, REC Networks (REC) argues that an LPFM permittee or licensee should be able to convey its authorization when doing so would prevent the loss of the permit. Indeed, most commenters support amending the rules to permit sales in at least some circumstances, although they express diverse views with respect to when such transactions should be allowed. At one extreme are those commenters who maintain that LPFM stations should be transferable without restriction because there is little risk of manipulation or take-over in the ''market'' for LPFM authorizations. At the opposite end of the spectrum are those who contend that transfers of control or assignments should be limited to those situations in which the assignee or transferee ''represents the community'' and no consideration is involved. Prometheus argues that the Commission should not allow transfers or assignments to be made in exchange for consideration, as such a rule could lead to speculation by those with substantial resources, at the expense of local community groups that lack funding.

15. The for-profit sale of LPFM authorizations to any buyer is fundamentally inconsistent with the Commission's desire to promote local, community based use and ownership of LPFM stations. Transfers of control or assignments for consideration will create a market for LPFM licenses and may facilitate trafficking in licenses by those who have no interest in providing LPFM services to the public. Such a state of affairs would likely interfere with, rather than spur development of, community-based programming and hamper the ability of community-based entities to obtain LPFM authorizations. Therefore, we will not permit the sale of LPFM licenses for consideration exceeding the depreciated fair market value of the physical equipment and facilities of the station, and will not allow under any circumstances the transfer or assignment of construction permits.

16. With respect to the imposition of eligibility restrictions on a transferee or assignee of an LPFM license, some commenters suggest that we permit the sale of an LPFM authorization to any willing buyer. Others suggest that we limit the universe of eligible assignees and transferees to other local nonprofits. We conclude that the appropriate balance is struck by requiring the assignee or transferee of an LPFM license to satisfy ownership and eligibility criteria existing at the time of the assignment or transfer. That restriction will prevent entities from using intermediaries to circumvent our LPFM eligibility requirements and will further address our concern about potential trafficking in LPFM authorizations by ensuring that future LPFM licensees meet the Commission's criteria for LPFM service. At the same time, permitting assignments or transfers among qualified parties will allow newly-''merged'' local entities, consisting of several eligible organizations, to pool their resources to provide the necessary financial support for quality local programming when, standing alone, those entities would be otherwise incapable of constructing and operating an LPFM station.

17. For all transfers and assignments, we will require a three year holding period from the issuance of license, during which a licensee cannot transfer or assign the license, and must operate the station, as suggested by Prometheus. That restriction will prevent entities from using the LPFM assignment and transfer process to undermine the Commission's LPFM policies and will ensure that the benefits to the public which were the basis for the license grant will be realized.

c. Procedures

18. The *FNPRM* asked what procedures would be appropriate to allow assignments and transfers while ensuring the integrity of the LPFM service. Because many LPFM permittees and licensees are entities that do not issue ownership shares, the Commission drew attention to the *Non-Stock Transfer NOI* for guidance in establishing the procedures for transfers of control of such licensees. The *Non-Stock Transfer NOI* proposed to treat a sudden change of a governing board's majority as an insubstantial transfer for which approval must be sought on an FCC Form 316 (short form) broadcast application. The *FNPRM* sought comment on adopting a similar approach for changes in the governing boards of LPFM permittees and licensees that are non-stock entities. The *FNPRM* also sought comment on the process by which LPFM stations should seek approval of assignments and transfers of control.

19. Few commenters addressed the issue of the appropriate procedures for transfers of control or assignments of LPFM authorizations. Christian Community Broadcasters proposed using a modified FCC Form 318 LPFM construction permit application to cover all instances of ownership changes or changes in board membership. Limestone Community Radio suggested instead that entities use a modified FCC Form 316 for ''typical'' changes in station ownership. Still other commenters suggest that the Commission should take a more active role in overseeing any LPFM ownership changes to ensure ''ethical use'' of LPFM licenses.

20. We will use existing FCC forms for the conveyance of LPFM licenses, rather than adopting new forms and filing procedures. We see no reason to depart from the filing procedures that currently are used for other broadcasting services. Accordingly, we direct LPFM licensees to use modified FCC Forms 314 and 315 for assignments and transfers of control, respectively, and FCC Form 316 for *pro forma* changes in ownership. We will apply the *Non-Stock Transfer NOI* to appropriate LPFM licensees, and thus, will interpret a sudden change of a governing board's majority as an insubstantial transfer for which approval must be sought on an FCC Form 316 (''short form'') broadcast application. Use of these forms offers many advantages, particularly to smaller entities that have few resources to dedicate to the application process, such as the ability to retrieve and submit the forms electronically.

2. Ownership and Eligibility Limitations

21. As discussed above, the rules required that, during the two years following the first LPFM filing window, no entity was permitted to own more than one LPFM station, and ownership was restricted to local entities. The rules gradually relaxed these restrictions. Currently, the rules limit the number of LPFM stations a single entity may own up to ten stations and the rule that allows only local entities to apply for LPFM licenses has sunsetted. As we explained in the *FNPRM*, the Commission's intention in gradually increasing the ownership limitation from one to ten stations and in allowing the local entity restriction to sunset ''was to make it more likely that local entities would operate this service, but to ensure that if no local entities came forward, the available spectrum would not go unused.'' In connection with its query of whether to allow the sale of LPFM stations, the *FNPRM* asked if either the ownership limitation or the restriction to local entities should be extended or reinstated.

22. Several organizations urge the Commission to maintain ''strict local and multiple ownership requirements,'' to ensure that LPFM service continues to advance the public's interest in localism and diversity. According to some of these commenters, any relaxation of either the multiple ownership restriction or the locality-based restriction is fundamentally at odds with the ''community radio'' rationale that justifies the existence of LPFM stations. Prometheus Radio Project argues that, even when no local entity applies for an LPFM authorization, non-local entities should be barred from applying, because ''LPFM is not a goal in itself, rather it is a means to promote localism.''

23. We agree. As emphasized in our *Report and Order*, our two primary goals in establishing the LPFM service were to ''create opportunities for new voices on the airwaves and to allow local groups, including schools, churches, and other community-based organizations, to provide programming responsive to local community needs and interests.'' The *Report and Order* also stated that the potential benefit of allowing multiple ownership—increased efficiency—was clearly outweighed by ''the benefit to a community of multiple community-based voices.'' By amending the rules to permanently limit LPFM eligibility, we protect the public interest in localism and foster greater diversity of programming from community sources. Thus, we will reinstate the prohibition

on the ownership of more than one LPFM station.

24. In addition, we agree with those parties that suggest that we reinstate the local ownership restrictions. Although growing in both usage and recognition, LPFM service is still in its nascence and doing away with the locality restriction could threaten its predominantly local character, in particular the hallmark of a LPFM station's local character, its local origination of programming. In upholding the local origination selection criterion for mutually exclusive applications, our *Second Order* emphasized that local origination is ''intended to encourage licensees to maintain production facilities and a meaningful staff presence within the community served by the station.'' Even outside the limited context of mutually exclusive applications, we view local origination as a central virtue of the LPFM service and therefore will reinstate the eligibility restriction contained in § 73.853(b) of the rules to encourage local origination. We also wish to clarify our definition of local origination. According to Prometheus, a licensee could theoretically create one program, continually repeat it on a tape loop, and still claim it meets the definition of local origination. Prometheus asserts that in order to meet the local origination requirement, programming cannot be automated, including randomized songs or long blocks of locally produced programming run multiple times, and cannot be aired more than two times. We agree that there is room for abuse here, and as such, we clarify that repetitious automated programming does not meet the local origination requirement. We will only allow a program to be broadcast twice in order to meet the local origination requirement. After its initial broadcast a program can be rebroadcast once and still meet our requirement. After that, the program cannot count toward the local origination requirement.

25. Finally, we adopt the suggestion by Prometheus that we extend the local standard for rural markets. Pursuant to § 73.853(b) of the rules, an LPFM applicant is deemed local if it is physically headquartered or has a campus within ten miles of the proposed LPFM transmitter site, or if 75 percent of its board members reside within ten miles of the proposed LPFM transmitter site. The ten-mile limit was adopted based on the ''station's likely effective reach.'' Prometheus' comments express concern that this ten-mile local entity standard is difficult to meet for rural applicants, especially in finding board members who reside within ten miles of the proposed transmitter site. Prometheus states that people in rural communities often listen to and participate in stations that are outside of their home coverage area, because they listen to the station while driving to and from work. As such, Prometheus requests modifying the ten-mile requirement to twenty miles for all LPFM applicants for proposed facilities in other than the top fifty urban markets, for both the distance from transmitter and residence of board member standards. We agree with Prometheus that applicants for stations located in rural communities find it particularly challenging to meet the current ten-mile standard. We also agree that the concept of ''local'' should be more expansive in rural areas. Accordingly, we will revise § 73.853(b) of the rules to reflect Prometheus' proposal.

3. Time-Sharing

26. The *Report and Order* established a comparative point system for determining which among mutually exclusive LPFM applicants should receive the authorization that they commonly seek. If such applicants have the same point total, two or more of the tied applicants may propose to share use of the LPFM frequency by submitting a time-share proposal within 30 days of the release of a public notice announcing their tie. If the tie among the applicants is not resolved through a voluntary time-sharing agreement, the tied applicants submitting grantable applications are placed in an involuntary time-sharing arrangement, and granted equal, successive, non-renewable license terms for the applied-for facility of no less than one year each, for a total combined term of eight years. The *FNPRM* proposed amending the rules governing mutually exclusive LPFM applications in two key respects. First, in response to a request by MAP, the *FNPRM* proposed to extend, from 30 to 90 days, the period allowed for applicants to submit a voluntary time-sharing agreement. Second, the *FNPRM* proposed to amend the rules to permit the renewal of licenses granted under the involuntary time-sharing successive licensing procedures. We address those proposals in turn.

a. Deadline for Submission of Voluntary Time-Sharing Agreements

27. In its Petition for Reconsideration of the *Report and Order*, MAP observed that ''LPFM applicants are largely comprised of small organizations with few administrative resources,'' and that few applicants ''have access to the expertise of professional engineers.'' Accordingly, few applicants are able to identify mutually exclusive applications before receiving notice from the Commission that they are tied with others, leaving them only 30 days to contact the other applicants, complete negotiations and execute and file their agreements with the Commission. Because those negotiations likely will be conducted by inexperienced volunteers, MAP argues, reaching a successful compromise within that time frame is very unlikely. Finding MAP's argument persuasive, the *FNPRM* proposed to extend to 90 days the time period within which mutually exclusive LPFM applicants must reach and file a voluntary time-sharing arrangement.

28. All commenters who addressed the issue favor adoption of the proposal to so extend the negotiation and filing period to 90 days. NPR, ''recogniz[ing] the fundamental importance of a diversity of programming services and station ownership,'' observes that allowing LPFM applicants more time to enter into voluntary time-sharing arrangements will promote that diversity. Similarly, REC contends that 30 days is not enough time in which to reach and file a viable time-sharing agreement. REC sought to assist applicants with negotiations of universal settlements, but found that often basic contact information supplied on the applications was inaccurate. Drawing from that experience and similar considerations, REC urges the Commission to extend the period of time in which mutually exclusive applicants may negotiate and file time-sharing agreements.

29. We agree with the views of NPR, REC, and others, and therefore adopt the *FNPRM*'s proposal to extend the negotiating and filing period to 90 days. Mutually exclusive LPFM applicants should be given every opportunity to arrive at a negotiated time-sharing arrangement before the LPFM rules impose a successive-term licensing scheme on the applicants. To the extent that the 30-day time period in § 73.872 of the rules has impeded the successful negotiation of time-sharing arrangements, we remove that impediment and hope that this will reduce considerably the likelihood that involuntary time-sharing arrangements with multiple successive license terms will be necessary.

b. License Renewal Procedures for Parties to Time-Sharing Arrangements

30. Section 73.872(d) of the rules provides that an LPFM authorization issued under involuntary time-sharing arrangements, under which mutually exclusive applicants are granted

successive license terms, is not renewable. The *FNPRM* also proposed that we change this provision and make such authorizations renewable. The *FNPRM* sought comment on how the renewal process should operate, given that increased flexibility in the rules governing assignments and transfers of control may lead licensees under such arrangements to negotiate voluntary time-sharing agreements among themselves.

31. REC is one of the few commenters to respond to our queries about involuntary time-sharing arrangements. In its submission, REC suggests that if licensees under an involuntary time-sharing arrangement ''come up with a universal settlement to engage in a conventional time-share arrangement * * * the Commission should grant such an arrangement and remove the non-renewable condition of the permit and/or license.'' REC further proposes that, at the end of the eight-year term, all licensees in a successive license term group should each be permitted to file a renewal application.

32. The *FNPRM* tentatively proposed to make renewable all viable licenses under both voluntary and involuntary time-sharing arrangements. Making renewable only the authorizations of those organizations that can reach a mutually acceptable agreement with respect to scheduling, however, will provide a powerful incentive to licensees that thus far have been unable to reach such agreement. This will lead to more efficient use of the spectrum. Accordingly, we agree with REC that when organizations subject to an involuntary time-sharing arrangement reach a ''universal settlement'' with respect to the allocation of time on the relevant frequency, the non-renewable condition of their authorizations should be removed.

33. For the same reasons, we also agree with REC that stations subject to involuntary time-sharing under successive license terms that subsequently enter into a voluntary time-sharing agreement should be permitted to file a renewal application. However, we are not persuaded that we should accommodate those licensees with successive license terms that fail to reach a universal voluntary agreement with the ability to renew. By doing this, we would be rewarding such applicants' unwillingness or inability to reach such agreements. We note that, of the more than 1,200 construction permits granted in the LPFM service, currently no stations hold authorizations for involuntary time sharing. In this Order, we have extended the 30-day time period in § 73.872 of the rules for applicants to negotiate and file universal voluntary time-share agreements to 90 days. We have also enabled those applicants originally issued involuntary time-share permits that reach such agreements to ultimately acquire renewable licenses. We believe that these measures will greatly reduce the likelihood that involuntary time-sharing arrangements will be necessary. Therefore, we decline to provide a renewal expectancy for involuntary time-share licensees. We strongly encourage any such permittees and licensees and future mutually exclusive applicants to enter into universal voluntary time-share agreements.

34. Making renewable the authorizations of parties who time-share who have reached voluntary time-sharing agreements raises a number of practical questions with respect to how and when those arrangements will supersede involuntary ones. First, we must determine when a voluntary time-sharing agreement should replace the successive-term structure of the involuntary arrangement. As we noted in the *FNPRM*, it is likely that licensees will reach universal time-sharing agreements prior to seeking renewal. We will therefore construe the superseding agreement as a ''minor change,'' allowing the licensees who seek to operate under a universal voluntary time-sharing agreement to file the minor change application as soon as the agreement is reached, rather than having to wait for a filing window. Expediting our approval of voluntary time-sharing arrangements in this manner will encourage prompt negotiations among licensees operating under involuntary time-sharing arrangements and, it is hoped, promote a more efficient use of scarce LPFM spectrum than that under the successive licensing terms that apply to involuntary time-sharing arrangements. Accordingly, we will revise the rules to facilitate those voluntary agreements. We stress, however, that voluntary time-sharing agreements must be genuinely universal, involving all permittees and licensees of a particular LPFM facility. That is, to give rise to a renewal expectancy, all of those in a time-share group must be parties to the time-sharing agreement.

35. To ensure that voluntary time-sharing arrangements will result in the most efficient use of LPFM spectrum, we also must address how to apportion unused airtime among licensees in a time-share group. This circumstance may arise in a number of ways. For example, a permittee in that group could fail to construct its facilities, decide to cease operations, or have its authorization revoked for a serious violation of the rules. There might also be situations in which no permittee or licensee has come forward requesting to operate during a certain part of the day or week. REC points to an example in Visalia, California, where one licensee, KFSC–LP, broadcasts from 5 to 9 a.m. Monday through Saturday and a second licensee, KQOF–LP, broadcasts from 5 to 9 p.m. Monday through Saturday. No licensee broadcasts other than those times. REC proposes that, prior to the opening of a new filing window, new entrants who can reach a universal settlement with existing stations should be allowed to do so. REC also argues that new entrants should be allowed to apply for periods of unused time once a window for new applications has opened.

36. We agree with REC that, during filing windows for new applications, new parties should be permitted to apply for unused and unwanted time on a particular frequency. We will not entertain such applications outside of an open filing window, however, even when the potential new entrant could successfully negotiate a universal settlement with existing licensees. Aside from the administrative burden that such out-of-window filings could create, allowing a new entrant to act before a formally-announced filing window could prejudice unfairly other potential applicants who, under the comparative criteria set forth in § 73.872(b) of the rules, would be entitled to a preference over the would-be new entrant's mutually exclusive application. Restricting applications for unwanted time to new filing windows does raise a potential concern in that the restriction will leave periods of time on a particular frequency vacant until the Commission elects to open a filing window for new applications. To alleviate that concern, and to promote a more efficient use of available LPFM frequency, we will allow existing stations in a voluntary time-share group to apportion among themselves any time that, for any reason, becomes unused. As with the negotiation and execution of voluntary time-sharing agreements by parties in an involuntary time-share arrangement, we will deem amendments to a voluntary time-sharing agreement to account for unused time requests to be minor modifications that may be filed at any time.

B. Technical Rules

1. Construction Period

37. The *Report and Order* established an 18-month construction period for all LPFM facilities, stating that deadlines

would be strictly enforced. However, as a temporary measure, the *FNPRM* adopted an interim waiver policy to allow permittees with soon-to-expire permits to request additional time to construct their facilities. Under that policy, the Media Bureau has the authority to consider and grant requests for an additional 18 months to construct facilities, upon a showing that the permittee reasonably can be expected to complete construction within the extended period.

38. As a permanent solution, the *FNPRM* proposed extending the construction period for LPFM stations to 36 months, the construction period afforded to all other broadcast permittees. During the six years since the release of the 2000 *Report and Order*, our assumption that LPFM facilities would require significantly less time to build than that required to construct full-power FM facilities has proven to be overly optimistic. LPFM licensees have encountered varying difficulties in locating suitable transmitter sites, raising sufficient funds for the proposed facilities, and obtaining the necessary zoning permits. The *FNPRM* thus proposed extending the construction period in order ''to maximize the likelihood that LPFM permittees will get on the air.''

39. Many commenters favor extending the construction period. Some state that the blanket adoption of a 36-month construction period has administrative advantages over a conditional extension or case-by-case review of individual waiver requests. Moreover, extending the construction period to 36 months would put the LPFM and full-power FM services on equal footing and avoid disenfranchising able, willing, but inexperienced, LPFM permittees. Prometheus Radio Project and others contend that the better approach is to grant an 18-month extension to complete construction, but only upon demonstration of good cause. Prometheus argues that such a procedure would give able and willing LPFM permittees a total of 36 months to construct their facilities but prevent unable or unwilling LPFM permittees from warehousing valuable spectrum, without service to the public, for an extended period of time.

40. We seek to encourage permittees to construct their facilities within 18 months, and therefore, decline to adopt a blanket 36-month construction period for LPFM. We agree with Prometheus that this approach will prevent unwilling/unable applicants from sitting on valuable spectrum. We recognize, however, that some permittees may face difficulties in meeting this deadline. Therefore, we will amend the rules to allow all permittees, including current ones whose construction permits have yet to expire, the opportunity to seek an 18-month extension to complete construction of their facilities upon a showing of good cause. Because any such extension should account adequately for the delays resulting from the potential inexperience of the permittee, as well as for potential obstacles that may arise during the zoning or permitting processes, that extended construction deadline will be strictly enforced, as it is with all other radio broadcast stations; we do not expect to entertain, and most likely will not grant, waiver requests or those for further extensions.

2. Technical Amendments

41. Section 73.871 of the rules limits the ability of applicants to propose site changes by minor amendment to relocations of 3.2 kilometers or less for an LP10 station, and 5.6 kilometers or less for an LP100 station. That rule prevents time-sharing applicants from relocating their transmitters to a central location unless the site falls within those distance limits. To increase flexibility for time-sharing applicants and thereby promote voluntary time-sharing agreements, the *FNPRM* proposed to allow time-sharing applicants to file minor amendments to relocate their transmitters to a central location, notwithstanding the site relocation limits imposed by § 73.871 of the rules.

42. Few commenters have responded to our queries about technical amendments by time-sharing applicants under § 73.871 of the rules. In 2001, UCC requested that we amend the rules to allow applicants that submit a voluntary time-share agreement to relocate the transmitter to a central location, provided that one is available. The Commission has a long-standing policy of providing mutually exclusive applicants with maximum flexibility to enter into time-share agreements in order to facilitate rapid licensing in the service. For instance, in 2003, the Commission by public notice waived § 73.871 of the rules for a time to permit all LPFM settling applicants the ability to file major change amendments specifying new FM channels. Permitting parties to file time-share agreements to specify a ''central location'' beyond the current minor amendment distance limitations would remove one more potential impediment to such agreements. Accordingly, we amend § 73.871 of the rules to permit time-sharing applicants to specify a central transmitter location with a minor amendment without regard to the respective 3.2 and 5.6 kilometer limitations on such amendments. These agreements, which permit a number of different organizations to reach local audiences, promote diversity. Providing applicants additional flexibility and the opportunity to avoid the construction of duplicate facilities also serves the public interest. For the same reason, we amend that rule to allow permittees and licensees that reach a voluntary time-sharing agreement after their permits have been granted to submit such site change applications by minor submission. We anticipate that this rule change will encourage time-share applicants, permittees and licensees to consolidate transmission and studio facilities.

3. LPFM–FM Translator Interference Priorities

43. The *FNPRM* identified several possible ways to modify the LPFM–FM translator interference protection requirements. Currently, stations in these two services operate on a substantially co-equal basis, with a facility proposed in an application having ''priority'' over one specified in any subsequently filed application. The *FNPRM* sought comment on whether, and if so, under what circumstances LPFM applications should be treated as having priority status over prior-filed FM translator applications and granted authorizations. In particular, the Commission sought comment on how to overcome the significant preclusive impact of the 2003 Auction No. 83 translator filing window, asking among other things whether all pending applications for new FM translator stations filed during the window should be dismissed. The *FNPRM* explained that the staff already had granted approximately 3,500 new station construction permit applications from the singleton filings, ''a number nearly equal to the total number of FM translator stations licensed and operating prior to the filing window,'' that 7,000 applications remained on file, that very few opportunities for LPFM stations in major markets remained prior to the 2003 translator filing window, and that the Auction No. 83 filing would have a ''significant preclusive impact on future LPFM licensing opportunities.'' The voluminous comments submitted in response to the priority issue focus on two possible theories supporting modification of the current rule: (1) That LPFM provides a ''preferred'' radio service to that offered by translators; and (2) that priority status for LPFM applications is necessary to overcome

the preclusive impact of the over 13,000 technical proposals filed during the 2003 Auction No. 83 FM translator window.

44. LPFM advocates contend that their service is preferable to translator service. They note that the rules require LPFM stations to be locally owned and permit local program origination. They note that, in contrast, many translators merely rebroadcast satellite-distributed national programming. Some LPFM advocates request priority status for only those LPFM stations that originate programming. Others request priority status over all ''distant'' translators, *i.e.*, translators that rebroadcast the signals of non-local stations.

45. NAB, NPR, the various state broadcast associations, and virtually all full-service commercial and NCE broadcasters support retention of the current interference protection rules. They argue that there are no simple ways to distinguish preferred stations or programming. They also claim that there is no such thing as a typical LPFM or FM translator station. They reject as unfounded the contention that program origination or local ownership correlates to more desirable programming. They note that LPFM licensees have limited service responsibilities with regard to their communities of license: LPFM stations need not originate programming; many serve the needs of niche interest groups rather than their entire communities of license; they are not required to maintain a main studio or public file; and they are required to operate for only 35 hours per week. Many broadcasters contend that, because the LPFM service is still in its infancy, it is premature to reassess the ''co-equal'' status of LPFM and FM translator stations. NCE and public radio broadcasters argue that giving LPFMs priority over operating FM translator stations would significantly disrupt established and valued translator service to millions of listeners, particularly those in rural areas and in situations in which broadcasters rely on ''chains'' of translators to distribute programming. The public radio commenters note that translators are a critical component of the public radio infrastructure. A number of other commenters urge that a ''fill-in'' translator should be treated as the equivalent of its associated primary full-service station and, therefore, always preferred to an LPFM station.

46. With regard to the potentially preclusive impact of the over 13,000 FM translator applications filed in 2003, some commenters argue that the LPFM service is not entitled to any special consideration because LPFM applicants had the first opportunity during the 2000–2001 national LPFM windows to apply for new stations. Translator advocates note that their last opportunity for non-reserved band FM translators occurred in 1997. Edgewater Broadcasting, Inc. (Edgewater) submits an extensive analysis of the preclusive impact of the construction permits issued out of the 2003 translator filing window and the more limited impact of the over 1,000 permits issued to it and its commonly-owned Radio Assist Ministries. Edgewater contends that the preclusive impact has been ''miniscule,'' notes that the Commission received no LPFM applications to serve many of the areas specified in its translator filings, and argues that its studies demonstrate that vast areas in the country remain available for new LPFM stations. REC also submits both national and market-specific analyses and identifies several communities in which 2003 window filings have allegedly precluded or diminished LPFM station licensing opportunities.

47. The Station Resource Group, an alliance of 45 public radio broadcasters that operate 168 radio stations, contends that the chief contributor to LPFM station preclusion is a ''maxed out spectrum situation'' which prevents any broadcasters, NCE or commercial, translators or LPFM stations, from obtaining new licenses in virtually all major markets and many medium-sized markets. Several commenters argue that the statutory third-adjacent channel LPFM protection requirement blocks many otherwise-licensable LPFM opportunities.

48. A number of commenters argue that the Commission's concern is misdirected. They urge the Commission to instead move vigorously against alleged FM translator filing abuses, speculators, and deficient application filings. They suggest imposing numerical application filing limits, either on a prospective basis or with regard to the still-pending translator applications. Several contend that the high demand for new FM translators is unsurprising, given the extended freeze on non-reserved band licensing.

49. As demonstrated by the comments filed on this issue, the LPFM and FM translator services are each valuable components of the nation's radio infrastructure. We agree with the advocates for each of these services regarding the important programming that these stations can provide to their local communities. We do not reach the merits of the priority rules between these two services here. Instead, we seek further comment in the attached Second *FNPRM* to develop a better record on whether and how our current rule affects our core goals of localism, diversity and competition. The current rules will remain in effect until the Commission resolves the issue in that proceeding.

50. We also must consider the question of whether Auction No. 83 filing activity has adversely impacted our goal to provide to both LPFM and translator applicants reasonable access to limited FM spectrum in a manner which promotes the ''fair, efficient, and equitable distribution of radio service * * *.'' This issue has taken on much greater significance over the past few years as demand for new radio stations has increased dramatically while the spectrum for such stations has become increasingly scarce, particularly in many mid-sized communities and in virtually all urbanized areas. Station Resource Group is correct—the primary licensing impediment is the nation's ''maxed out'' spectrum situation. New Jersey LPFM licensing activity is illustrative of the limited new station opportunities in spectrum-congested areas. Only 29 New Jersey LPFM applications were filed during that state's June 2001 window. Of those submissions, the Media Bureau has issued only eleven construction permits and only one additional authorization possibly may be granted. Only seven LPFM stations are currently operating in the state. We find these statistics more probative of the LPFM service's growth potential than the studies completed by Edgewater because LPFM stations, due to their limited service area potential, generally require higher population densities to be viable. It seems unlikely that the availability of spectrum in the vast rural portions of the nation will generate significant levels of LPFM station licensing.

51. Demand for radio spectrum is, if anything, increasing. The number of applications filed during the AM new and major change windows jumped from 258 in 2000 to more than 1,300 in 2004. Competitive bidding activity for FM new station construction permits has been robust since the commencement of open FM auctions in 2004. The 2003 FM translator window provides further evidence of this trend, especially when compared to historic licensing levels for this service. As of September 30, 1990, a total of 1,847 licensed FM translators and (co-channel) boosters operated throughout the nation. As of December 31, 1997, shortly after the date on which the Commission imposed a freeze on new non-reserved band translator filings (but not on new boosters or new reserved band stations), a total of 2,881 FM

translators operated nationally. The number of licensed stations continued to grow modestly over the next six years, chiefly as a result of ongoing reserved band filing activity. A total of 3,818 licensed stations were in operation in March 2003 when the Commission opened the FM translator window, a total of 3,897 licensed stations when the Commission imposed the Auction No. 83 construction permit freeze in March 2005.

52. Measured against this historical licensing record, Auction No. 83 window filing activity was significant. Proposals exceeded authorized stations by a factor of three in a service in which little licensing was done before the 1980s. The 2003 window already has nearly doubled the total number of authorized stations. To date, three times more translator stations have been authorized out of this one window than LPFM stations authorized through the initial LPFM window filing process. Approximately 7,000 translator applications remain pending. The Commission faces two chief difficulties in trying to balance spectrum allocations for LPFM stations and translators. First, FM translators are licensed under substantially more flexible technical rules. Thus, some of the Auction No. 83 filing activity involves spectrum which is unavailable for LPFM use. By the same token, LPFM station proponents have far fewer licensing opportunities in spectrum-congested markets because LPFM technical rules are substantially less flexible. Second, it is impossible to accurately predict future demand for LPFM station licenses. While engineering studies can identify areas in which additional licensing is technically permissible, the interest of local organizations to apply for, construct, and operate new LPFM stations can only be determined at the time a window is opened.

53. Although precise preclusionary calculations are not possible, we believe that processing all of the approximately remaining 7,000 translator applications would frustrate the development of the LPFM service and our efforts to promote localism. Several factors support the adoption of some remedial measures. The sheer volume of Auction No. 83 filings, when compared to historic translator and LPFM licensing levels, is a significant concern. We recognize that LPFM proponents had the ''first'' opportunity to file for the spectrum which Auction No. 83 filers now propose to use. However, it is apparent that the translator filings have precluded or diminished LPFM filing opportunities in many communities. For example, a REC national study found that 16 percent of all census designated communities that otherwise would have LPFM channels available in their communities have been precluded by the translator filings and that the greatest preclusionary impact has been in the largest such communities. Moreover, the Media Bureau has found that its efforts to identify alternative channels for LPFM stations either causing or receiving interference have been significantly limited in numerous cases by the requirement to protect pending FM translator applications and authorizations granted out of the 2003 window. The licensing asymmetries between these two services also support this finding. Translator filings can materially impact LPFM new station options which are far more limited than FM translator filing opportunities. In contrast, it is unlikely that LPFM filings will materially affect translator licensing options. FM translator contour-based station licensing is substantially more flexible than the strict distance separation requirements which LPFM stations must satisfy. This difference is tied in part to the fact that unlike an LPFM station, an FM translator station must cease broadcast operations if it is causing ''actual interference'' to any authorized broadcast station. In short, any translator station construction is at the risk of the permittee. The level of Auction No. 83 filing activity and the fact that many applications were filed for facilities in the top 100 markets both illuminate the significant difference in the licensing opportunities between these two services. The next LPFM window may provide the last meaningful opportunity to expand the LPFM service in spectrum-congested areas. In contrast, we expect significant filing activity in many future translator windows.

54. Certain equitable considerations also tilt in favor of adopting remedial measures to limit the preclusive impact of Auction No. 83 filings. Each applicant filing in Auction No. 83 submitted one Form 175 Application to Participate in an FCC Auction and a separate Form 349 ''Tech Box'' for each translator proposal. 861 filers submitted 13,377 such proposals in the window. Applicant filing activity divided between the hundreds of applicants who filed a limited number of applications and a very small number of applicants who filed for hundreds or thousands of construction permits. For example, approximately half the filers submitted one or two proposals. Approximately 80 percent of filers submitted 10 or fewer proposals. 97 percent filed 50 or fewer proposals. In contrast, the two most active filers, commonly-owned Radio Assist Ministries and Edgewater (collectively, RAM), filed 4,219 proposals, constituting almost one-third of all Auction No. 83 filings. The fifteen most active filers were responsible for one-half of all Tech Box submissions.

55. We are concerned that the heavily skewed filing activity in Auction No. 83 raises concerns about the integrity of our FM translator licensing procedures. Even if lawful, it is fair to question whether the acquisition of unprecedented numbers of FM translator authorizations by a handful of entities through our window filing application procedures promotes either diversity or localism. The rapid flipping of hundreds of permits acquired through the window process for substantial consideration does suggest that our current procedures may be insufficient to deter speculative conduct. Some commenters have been critical of RAM's business strategy. ''The [National Translator Association] considers those applicants who intend to obtain construction permits and then sell those permits to be simply speculators for profit.'' Most fundamentally, it appears that our assumption that our competitive bidding procedures would deter speculative filings has proven to be unfounded in the Auction No. 83 context. RAM, alone, has sought to assign more than 50 percent of the 1,046 construction permits it has been awarded through the window and has consummated assignments for over 400 of all such permits.

56. In order to further our twin goals of increasing the number of LPFM stations and promoting localism, we find it necessary to take action. Accordingly, we will limit further processing of applications submitted during the Auction No. 83 filing window to ten proposals per applicant. Applicants with more than ten proposals pending will be provided an opportunity to identify those applications which they wish to have processed and those for which they seek voluntary dismissal. The Media Bureau is directed to complete its processing of the approximately 100 pending but frozen singleton long-form applications without regard to the ten application limit. However, construction permits granted from this group will count toward the limit for future Auction No. 83 licensing purposes. This cap will only apply to short-form applications, and will not impact the ability of Auction No. 83 filers with granted construction permits or pending long-form applications to obtain licenses to

cover. This limit will not have an adverse impact on the more than 80 percent of those who filed ten or fewer proposals in the Auction No. 83 filing window. It will require certain filers to identify priority proposals. This cut-off will limit the preclusive impact of Auction No. 83 filings on LPFM licensing opportunities by barring the processing of thousands of applications filed by a very small number of applicants, without impacting the approximately 80 percent of filers who filed ten or fewer applications. Although we recognize the equitable interests of the remaining 20 percent of filers in the processing of all of their short-form applications, on balance we conclude that the public interest requires a bar on the processing of more than ten applications per filer. We are hopeful that as a result of this cap the Media Bureau will be able to shorten the period between windows for both new LPFM and FM translator stations. We direct the Media Bureau to issue a public notice announcing the opening of the settlement window required by §§ 73.5002(c) and (d) of the rules. Applicants must select the ten applications they wish to preserve before the settlement window opens. With the imposition of this cap, we direct the Media Bureau to resume the processing of Auction No. 83 filings. Specifically, the Media Bureau is to expeditiously process the applications of any applicant that is now in compliance or brings itself into compliance with the ten proposal cap.

57. We are mindful of the expenses that translator applicants have incurred in preparing their non-feeable Form 175 short-form applications and Form 349 Tech Box submissions but believe that the imposition of this cap treats all applicants equitably. We have attempted to accommodate applicants to the greatest extent possible, consistent with statutory requirements and competing Commission goals. All applicants will benefit from expedited processing and the Media Bureau's ability to open future windows more quickly. Thus, this action is entirely consistent with Commission's rules and precedent for the dismissal of pending applications as a necessary adjunct of efficient and effective rulemaking. Finally, we note that there is ample precedent for the mass dismissal of applications based on a rule or policy change. This procedural change is a reasonable exercise of the Commission's administrative discretion. Accordingly, we conclude that the imposition of a cap in these circumstances is lawful.

4. Interference Protection From Subsequently Authorized Full-Service FM Stations

58. *Background.* The *Report and Order* establishing the LPFM service set minimum distance separation requirements to ensure that LPFM stations protect existing commercial and NCE full-service FM stations, as well as FM translator and booster stations. The *Report and Order* also concluded that existing full-service stations would not be required to protect proposed LPFM facilities. Moreover, ''operating LPFM stations will not be protected against interference from subsequently authorized full-service facility modifications, upgrades, or new FM stations.'' Conversely, an LPFM station is not permitted to cause interference within the 3.16 mV/m (70 dBμ) contour of a full-service FM station. An LPFM station generally may continue to operate within that contour so long as it can demonstrate that actual interference is unlikely to occur. Section 73.809 of the rules sets forth detailed complaint procedures to resolve disputes over the likelihood of actual interference and the sufficiency of actions taken by LPFM stations to eliminate that interference.

59. In September 2000, the Commission dismissed a motion to reconsider the regulatory status of LPFM stations. In the *FNPRM,* however, the Commission stated that ''it would be useful to consider whether to limit the § 73.809 interference procedures to situations involving co- and first-adjacent channel predicted interference, where the predicted interference areas are substantially greater than for second and third-adjacent channel interference.'' The Commission also asked whether an LPFM station should be permitted to remain on the air if the full-power FM station did not serve the area of predicted interference prior to the facilities modification (in the case of an existing station) or the grant of the construction permit (in the case of a new station). Similarly, the Commission sought comment on whether an LPFM station should be permitted to remain on the air if the full-service station's community of license would not be subject to interference. Finally, the Commission asked whether an amendment to § 73.809 of the rules would be consistent with Congress' directive mandating third-adjacent channel interference protection from LPFM stations.

60. Although, to date, only one LPFM station has been forced off the air pursuant to the requirements of § 73.809 of the rules, some commenters believe that numerous LPFM stations are under a significant threat of such ''encroachment.'' On March 5, 2007, the Commission received a petition for rulemaking requesting: (1) Immediate issuance of a moratorium on the displacement of licensed LPFM stations and Class D Educational stations by new, relocating and/or upgrading full-power radio stations, and (2) a proposed rule permanently prohibiting or otherwise restricting such displacement. *See* Petition for Rulemaking of the Amherst Alliance, Talk Radio of Pahrump, Midwest Christian Media, Providence Community Radio and Nickolaus E. Leggett N3NL at 1. In light of the discussion herein, we dismiss this petition. In 2005, REC released a study claiming that 134 LPFM construction permits and licenses were then at risk of being cancelled due to pending full-power station modification applications for vacant allotments. The study also claimed that hundreds of LPFM stations faced less significant levels of increased interference. REC has updated this analysis to assess the impact of applications filed under the recently-adopted rules that established streamlined community of license modification procedures. This study claims that 257 LPFM stations could suffer at least some signal degradation as a result of these facility changes and that 38 of these LPFM stations might be required to cease operations. Prometheus and other commenters call for the Commission to grant LPFM stations co-equal protection status with full-power stations. Alternatively, they suggest that a full-power station proposing to eliminate or seriously degrade the listening area of an LPFM station be required to receive full Commission approval for such a modification. At a minimum, these commenters request that impacted LPFM stations be provided with the ability to make major engineering changes to preserve service.

61. Conversely, many other commenters believe that no changes to § 73.809 of the rules are warranted. Instead, NAB proposes that flexible procedures be put in place to encourage LPFM stations to relocate. NPR contends that the Commission should maintain the current interference protections between FM and LPFM stations. Indeed, NPR and others suggest that the Commission lacks statutory authority to eliminate second and third-adjacent channel protections. Educational Media Foundation states that relaxing § 73.809 of the rules would be harmful to listener-supported NCE stations. Finally, NSBA contends that

there is a strong likelihood of harmful interference to full-service FM stations if the rule is changed and that harm outweighs any speculative benefit to the public interest that would result from a rule change.

62. *Discussion.* In the *Report and Order,* we declined to provide LPFM stations with an interference protection right that could prevent a full-service station from seeking to modify its transmission facilities or could foreclose future new full-service radio station licensing opportunities. Our experience to date confirms our belief that in most instances the interests of both full-service and LPFM stations can be accommodated. We applaud those full-service stations that have provided technical and/or financial assistance to LPFM stations that have been required to undertake facility modifications to remain on the air. We are particularly appreciative of those broadcasters that have consented to short-spacings to avoid LPFM station displacements. We urge licensees seeking community of license modifications or other changes that could lead to LPFM displacement or signal degradation to continue these cooperative efforts on a going-forward basis. The Media Bureau also has played an important role in crafting technical solutions to preserve LPFM stations potentially at risk from new station and facility modification proposals. It already has taken action on dozens of LPFM modification applications that were filed to eliminate or reduce caused interference to or received interference from a full-service FM station. We direct the Media Bureau to continue to attempt to resolve conflicts between full-service and LPFM stations in ways that accommodate the interests of both services.

a. Section 73.809 Interference Procedures

63. Circumstances have changed considerably since we last considered the issue of protection rights for LPFM stations from subsequently authorized full-service stations. Most importantly, the January 2007 lifting of the freeze on the filing of FM community of license modification proposals combined with the implementation of new streamlined licensing procedures resulted in a one-time flurry of filing activity, with approximately 100 FM community of license modification proposals submitted in the first week of the new rules. In all, over 200 community of license modification applications have been filed under the new rules. Increased filings under the new rules and the arguments of LPFM advocates persuade us that the Commission should put policies in place to address current and future LPFM station displacement threats. The Media Bureau has identified approximately 40 LPFM stations that could be forced to cease operations. In these circumstances, we find that the rules should be amended to limit § 73.809 interference procedures to situations involving co- and first-adjacent channel interference.

Thus, § 73.809 will no longer apply to situations involving predicted second-adjacent channel interference. We encourage full-service and LPFM stations to work cooperatively to minimize or eliminate the impact of the full-service station proposal on both stations. In this regard, we encourage each ''encroaching'' full-service station to provide technical and financial assistance to any LPFM station at risk from a full-service station facility proposal and to identify and facilitate the implementation of measures to ameliorate any potential increase in received interference by the LPFM station. As described in more detail below, second-adjacent channel interference to a full service station is generally predicted to occur only in the immediate vicinity of the LPFM station transmitter site. Predicted interference to listeners can be substantially reduced or eliminated in these situations by various techniques, *e.g.,* increasing LPFM antenna height, relocating LPFM transmission facilities away from populated areas, etc.

b. Section 73.807 Second-Adjacent Channel Waiver Standard

64. The Media Bureau has identified for many of the stations now at risk of displacement alternate channels that would require waivers of § 73.807 of the rules because operations on the new channels would be short-spaced to full service stations operating on second-adjacent channels. Based on the potential harm to this small but not insignificant number of LPFM stations, we believe that it would be beneficial to establish a procedural framework for the consideration of showings from LPFM stations that may seek such waivers to avoid displacement, as well as to avoid unnecessary disruption of LPFM service to the public during such consideration. This procedure will apply to both pending applications and those filed, but not disposed of, prior to the effective date of any rule changes proposed in the *Second FNPRM.* The clarification of our second-adjacent channel LPFM waiver standards set forth below is intended to avoid the unwarranted loss of many LPFM stations while the Commission considers certain rule changes set forth in a *Second FNPRM* that we also adopt today. The interim procedural protections we establish in connection with such waiver standards are designed to safeguard the interests of all affected parties and to aid the Commission in identifying those situations in which strict compliance with our rules would not serve the public interest. We also provide guidance below regarding processing standards that the Commission will apply to full-service station modification applications where the modification would place an LPFM station at risk of displacement and no alternate channel is available. In such circumstances, we will consider waiving the Commission's rule making LPFM stations secondary to subsequently-authorized full-service stations and denying the modification application to protect an LPFM station that is demonstrably serving the need of the public from being required to cease operations.

65. In evaluating whether the public interest would be served by grant of a waiver of § 73.807 of the rules for a second-adjacent channel short-spacing to an LPFM station at risk of displacement, the Commission must balance the potential for new interference to the full-service station against the potential loss of an LPFM station. An LPFM station operating within the 60 dBμ contour of a second-adjacent channel full-service station would cause interference to the full-service station in the immediate vicinity of the LPFM transmitter site. Based on desired-to-undesired (D/U) signal strength ratio calculations, in most circumstances interference would be predicted to extend from ten to two hundred meters from the LPFM station antenna. Clearly, it will be advantageous to an LPFM applicant's waiver showing to propose modifications that minimize the area of predicted interference, *e.g.,* by proposing maximum possible antenna heights above average terrain, and by selecting transmitter sites not located near densely populated areas. We encourage the encroaching full-service station licensee to provide technical assistance to LPFM stations to develop modification proposals that would avoid impacting current radio listening patterns.

66. The following procedures will be limited to those situations in which implementation of the full-service new station or modification, including community of license, proposal would result in the full-service and LPFM stations operating at less than the minimum distance separations set forth in § 73.807 of the rules. In addition,

implementation of the full-service proposal must result in either an increase in interference caused to the LPFM station or result in the displacement, *i.e.,* the suspension or termination of LPFM station operations pursuant to § 73.809 of the rules, of the LPFM station. These procedures will not be available where an alternate, fully-spaced, and rule-compliant channel is available for the LPFM licensee or permittee. Finally, Special Temporary Authorizations (STA) will be available pursuant to these procedures only if the LPFM station is proposing a waiver (or waivers) of LPFM second-adjacent channel spacing requirements.

67. We direct the Media Bureau to contact LPFM stations that are currently, or in the future may become, eligible to seek facility modifications under these procedures. To receive consideration, an LPFM station must file promptly an application on Form 318 and include a § 73.807 of the rules waiver request and showing. If the Media Bureau determines that the request falls within the scope of these procedures, it will issue an order to show cause to the potentially impacted full-service station(s) as to why the modification of such station license(s) to allow a second-adjacent channel short-spacing would not be in the public interest. In the event that the Media Bureau concludes that the public interest would be better served by waiving § 73.807 of the rules, it will retain the LPFM station's application in pending status and issue an STA for the proposed LPFM station modifications. STAs issued pursuant to these procedures will be subject to any action taken by the Commission in the *Second FNPRM.* The Commission will withhold final determination of the waiver request until action on the *Second FNPRM* proposals. We encourage each ''encroaching'' full-service station to provide technical and financial assistance to any LPFM station which avails itself of these procedures. We also direct the Media Bureau to include a condition, as appropriate, in the ''encroaching'' full-service station's construction permit requiring such station to provide technical assistance and assume financial responsibility for all direct expenses associated with resolving actual interference complaints, *e.g.,* the purchase of radio filters, etc.

c. LPFM Station Displacement

68. In certain circumstances no alternative channel will be available for an LPFM station at risk of displacement. With regard to full-service modification applications filed after the release of this *Third Report and Order,* we provide the following guidance on the standards that the Commission will use to determine whether grant of such applications are in the public interest. Generally, the Commission will favor grant of the full-service station modification application. However, we believe that it is appropriate to apply a presumption that the public interest would be better served by a waiver of the Commission's rule making LPFM stations secondary to subsequently authorized full-service stations and the dismissal of an ''encroaching'' community of license reallotment application when the threatened LPFM station can demonstrate that it has regularly provided at least eight hours per day of locally originated programming, as that term is defined for the LPFM service. This presumption will apply only when implementation of a community of license modification would result in the displacement of an LPFM station or result in such a significant increase in caused interference to the LPFM station such that continued operations are infeasible, *i.e.*, when the LPFM transmitter site is located within the interfering contour of a co- or first-adjacent channel community of license modification proposal. This presumption will also be limited to those situations in which no ''suitable'' alternate channel is available for the LPFM station. This presumption will not apply where opportunities are available for the impacted LPFM station to alter operations in order to avoid conflict with a full-service station.

69. Our evaluation of these competing demands for scarce spectrum will take into account the benefits of the move-in proposal under section 307(b) of the Communications Act of 1934, as amended, the amount of locally originated programming by the LPFM station, the extent to which other LPFM stations are licensed to and/or provide service to the area currently served by the threatened LPFM station, the extent to which other noncommercial educational (NCE) radio stations are providing locally originated programming to listeners in the LPFM station's service area, the number of LPFM stations at risk of displacement from the proposed community of license modification proposal, and any other public interest factors raised by the full-service and LPFM station applicants or other parties. LPFM stations that wish to make a showing under this waiver standard must file an informal objection to the ''encroaching'' community of license modification application within sixty days of the **Federal Register** notice of such application filing. Oppositions and replies may be filed in accordance with § 1.45 of the rules. This presumption is rebuttable and does not bind the Commission to a particular result. We caution parties that even if the required showing is made, the Commission in the exercise of its discretion may conclude that denial of the full-service station application and grant of the waiver would not serve the public interest.

70. We intend to narrowly limit this policy to the class of LPFM stations that are demonstrably serving the needs of local listeners. Moreover, this policy will not apply in a situation in which a full-service station proposes a facility change to improve service to its current community of license. We emphasize that we will dismiss a community of license modification proposal only when no technically reasonable accommodation is available and the LPFM station makes the requisite waiver showing. We conclude that this processing policy appropriately balances the interests of full-service and LPFM stations, and recognizes the role that each service plays in promoting diversity and localism. The Commission is seeking comment on the presumption in the attached *Second FNPRM* and may modify it based on the comments received in response thereto.

71. We believe that § 73.807 of the rules and LPFM displacement standards will effectively balance the interests of LPFM and full-service broadcasters while the Commission considers the *Second FNPRM* proposals. While REC has identified many LPFM stations that ultimately may be required to modify their facilities as a result of encroachment, we do not see this as a threat to the viability of the LPFM service, especially with the additional protections and procedures we adopt herein. REC's claim that many LPFM stations face interference merely describes a basic feature of the service in today's congested FM broadcast radio spectrum. Opportunities exist for many LPFM stations to change locations, reduce power, or change channels in the event that a conflict arises with a full-service station. Furthermore, the majority of the stations identified as ''less significant risks'' by REC solely exist today because of the flexible nature of the spacing rules under § 73.807 of the rules. Section 73.807 clearly identifies the distance separations necessary for LPFM stations to avoid received interference but does not require LPFM stations to meet this stringent standard. This rule fully protects nearby full-power FM stations while also allowing interference to

LPFM stations in some instances. Therefore, LPFM stations at distances less than those specified in § 73.807 of the rules in the column labeled ''for no interference received from max. class facility'' can expect to receive interference.

IV. Conclusion

72. The rules and policies adopted herein will promote the continued operation and expansion of LPFM service. Our actions today further the public interest and ensure that we maximize the value of LPFM service without harming the interests of full-power FM stations or other Commission licensees. To further these goals, we also recommend to Congress that it remove the requirement that LPFM stations protect full-power stations operating on third adjacent channels.

V. Administrative Matters

A. Regulatory Flexibility Analysis

73. *Final Regulatory Flexibility Analysis.* The Regulatory Flexibility Act of 1980, as amended (RFA), requires that a regulatory flexibility analysis be prepared for notice and comment rule making proceedings, unless the agency certifies that ''the rule will not, if promulgated, have a significant economic impact on a substantial number of small entities.'' 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).

74. As required by the Regulatory Flexibility Act, the Commission has prepared a Final Regulatory Flexibility Analysis (FRFA) relating to this Third Report and Order.

75. As required by the Regulatory Flexibility Act of 1980, as amended (RFA), an Initial Regulatory Flexibility Analysis (IRFA) was incorporated in the *FNPRM* in this proceeding. The Commission sought written public comment on the proposals in the *FNPRM*, including comment on the IRFA. This Final Regulatory Flexibility Analysis (FRFA) conforms to the RFA.

Need for, and Objectives of, the Third Report and Order

76. The policies and rules set forth herein are required to ensure that the Commission advances the goal of maximizing the value of LPFM service without harming the interests of full-power FM stations or other Commission licensees. In this *Third Report and Order,* the Commission (1) eases the paperwork burdens on LPFM licensees, by clarifying that transfers of control involving a sudden change of more than 50 percent of an LPFM licensee's governing board shall not be deemed ''a substantial change in ownership and control'', as LPFM boards can be subject to substantial turnover; (2) allows for the transfer and assignment of LPFM stations subject to certain conditions, such as: a cap on the sale price to the depreciated fair market value of the physical assets of the facility; (3) the imposition of a three year holding period during which the initial licensee must operate the station, a requirement that the assignee or transferee of an LPFM license is required to satisfy the ownership and eligibility criteria existing at the time of the assignment or transfer, and a prohibition on the assignment or transfer of construction permits; (4) reinstates the LPFM local ownership eligibility restriction; (5) allows an 18 month extension for good cause of the LPFM construction period; and (6) provides for additional technical amendments, such as allowing time-sharing applications to seek authority to place their transmitter at a central location, limiting the processing of applications submitted during the Auction No. 83 filing window to ten proposals per applicant, amending the rules to limit § 73.809 interference procedures to situations involving co- and first-adjacent channel interference, and a procedural framework for the consideration of showings from LPFM stations that may seek waivers of § 73.807 of the rules to avoid displacement, as well as to avoid unnecessary disruption of LPFM service to the public.

Summary of Significant Issues Raised by Public Comments in Response to the IRFA

77. None.

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

78. The RFA directs the Commission to provide a description of and, where feasible, an estimate of the number of small entities that will be affected by the rules adopted herein. The RFA generally defines the term ''small entity'' as encompassing the terms ''small business,'' ''small organization,'' and ''small governmental entity.'' 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).

79. LPFM Radio Stations. The proposed rules and policies potentially will apply to all low power FM radio broadcasting licensees and potential licensees. The SBA defines a radio broadcasting station that has $6.5 million or less in annual receipts as a small business. A radio broadcasting station is an establishment primarily engaged in broadcasting aural programs by radio to the public. Included in this industry are commercial, religious, educational, and other radio stations. Radio broadcasting stations which primarily are engaged in radio broadcasting and which produce radio program materials are similarly included. As of the date of release of this *Third Report and Order*, the Commission's records indicate that more than 1,225 LPFM construction permits have been granted. Of those permits, approximately 820 stations are on the air, serving mostly mid-sized and smaller markets. It is not known how many entities ultimately may seek to obtain low power radio licenses. Nor do we know how many of these entities will be small entities. We expect, however, that due to the small size of low power FM stations, small entities would generally have a greater interest than large ones in acquiring them.

Description of Projected Reporting, Recordkeeping and Other Compliance Requirements

80. The rules adopted in this *Third Report and Order* will impose different reporting or recordkeeping requirements on existing LPFM stations. First, the clarification that transfers of control involving a sudden change of more than 50 percent of an LPFM licensee's governing board shall not be deemed ''a substantial change in ownership and control,'' will ease paperwork burdens upon licensees. The *Third Report and Order* will also involve additional paperwork burdens. First, as this *Third Report and Order* will allow for the transfer and assignment of LPFM licenses, the Commission will require the collection of information necessary for the purposes of processing such applications. Second, this *Third Report and Order* clarifies the renewal process for time-sharing entities, and the process for the administration of such applications. Third, Auction 83

applicants that filed more than 10 applications must select the ten applications they wish to preserve, versus those that will be automatically dismissed, after the Media Bureau issues a Public Notice on this subject. There is no disproportionate impact on small entities as these additional reporting and recordkeeping requirements since these requirements are imposed equally on large and small entities.

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

81. The RFA requires an agency to describe any significant alternatives that it has considered in reaching its proposed approach, which may include the following four alternatives (among others): (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.

82. Consideration of alternatives methods to reduce the impact on small entities is unnecessary. The *Third Report and Order* decreases existing burdens on small entities and increases their flexibility. First, the clarification that transfers of control involving a sudden change of more than 50 percent of an LPFM licensee's governing board shall not be deemed ''a substantial change in ownership and control,'' will ease paperwork burdens upon LPFM station, many of which are small entities. Further, the changes in the ownership rules will allow greater flexibility for LPFM licensees. Finally, the changes in the technical rules will allow more small entity LPFM stations to exist. In addition, the *Third Report and Order* does not impose different burdens on large and small entities. The record keeping requirements will help facilitate the transfer and assignment of licenses and clarifies the renewal process for time-sharing entities, including the administration of such applications.

83. LPFM service has created and will continue to create significant opportunities for new small businesses by allowing small businesses to develop LPFM service in their communities. In addition, the Commission generally has taken steps to minimize any burdensome regulation on existing small broadcasters. To the extent that the *Third Report and Order* imposes any burdens on small entities, these burdens are only incident to the benefits conferred: greater flexibility of LPFM stations in transferring, assigning and renewing LPFM stations.

B. Report to Congress

84. The Commission will send a copy of the *Third Report and Order*, including this FRFA, in a report to be sent to Congress pursuant to the Congressional Review Act. In addition, the Commission will send a copy of the *Third Report and Order*, including this FRFA, to the Chief Counsel for Advocacy of the SBA. A copy of the *Third Report and Order*, and FRFA (or summaries thereof) will also be published in the **Federal Register**.

C. Paperwork Reduction Act Analysis

85. This *Third Report and Order* contains new and modified information collection requirements which were proposed in the *FNPRM*, and are subject to the Paperwork Reduction Act of 1995 (PRA).

86. We have assessed the effects of requiring documentation in relation to: (1) the proposed changes to Forms 314, 315 and 316 for the transfer and/or assignment of LPFM licenses; and (2) the proposed changes to Form 318 for the relocation of transmitter sites for voluntary time-share applicants. We find that to the extent that this *Third Report and Order* imposes any burdens on small entities, the resulting impact on small entities is favorable because the rules expand opportunities for LPFM applicants, permittees, and licensees to transfer and assign licenses, relocate transmitter sites, and extend construction deadlines. These information collection requirements were submitted to the Office of Management and Budget (OMB) for review under section 3507(d) of the PRA. In addition, the general public and other Federal agencies were invited to comment on these information collection requirements in the *FNPRM*. We further note that pursuant to the Small Business Paperwork Relief Act of 2002, we previously sought specific comment on how the Commission might ''further reduce the information collection burden for small business concerns with fewer than 25 employees.'' We received no comments concerning these information collection requirements. On August 25 and 30, 2005, the Commission obtained OMB approval for these information collection requirements, encompassed by OMB Control Nos. 3060–0031 (Forms 314–315), 3060–0009 (Form 316) and 3060–0920 (Form 318). This *Third Report and Order* adopts portions of the above information collection requirements, as proposed. Additional changes are necessary to Forms 314, 315, 316 and 318, and will be submitted to OMB for approval.

87. This document contains modified and new information collection requirements. In this *Third Report and Order*, we require documentation in relation to: (1) An optional 18-month extension of a construction permit upon a showing of good cause; (2) the voluntary withdrawal of Form 349 tech box proposals in order to come into compliance with the cap of 10 proposals; (3) the voluntary filing of a request, on Form 318, for waiver of § 73.807 of the rules for a second-adjacent short-spacing to an LPFM station at risk of displacement by a full-service station; and (4) the voluntary filing of waiver of the Commission rule making LPFM stations secondary to subsequently authorized full-service stations, where an LPFM station at risk of displacement by a full-service station can demonstrate that it provides at least eight hours a day of locally originated programming and that no suitable alternate channel is available. As discussed above, additional changes are necessary to Forms 314, 315, 316 and 318, and will be submitted to OMB for review and approval under section 3507(d) of the PRA. The Commission will publish a separate **Federal Register** notice seeking these comments from the public. OMB, the general public, and other Federal agencies are invited to comment on the modified and new information collection requirements contained in this proceeding.

D. Congressional Review Act

88. The Commission will send a copy of this *Third Report and Order* in a report to be sent to Congress and the Government Accountability Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

E. Additional Information

89. For additional information on this proceeding, please contact Peter Doyle, Audio Division, Media Bureau, at (202) 418–2700, or Holly Saurer, Policy Division, Media Bureau, at (202) 418–7283. For PRA-related questions, please contact Cathy Williams, at (202) 418–2918 or via e-mail at *Cathy.Williams@fcc.gov*.

VI. Ordering Clauses

90. *It is ordered* that, pursuant to the authority contained in sections 1, 2, 4(i), 303, 403 and 405 of the Communications Act of 1934, 47 U.S.C.

151, 152, 154(i), 303, 403, and 405, this *Third Report and Order is adopted*.

91. *It is further ordered* that, pursuant to the authority contained in Sections 1, 2, 4(i), 303, 303(a), 303(b), and 307 of the Communications Act of 1934, 47 U.S.C. 151, 152, 154(i), 303, 303(a), 303(b), and 307, the Commission's rules *are hereby amended* as set forth in Appendix B. It is our intention in adopting these rule changes that, if any provision of the rules is held invalid by any court of competent jurisdiction, the remaining provisions shall remain in effect to the fullest extent permitted by law.

92. *It is further ordered* that the rules as revised in Appendix B *shall be effective* March 17, 2008. Changes to FCC Forms 314, 315, 316 and 318 will be effective 60 days after **Federal Register** publication of OMB approval of the forms. With respect to renewal applications, we will evaluate compliance with these requirements in applications filed in the next renewal cycle. Licensee performance during any portion of the renewal term that predates the effective date of the rules in the *Third Report and Order* will be evaluated under current rules, and licensee performance that post-dates the effective date of the revised rules will be judged under the new provisions.

93. *It is further ordered* that, pursuant to §§ 0.201 through .204 of the Commission's rules, 47 CFR 0.201 through .204, and section 5(c)(1) of the Communications Act of 1934, as amended, 47 U.S.C. 155(c)(1), the Chief, Media Bureau, *is delegated authority* to act as described in paragraphs 40, 56, 62 and 67 herein.

94. *It is further ordered* that the Petition for Rulemaking filed by the Amherst Alliance, Talk Radio of Pahrump, Midwest Christian Media, Providence Community Radio, and Nickolaus E. Leggett N3NL *is hereby dismissed*.

95. *It is further ordered* that the Commission's Consumer and Governmental Affairs Bureau, Reference Information Center, *shall send* a copy of this *Third Report and Order and Second Further Notice of Proposed Rulemaking*, including the Initial Regulatory Flexibility Analysis and the Final Regulatory Flexibility Analysis, to the Chief Counsel for Advocacy of the Small Business Administration.

96. *It is further ordered* that the Commission *shall send* a copy of this *Third Report and Order and Second Further Notice of Proposed Rulemaking* in a report to be sent to Congress and the General Accounting Office pursuant to the Congressional Review Act, see 5 U.S.C. 801(a)(1)(A).

List of Subjects in 47 CFR Part 73

Radio.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

Rule Changes

■ For reasons discussed in the preamble, the Federal Communications Commission amends 47 CFR part 73 as follows:

PART 73—RADIO BROADCAST SERVICES

■ 1. The authority citation for part 73 continues to read as follows:

Authority: 47 U.S.C. 154, 303, 334, 336, and 339.

■ 2. Section 73.809 is amended by revising paragraphs (a) and (b) to read as follows:

§ 73.809 Interference protection to full service FM stations.

(a) If a full service commercial or NCE FM facility application is filed subsequent to the filing of an LPFM station facility application, such full service station is protected against any condition of interference to the direct reception of its signal caused by such LPFM station that operates on the same channel, first-adjacent channel or intermediate frequency (IF) channel as or to such full service station, provided that the interference is predicted to occur and actually occurs within:

(1) The 3.16 mV/m (70 dBu) contour of such full service station;

(2) The community of license of such full service station; or

(3) Any area of the community of license of such full service station that is predicted to receive at least a 1 mV/m (60 dBu) signal. Predicted interference shall be calculated in accordance with the ratios set forth in § 73.215 paragraphs (a)(1) and (a)(2). Intermediate frequency (IF) channel interference overlap will be determined based upon overlap of the 91 dBu F(50,50) contours of the FM and LPFM stations. Actual interference will be considered to occur whenever reception of a regularly used signal is impaired by the signal radiated by the LPFM station.

(b) An LPFM station will be provided an opportunity to demonstrate in connection with the processing of the commercial or NCE FM application that interference as described in paragraph (a) of this section is unlikely. If the LPFM station fails to so demonstrate, it will be required to cease operations upon the commencement of program tests by the commercial or NCE FM station.

* * * * *

■ 3. Section 73.853 is amended by revising paragraph (b) to read as follows:

§ 73.853 Licensing requirements and service.

* * * * *

(b) Only local applicants will be permitted to submit applications. For the purposes of this paragraph, an applicant will be deemed local if it can certify that:

(1) The applicant, its local chapter or branch is physically headquartered or has a campus within 16.1 km (10 miles) of the proposed site for the transmitting antenna for applicants in the top 50 urban markets, and 32.1 km (20 miles) for applicants outside of the top 50 urban markets;

(2) It has 75% of its board members residing within 16.1 km (10 miles) of the proposed site for the transmitting antenna for applicants in the top 50 urban markets, and 32.1 km (20 miles) for applicants outside of the top 50 urban markets; or

(3) In the case of any applicant proposing a public safety radio service, the applicant has jurisdiction within the service area of the proposed LPFM station.

■ 4. Section 73.855 is revised to read as follows:

§ 73.855 Ownership limits.

(a) No authorization for an LPFM station shall be granted to any party if the grant of that authorization will result in any such party holding an attributable interest in two or more LPFM stations.

(b) Not-for-profit organizations and governmental entities with a public safety purpose may be granted multiple licenses if:

(1) One of the multiple applications is submitted as a priority application; and

(2) The remaining non-priority applications do not face a mutually exclusive challenge.

■ 5. Section 73.865 is revised to read as follows:

§ 73.865 Assignment and transfer of LPFM licenses.

(a) Assignment/Transfer: No party may assign or transfer an LPFM license if:

(1) Consideration promised or received exceeds the depreciated fair market value of the physical equipment and facilities; and/or

(2) The transferee or assignee is incapable of satisfying all eligibility criteria that apply to a LPFM licensee.

(b) A change in the name of an LPFM licensee where no change in ownership or control is involved may be accomplished by written notification by the licensee to the Commission.

(c) *Holding Period:* A license cannot be transferred or assigned for three years from the date of issue, and the licensee must operate the station during the three-year holding period.

(d) No party may assign or transfer an LPFM construction permit at any time.

(e) Transfers of control involving a sudden change of more than 50 percent of an LPFM's governing board shall not be deemed a substantial change in ownership or control, subject to the filing of an FCC Form 316.

■ 6. Section 73.870 is amended by revising paragraph (a) and adding paragraph (f) to read as follows:

§ 73.870 Processing of LPFM broadcast station applications.

(a) A minor change for an LP100 station authorized under this subpart is limited to transmitter site relocations of 5.6 kilometers or less. A minor change for an LP10 station authorized under this subpart is limited to transmitter site relocations of 3.2 kilometers or less. These distance limitations do not apply to amendments or applications proposing transmitter site relocation to a common location filed by applicants that are parties to a voluntary time-sharing agreement with regard to their stations pursuant to § 73.872 paragraphs (c) and (e). Minor changes of LPFM stations may include:

(1) Changes in frequency to adjacent or IF frequencies or, upon a technical showing of reduced interference, to any frequency; and

(2) Amendments to time-sharing agreements, including universal agreements that supersede involuntary arrangements.

* * * * *

(f) New entrants seeking to apply for unused or unwanted time on a time-sharing frequency will only be accepted during an open filing window, specified pursuant to paragraph (b) of this section.

■ 7. Section 73.871 is amended by revising paragraph (c) as follows:

§ 73.871 Amendment of LPFM broadcast station applications.

* * * * *

(c) Only minor amendments to new and major change applications will be accepted after the close of the pertinent filing window. Subject to the provisions of this section, such amendments may be filed as a matter of right by the date specified in the FCC's Public Notice announcing the acceptance of such applications. For the purposes of this section, minor amendments are limited to:

(1) Filings subject to paragraph (c)(5), site relocations of 3.2 kilometers or less for LP10 stations;

(2) Filings subject to paragraph (c)(5), site relocations of 5.6 kilometers or less for LP100 stations;

(3) Changes in ownership where the original party or parties to an application retain more than a 50 percent ownership interest in the application as originally filed;

(4) Universal voluntary time-sharing agreements to apportion vacant time among the licensees;

(5) Other changes in general and/or legal information; and

(6) Filings proposing transmitter site relocation to a common location submitted by applicants that are parties to a voluntary time-sharing agreement with regard to their stations pursuant to § 73.872 paragraphs (c) and (e).

* * * * *

■ 8. Section 73.872 is amended by revising paragraphs (c) and (d)(1), adding paragraph (d)(3) and revising paragraph (e) to read as follows:

§ 73.872 Selection procedure for mutually exclusive LPFM applications.

* * * * *

(c) *Voluntary time-sharing.* If mutually exclusive applications have the same point total, any two or more of the tied applicants may propose to share use of the frequency by submitting, within 90 days of the release of a public notice announcing the tie, a time-share proposal. Such proposals shall be treated as minor amendments to the time-share proponents' applications, and shall become part of the terms of the station authorization. Where such proposals include all of the tied applications, all of the tied applications will be treated as tentative selectees; otherwise, time-share proponents' points will be aggregated to determine the tentative selectees.

(1) Time-share proposals shall be in writing and signed by each time-share proponent, and shall satisfy the following requirements:

(i) The proposal must specify the proposed hours of operation of each time-share proponent;

(ii) The proposal must not include simultaneous operation of the time-share proponents; and

(iii) Each time-share proponent must propose to operate for at least 10 hours per week.

(2) Where a station is authorized pursuant to a time-sharing proposal, a change of the regular schedule set forth therein will be permitted only where a written agreement signed by each time-sharing permittee or licensee and complying with requirements in paragraphs (c)(1)(i) through (iii) of this section is filed with the Commission, Attention: Audio Division, Media Bureau, prior to the date of the change.

(3) Where a station is authorized pursuant to a voluntary time-sharing proposal, the parties to the time-sharing agreement may apportion among themselves any air time that, for any reason, becomes vacant.

(4) Successive license terms granted under paragraph (d) may be converted into voluntary time-sharing arrangements renewable pursuant to § 73.3539 by submitting a universal time-sharing proposal.

(d) *Successive license terms.* (1) If a tie among mutually exclusive applications is not resolved through voluntary time-sharing in accordance with paragraph (c) of this section, the tied applications will be reviewed for acceptability and applicants with tied, grantable applications will be eligible for equal, successive, non-renewable license terms of no less than one year each for a total combined term of eight years, in accordance with § 73.873. Eligible applications will be granted simultaneously, and the sequence of the applicants' license terms will be determined by the sequence in which they file applications for licenses to cover their construction permits based on the day of filing, except that eligible applicants proposing same-site facilities will be required, within 30 days of written notification by the Commission staff, to submit a written settlement agreement as to construction and license term sequence. Failure to submit such an agreement will result in the dismissal of the applications proposing same-site facilities and the grant of the remaining, eligible applications.

* * * * *

(3) If successive license terms granted under this section are converted into universal voluntary time-sharing arrangements pursuant to paragraph (c)(4) of this section, the permit or license is renewable pursuant to §§ 73.801 and 73.3539.

(e) Mutually exclusive applicants may propose a settlement at any time during the selection process after the release of a public notice announcing the mutually exclusive groups. Settlement proposals must include all of the applicants in a group and must comply with the Commission's rules and policies regarding settlements, including the requirements of §§ 73.3525, 73.3588, and 73.3589. Settlement proposals may include time-share agreements that comply with the

requirements of paragraph (c) of this section, provided that such agreements may not be filed for the purpose of point aggregation outside of the 90 day period set forth in paragraph (c) of this section.

■ 9. Section 73.3598 is amended by revising paragraph (a) to read as follows:

§ 73.3598 Period of Construction.

(a) Each original construction permit for the construction of a new TV, AM, FM or International Broadcast; low power TV; TV translator; TV booster; FM translator; FM booster station; or to make changes in such existing stations, shall specify a period of three years from the date of issuance of the original construction permit within which construction shall be completed and application for license filed. Each original construction permit for the construction of a new LPFM station shall specify a period of eighteen months from the date of issuance of the construction permit within which construction shall be completed and application for license filed. A LPFM permittee unable to complete construction within the time frame specified in the original construction permit may apply for an eighteen month extension upon a showing of good cause. The LPFM permittee must file for an extension on or before the expiration of the construction deadline specified in the original construction permit.

* * * * *

[FR Doc. E8–783 Filed 1–16–08; 8:45 am]

BILLING CODE 6712–01–P

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 622

[Docket No. 070518142–7238–02]

RIN 0648–AV45

Fisheries of the Caribbean, Gulf of Mexico, and South Atlantic; Gulf of Mexico Vermilion Snapper Fishery Management Measures; Correction

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

ACTION: Final rule; correction.

SUMMARY: This document contains a correction to the final rule to implement a regulatory amendment to the Fishery Management Plan for the Reef Fish Resources of the Gulf of Mexico that was published in the **Federal Register** Thursday, January 3, 2008.

DATES: This correction is effective February 4, 2008.

FOR FURTHER INFORMATION CONTACT: Anik Clemens, 727–824–5305; fax: 727–824–5308; e-mail: *Anik.Clemens@noaa.gov*.

SUPPLEMENTARY INFORMATION:

Correction

The final rule that is the subject of this correction was published Thursday, January 3, 2008 (73 FR 406). The final rule. That final rule contains an amendatory instruction that is no longer needed. Amendatory instruction 9 removes the last sentence of paragraph (a)(2) in § 622.9, however, a final rule published on December 27, 2007 (72 FR 73270) revises this same paragraph. Therefore, on page 410, in the last column, amendatory instruction 9 is removed. All other information remains unchanged and will not be repeated in this correction.

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

Dated: January 11, 2008

Samuel D. Rauch III,

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

[FR Doc. E8–791 Filed 1–16–08; 8:45 am]

BILLING CODE 3510–22–S

DEPARTMENT OF COMMERCE

National Oceanic and Atmospheric Administration

50 CFR Part 679

[Docket No. 070213033–7033–01]

RIN 0648–XF05

Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel Lottery in Areas 542 and 543

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

ACTION: Notification of fishery assignments.

SUMMARY: NMFS is notifying the owners and operators of registered vessels of their assignments for the 2008 A season Atka mackerel fishery in harvest limit area (HLA) 542 and/or 543 of the Aleutian Islands subarea of the Bering Sea and Aleutian Islands management area (BSAI). This action is necessary to allow the harvest of the 2008 A season HLA limits established for area 542 and area 543 pursuant to the 2007 and 2008 harvest specifications for groundfish in the BSAI.

DATES: Effective 1200 hrs, Alaska local time (A.l.t.), January 14, 2008, until 1200 hrs, A.l.t., April 15, 2008.

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

SUPPLEMENTARY INFORMATION: NMFS manages the groundfish fishery in the BSAI exclusive economic zone 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.

In accordance with § 679.20(a)(8)(iii)(A), owners and operators of vessels using trawl gear for directed fishing for Atka mackerel in the HLA are required to register with NMFS. Four vessels have registered with NMFS to fish in the A season HLA fisheries in areas 542 and/or 543. In accordance with § 679.20(a)(8)(iii)(B), the Administrator, Alaska Region, NMFS, has randomly assigned each vessel to the HLA directed fishery for Atka mackerel for which they have registered and is now notifying each vessel of its assignment.

For the Amendment 80 cooperative, the vessel authorized to participate in the first HLA directed fishery in area 542 and the second HLA directed fishery in area 543 in accordance with § 679.20(a)(8)(iii) is as follows: Federal Fishery Permit number (FFP) 3835 Seafisher.

For the Amendment 80 limited access sector, vessels authorized to participate in the first HLA directed fishery in area 542 and in the second HLA directed fishery in area 543 in accordance with § 679.20(a)(8)(iii) are as follows: Federal Fishery Permit number (FFP) 4093 Alaska Victory and FFP 3819 Alaska Spirit.

For the Amendment 80 limited access sector, the vessel authorized to participate in the first HLA directed fishery in area 543 and the second HLA directed fishery in area 542 in accordance with § 679.20(a)(8)(iii) is as follows: FFP 3423 Alaska Warrior.

Classification

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 unnecessary. This notice merely advises the owners of these

vessels of the results of a random assignment required by regulation. The notice needs to occur immediately to notify the owner of each vessel of its assignment to allow these vessel owners to plan for participation in the A season HLA fisheries in area 542 and area 543.

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

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

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

Dated: January 11, 2008.

Alan D. Risenhoover,

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

[FR Doc. 08–152 Filed 1–14–08; 1:50 pm]

BILLING CODE 3510–22–S

Proposed Rules

Federal Register
Vol. 73, No. 12
Thursday, January 17, 2008

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.

OFFICE OF PERSONNEL MANAGEMENT

5 CFR Part 532

RIN 3206–AL45

Prevailing Rate Systems; North American Industry Classification System Based Federal Wage System Wage Area

AGENCY: U.S. Office of Personnel Management.

ACTION: Proposed rule with request for comments.

SUMMARY: The U.S. Office of Personnel Management is issuing a proposed rule that would update the 2002 North American Industry Classification System (NAICS) codes currently used in Federal Wage System wage survey industry regulations with the 2007 NAICS revisions published by the Office of Management and Budget.

DATES: We must receive comments on or before February 19, 2008.

ADDRESSES: Send or deliver comments to Charles D. Grimes III, Deputy Associate Director for Performance and Pay Systems, Strategic Human Resources Policy Division, U.S. Office of Personnel Management, Room 7H31, 1900 E Street, NW., Washington, DC 20415–8200; e-mail *pay-performance-policy@opm.gov*; or FAX: (202) 606–4264.

FOR FURTHER INFORMATION CONTACT: Madeline Gonzalez, (202) 606–2838; e-mail *pay-performance-policy@opm.gov*; or FAX: (202) 606–4264.

SUPPLEMENTARY INFORMATION: On June 20, 2006, the U.S. Office of Personnel Management (OPM) issued a final rule (71 FR 35373) which replaced all Standard Industrial Classification codes in the Federal Wage System (FWS) with the most closely corresponding North American Industry Classification System (NAICS) codes, published by the Office of Management and Budget (OMB). OPM's current regulations use 2002 NAICS codes. OMB has now published the NAICS revisions for 2007, which result in certain changes in industry coverage for FWS wage surveys.

The following sections of title 5, Code of Federal Regulations, list the industries included in the FWS wage surveys by 2002 NAICS codes:

Section 532.213—Industries included in regular appropriated fund wage surveys.

Section 532.221—Industries included in regular nonappropriated fund surveys.

Section 532.267—Special wage schedules for aircraft, electronic, and optical instrument overhaul and repair positions in Puerto Rico.

Section 532.279—Special wage schedules for printing positions.

Section 532.285—Special wage schedules for supervisors of negotiated rate Bureau of Reclamation employees.

Section 532.313—Private sector industries.

OPM has reviewed these regulations in light of OMB's NAICS revisions for 2007 and is proposing to add NAICS code 334515 (Instrument manufacturing for measuring and testing electricity and electrical signals) to the list of required NAICS codes in section 532.267 and three of the specialized industries (Electronics, Guided missiles, and Sighting and fire control equipment) in section 532.313 of title 5, Code of Federal Regulations. None of the other sections are affected by 2007 changes in NAICS codes. OPM is also proposing to replace the year ''2002'' with ''2007'' in the table titles of all applicable sections.

In addition, OPM is proposing to delete NAICS code 81299 (All other personal services) from the list of required NAICS codes in the artillery and combat vehicle specialized industry. NAICS code 81299 comprises establishments primarily engaged in providing personal services, such as astrology services, concierge services, dating services, and party planning services. This NAICS code was previously included by error.

The Federal Prevailing Rate Advisory Committee, the national labor-management committee responsible for advising OPM on matters concerning the pay of FWS employees, recommended by consensus that we adopt these changes.

Regulatory Flexibility Act

I certify that these regulations would not have a significant economic impact on a substantial number of small entities because they would affect only Federal agencies and employees.

List of Subjects in 5 CFR Part 532

Administrative practice and procedure, Freedom of information, Government employees, Reporting and recordkeeping requirements, Wages.

U.S. Office of Personnel Management.

Linda M. Springer,

Director.

Accordingly, the U.S. Office of Personnel Management is proposing to amend 5 CFR part 532 as follows:

PART 532—PREVAILING RATE SYSTEMS

1. The authority citation for part 532 continues to read as follows:

Authority: 5 U.S.C. 5343, 5346; § 532.707 also issued under 5 U.S.C. 552.

§ 532.213 [Amended]

2. In § 532.213, amend the table headings in both columns by replacing the year ''2002'' with ''2007.''

§ 532.221 [Amended]

3. In § 532.221, amend the table headings in both columns by replacing the year ''2002'' with ''2007.''

§ 532.267 [Amended]

4. In § 532.267(c)(1), amend the table headings in both columns by replacing the year ''2002'' with ''2007'' and insert NAICS code ''334515'' in the first column in numerical order and ''Instrument manufacturing for measuring and testing electricity and electrical signals'' in the second column.

§ 532.285 [Amended]

5. In § 532.285(c)(1), amend the table headings in both columns by replacing the year ''2002'' with ''2007.''

§ 532.313 [Amended]

6. In § 532.313(a), amend the table as follows:

a. Replace the year ''2002'' with ''2007'' in the table headings in both columns;

b. Add NAICS code ''334515'' in the first column in numerical order and ''Instrument manufacturing for measuring and testing electricity and electrical signals'' in the second column to the list of required NAICS codes for the Electronics Specialized Industry,

Guided Missiles Specialized Industry, and Sighting and Fire Control Equipment Specialized Industry; and

c. Remove NAICS code ''81299'' in the first column and ''All other personal services'' in the second column from the list of required NAICS codes for the Artillery and Combat Vehicle Specialized Industry.

[FR Doc. E8–657 Filed 1–16–08; 8:45 am]

BILLING CODE 6325–39–P

NUCLEAR REGULATORY COMMISSION

10 CFR Part 20

[Docket No. PRM–20–27]

George Barnet; Denial of Petition for Rulemaking

AGENCY: Nuclear Regulatory Commission.

ACTION: Denial of petition for rulemaking.

SUMMARY: The Nuclear Regulatory Commission (NRC) is denying a petition for rulemaking (PRM–20–27) dated July 11, 2007, submitted by George Barnet (petitioner). The petitioner requested that NRC amend its regulations that govern standards for protection against radiation to broaden the scope of the requirements pertaining to approval of proposed disposal methods to include recovery of material for recycling. The NRC is denying the petition because the issues raised by the petitioner fall within the scope of the rationale for a recent Commission decision to not conduct rulemaking in the area of setting radiological criteria for controlling the disposition of solid materials. The rationale for the Commission decision was that the current NRC approach for disposition of solid materials is fully protective of public health and safety, and that NRC is currently faced with several high priority and complex tasks.

ADDRESSES: Publicly available documents related to this petition may be viewed electronically on the public computers located at the NRC Public Document Room (PDR), O1 F21, One White Flint North, 11555 Rockville Pike, Rockville, Maryland. The PDR reproduction contractor will copy documents for a fee.

Publicly available documents created or received at the NRC after November 1, 1999, are also available electronically at the NRC's Electronic Reading Room at *http://www.nrc.gov/reading-rm/adams.html.* From this site, the public can gain entry into the NRC's Agencywide Documents Access and Management System (ADAMS), which provides text and image files of NRC's public documents. If you do not have access to ADAMS or if there are problems in accessing the documents located in ADAMS, contact the NRC PDR Reference staff at 1–800–397–4209, 301–415–4737 or by e-mail to *pdr@nrc.gov.*

FOR FURTHER INFORMATION CONTACT: Frank Cardile, Office of Federal and State Materials and Environmental Management Programs, U.S. Nuclear Regulatory Commission, Washington, DC 20555–0001. Telephone: 301–415–6185 or Toll-Free: 1–800–368–5642, or e-mail: *fpc@nrc.gov.*

SUPPLEMENTARY INFORMATION:

I. The Petition

On July 11, 2007, the NRC received a petition for rulemaking submitted by George Barnet (petitioner). The petitioner requested that NRC revise its regulations in 10 CFR Part 20, ''Standards for Protection Against Radiation.'' Specifically, the petitioner requested that 10 CFR 20.2002, ''Method for obtaining approval of proposed disposal procedures'' be amended by broadening its scope to allow for the recycling of materials. The NRC determined that the petition met the threshold sufficiency requirements for a petition for rulemaking under 10 CFR 2.802. The petition was docketed by the NRC as PRM–20–27 on July 25, 2007.

The petitioner states that the current provisions at § 20.2002 are adequate for licensing waste disposal methods that can be demonstrated to be safe to the public. However, the petitioner states that § 20.2002 does not provide for a similar method to demonstrate that materials can be recycled after being decontaminated. The petitioner states that it is environmentally unsound to not allow for reasonable and safe recycling options for recoverable materials.

In support of the petition, the petitioner notes that equipment and materials are routinely decontaminated and monitored for reuse for unlicensed applications under license-specific monitoring requirements for surface decontamination. The petitioner states that because no specific regulation currently exists to permit these license-specific recycling and reuse activities, most unwanted potentially contaminated lead is buried as waste. The petitioner also notes that the most economical method for licensees to get rid of unwanted lead is to send it to a licensed mixed waste processor for macro-encapsulation, and then dispose of it at a licensed mixed waste site. The petitioner states that this is both environmentally and economically unsound because the potentially contaminated lead is a valuable resource that is not being conserved or recovered under NRC's current regulations.

The petitioner states that the company at which he is a Radiological Safety Officer, the Toxco Materials Management Center (TMMC), has developed a more economical and environmentally sound method for the processing of potentially contaminated lead that has been in contact with radioactive materials. The petitioner explains that this method separates contaminated materials into the lead oxide layer of slag that forms on top of the melted lead. The slag is only a very minor percentage of the total quantity of lead processed and can be macro-encapsulated and disposed of as mixed waste. The petitioner states that the remaining lead exhibits little or no detectable radioactivity.

The petitioner also explains that TMMC developed volumetric clearance criteria to show that no person who came in contact with the decontaminated lead would exceed the 1 mrem/year limit in its Agreement State license with the Tennessee Division of Radiological Health (TDRH). The petitioner states that these criteria and their bases were submitted to TDRH as part of a license amendment request to permit decontaminated lead to be recycled as cleared materials exempt from licensing requirements. The petitioner further states that TDRH requested that TMMC refer the request to the NRC based on ''a lack of regulatory precedent at the [Federal] level for recycling of metals.''

II. Reasons for Denial

NRC is denying this petition because the issues raised by the petitioner's request fall within the scope of the rationale for a recent Commission decision to not conduct rulemaking in the area of setting radiological criteria for controlling the disposition of solid materials. The Commission's decision was made in response to a draft proposed rule provided to the Commission by the NRC staff (SECY–05–0054 ''Proposed Rule Radiological Criteria for Controlling the Disposition of Solid Materials (RIN 3150–AH18)''; March 31, 2005: ADAMS Accession No. ML041550790). In its June 1, 2005, response to that proposed rule (Staff Requirements Memorandum SRM–SECY–05–0054; ADAMS Accession No. 052010263), the Commission indicated that it was disapproving publication of the draft proposed rule and deferring

the rulemaking for the time being. The Commission's rationale for its disapproval included the fact that the NRC's current approach to review specific cases on an individual basis is fully protective of public health and safety, and that the NRC is currently faced with several high priority and complex tasks. The petitioner has not provided additional material not considered in a general manner by the Commission in reaching its decision not to pursue rulemaking in this area.

Additional background on the NRC staff rulemaking activities and the Commission decision disapproving the rulemaking, and the implication of those actions related to this petition, follows in this section. NRC's current approach to reviewing specific cases is provided in Section 2 of Appendix B of the draft Generic Environmental Impact Statement (GEIS), prepared with the rulemaking, and in Section 15.11.1.2 of Volume 1, Revision 2 of NUREG–1757. Agreement State approaches are described in Section 3 of Appendix B of the draft GEIS.

Prior to June 1, 2005, the NRC conducted a rulemaking to amend 10 CFR Part 20 to include radiological criteria for controlling the disposition of solid materials that have no, or very small amounts of, residual radioactivity resulting from licensed operations, and which originate in restricted or impacted areas of NRC licensed facilities. In conducting the rulemaking, NRC noted that its existing regulations contain a framework of radiation standards to ensure protection of public health and safety from the routine use of materials at licensed facilities. These standards include a public dose limit in Part 20 and dose criteria for certain types of media released from licensed facilities. However, the NRC also noted that Part 20 does not contain a specific dose criterion to be used to verify that solid materials being considered for release have no, or very small amounts of, residual radioactivity. Instead, NRC's current approach was (and is) to make decisions on disposition of solid materials by using a set of existing guidelines based primarily on measured radioactivity levels of material, rather than on a dose criterion. In a report (''The Disposition Dilemma; Controlling the Release of Solid Materials from Nuclear Regulatory Commission-Licensed Facilities''; National Research Council; 2022) reviewing NRC's current approach, the National Academies indicated that this current NRC approach is ''sufficiently protective of health and safety that it does not need immediate revamping.'' However, because the current approach does not derive from a specific regulation, NRC decisions in this area tended to be inefficient because they lacked an overall risk basis, consistency, and regulatory finality. Thus, the intent of NRC's rulemaking was to improve NRC's regulatory process by incorporating risk-informed criteria directly into the NRC's regulations.

During the rulemaking, NRC engaged in several information-gathering activities to seek stakeholder participation and input on alternate disposition approaches, and the issues involved with them. These activities included several public meetings, as well as the opportunity for the public to comment directly on two **Federal Register** notices, published on June 30, 1999 (64 FR 35090) and February 28, 2003 (68 FR 9595), containing a discussion of the alternate approaches. In addition, the NRC staff reviewed various related reports prepared by recognized national and international organizations such as the National Academies, the National Council on Radiation Protection and Measurements, the American National Standards Institute, and the International Atomic Energy Agency. In particular, the National Academies undertook an extensive review of NRC's current approach from the standpoint of whether it is protective of public health and safety, effective and efficient, and adequately able to be implemented using NRC's analysis methodology. The National Academies also looked at how the public had been involved in the rulemaking process. As a result of its review, the National Academies made nine recommendations in its final report, including an overarching finding that, although NRC's decision process for review of the disposition of solid materials has shortcomings, it was workable and sufficiently protective of public health and safety that it did not need immediate revamping.

The NRC staff also completed several technical studies to evaluate alternatives for controlling the disposition of solid materials, including preparation of a draft of a Draft Generic Environmental Impact Statement as part of SECY–05–0054.

Based on this effort, on March 31, 2005, the NRC staff provided to the Commission a draft proposed rule contained in SECY–05–0054. The draft proposed rule would have amended 10 CFR Part 20 to include a dose criterion for disposition of solid material and provisions for allowing certain limited disposition paths for solid materials. The proposed draft rule also contained provisions for allowance of other disposition paths, if supported by a case-specific analysis and approval of proposed procedures, including case-specific requests for soil disposition and metal recycle. Solid materials originating at licensed facilities in restricted or impacted areas, and considered as part of the draft proposed rulemaking, included metals in various components and equipment, individual tools, concrete; soils, laboratory materials, process materials, trash, etc.

Following submittal of SECY–05–0054, the Commission conducted a review of the provisions of the staff's draft proposed rulemaking including potential alternate approaches, one of which would be to take no action towards issuing a proposed rule in this area. In its review, the Commission also considered the wide range of other activities which NRC is engaged in. These activities include efforts towards increasing security at all licensed facilities, i.e., at both reactors and at the wide range of materials facilities which possess radioactive materials for use in medical applications, research, industrial measurement gauges, etc. Other significant NRC actions include efforts to prepare to review planned applications for new reactors, waste disposal facility considerations, fuel cycle facility management, decommissioning of facilities, etc. In each of these areas, and especially in the area of security and new reactors, there is a need to establish criteria in those areas where none exist now or where they may need updating. The Commission balanced those considerations against the purpose of the rulemaking on disposition of solid materials and decided, on June 1, 2005, to defer the rulemaking for the time being because NRC's current approach in that area was fully protective, and the other high priority and complex tasks were occupying its attention as well as the attention of the whole agency.

The petitioner's request essentially fits into the general considerations that the Commission already considered in deciding to defer the rulemaking on disposition of solid materials. The origin and nature of materials similar to those being considered in the petition, as well as considerations regarding their potential intended destinations, were all considered and reviewed as part of the rulemaking process leading to the draft proposed rule in SECY–05–0054 and the Commission decision to defer the rulemaking in June 2005. The petitioner has not presented information or considerations substantially different from those reviewed in the rulemaking process. Therefore, NRC is denying this petition for the same reasons that the Commission, on June 1, 2005, deferred

the rulemaking on disposition of solid materials.

III. Conclusion

The NRC is denying the petition because the issues raised by the petitioner fall within the scope of the rationale for a recent Commission decision to not conduct rulemaking in the area of setting radiological criteria for controlling the disposition of solid materials. The rationale for the Commission decision was that the current NRC approach for disposition of solid materials is fully protective of public health and safety, and that NRC is currently faced with several high priority and complex tasks.

Dated at Rockville, Maryland, this 19th day of December 2007.

For the Nuclear Regulatory Commission.

Luis A. Reyes,

Executive Director for Operations.

[FR Doc. E8–812 Filed 1–16–08; 8:45 am]

BILLING CODE 7590–01–P

DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Part 502

Definition for Electronic or Electromechanical Facsimile

AGENCY: National Indian Gaming Commission, Interior.

ACTION: Notice of Extension of Comment Period.

SUMMARY: The National Indian Gaming Commission (''NIGC'') announces the extension of the comment period on the proposed rule concerning the Definition for Electronic or Electromechanical Facsimile. The proposed rule was published in the **Federal Register** on October 24, 2007 (72 FR 60482). The NIGC is extending the comment period to March 9, 2008.

DATES: Submit comments on the proposed Definition for Electronic or Electromechanical Facsimile on or before March 9, 2008.

ADDRESSES: Mail comments to ''Comments on Electronic or Electromechanical Facsimile Definition,'' National Indian Gaming Commission, Suite 9100, 1441 L Street, NW., Washington, DC 20005, Attn: Penny Coleman, Acting General Counsel. Comments may be transmitted by facsimile to 202–632–0045. Comments may be submitted electronically to *facsimile_definition@nigc.gov*. Comments may also be submitted through the Federal eRulemaking portal at *www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: John R. Hay, Office of General Counsel, at 202–632–7003 (this is not a toll free call).

SUPPLEMENTARY INFORMATION: Congress established the National Indian Gaming Commission under the Indian Gaming Regulatory Act of 1988 (25 U.S.C. 2701–21) (''IGRA'') to regulate gaming on Indian lands. The NIGC issued a proposed rule revising the definition for electronic or electromechanical facsimile, which was published in the **Federal Register** on October 24, 2007 (72 FR 60482). The proposed rule provided for public comments to be submitted by December 10, 2007. The NIGC extended the comment period to January 24, 2008, in the Notice of Extension of Comment Period, published in the **Federal Register** on November 16, 2007 (72 FR 64545). The NIGC is again extending the comment period on the Definition for Electronic or Electromechanical Facsimile to March 9, 2008. Comments should be submitted on or before March 9, 2008.

Dated: January 11, 2008.

Philip N. Hogen,

Chairman, National Indian Gaming Commission.

Norman H. DesRosiers,

Commissioner, National Indian Gaming Commission.

[FR Doc. E8–760 Filed 1–16–08; 8:45 am]

BILLING CODE 7565–01–P

DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Parts 502 and 546

Classification Standards for Bingo, Lotto, Other Games Similar to Bingo, Pull Tabs and Instant Bingo as Class II Gaming When Played Through an Electronic Medium Using ''Electronic, Computer, or Other Technologic Aids''

AGENCY: National Indian Gaming Commission, Interior.

ACTION: Notice of Extension of Comment Period.

SUMMARY: The National Indian Gaming Commission (''NIGC'') announces the extension of the comment period on the proposed rule concerning Classification Standards for Bingo, Lotto, Other Games Similar to Bingo, Pull Tabs and Instant Bingo as Class II Gaming When Played Through an Electronic Medium Using ''Electronic, Computer, or Other Technologic Aids.'' The proposed rule was published in the **Federal Register** on October 24, 2007 (72 FR 60483). The NIGC is extending the comment period to March 9, 2008.

DATES: Submit comments on the proposed Classification Standards for Bingo, Lotto, Other Games Similar to Bingo, Pull Tabs and Instant Bingo as Class II Gaming When Played Through an Electronic Medium Using ''Electronic, Computer, or Other Technologic Aids'' on or before March 9, 2008.

ADDRESSES: Mail comments to ''Comments on Class II Classification Standards,'' National Indian Gaming Commission, 1441 L Street, NW., Washington, DC 20005, Attn: Penny Coleman, Acting General Counsel. Comments may be transmitted by facsimile to 202–632–7066. Comments may be sent electronically to *classification_standards@nigc.gov*. Comments may also be submitted through the Federal eRulemaking portal at *www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: John R. Hay, Office of General Counsel, at 202–632–7003 (this is not a toll free call).

SUPPLEMENTARY INFORMATION: Congress established the National Indian Gaming Commission under the Indian Gaming Regulatory Act of 1988 (25 U.S.C. 2701–21) (''IGRA'') to regulate gaming on Indian lands. The NIGC issued a proposed rule regarding classification standards for Bingo, Lotto, other games similar to Bingo, Pull Tabs and Instant Bingo as class II gaming when played through an electronic medium using electronic, computer, or other technologic aids, which was published in the **Federal Register** on October 24, 2007 (72 FR 60483). The proposed rule provided for public comments to be submitted by December 10, 2007. The NIGC extended the comment period to January 24, 2008, in the Notice of Extension of Comment Period, published in the **Federal Register** on November 16, 2007 (72 FR 64545). The NIGC is again extending the comment period on the proposed Classification Standards for Bingo, Lotto, Other Games Similar to Bingo, Pull Tabs and Instant Bingo as Class II Gaming When Played Through an Electronic Medium Using ''Electronic, Computer, or Other Technologic Aids'' to March 9, 2008. Comments should be submitted on or before March 9, 2008.

Importantly, the deadline for submitting comments on the burden, estimates or any other aspects of the information collection requirements under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.*, remains

January 24, 2008, as provided in the notice published in the **Federal Register** on November 28, 2007 (72 FR 67251).

Dated: January 11, 2008.

Philip N. Hogen,

Chairman, National Indian Gaming Commission.

Norman H. DesRosiers,

Commissioner, National Indian Gaming Commission.

[FR Doc. E8–769 Filed 1–16–08; 8:45 am]

BILLING CODE 7565–01–P

DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Parts 542 and 543

Minimum Internal Control Standards for Class II Gaming

AGENCY: National Indian Gaming Commission, Interior.

ACTION: Notice of Extension of Comment Period.

SUMMARY: The National Indian Gaming Commission (''NIGC'') announces the extension of the comment period on the proposed rule concerning Minimum Internal Control Standards for Class II Gaming. The proposed rule was published in the **Federal Register** on October 24, 2007 (72 FR 60495). The NIGC is extending the comment period to March 9, 2008.

DATES: Submit comments on the proposed Minimum Internal Control Standards for Class II Gaming on or before March 9, 2008.

ADDRESSES: Mail comments to ''Comments on Class II MICS,'' National Indian Gaming Commission, Suite 9100, 1441 L Street, NW., Washington, DC 20005, Attn: Penny Coleman, Acting General Counsel. Comments may be transmitted by facsimile to 202–632–0045. Comments may be submitted electronically to *bingo_mics@nigc.gov*. Comments may also be submitted through the Federal eRulemaking portal at *www.regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Joe H. Smith, Director of Audits, at 202–632–7003.

SUPPLEMENTARY INFORMATION: Congress established the National Indian Gaming Commission under the Indian Gaming Regulatory Act of 1988 (25 U.S.C. 2701–21) (''IGRA'') to regulate gaming on Indian lands. The NIGC issued a proposed rule regarding minimum internal control standards for class II gaming, which was published in the **Federal Register** on October 24, 2007 (72 FR 60495). The proposed rule provided for public comments to be submitted by December 10, 2007. The NIGC extended the comment period to January 24, 2008, in the Notice of Extension of Comment Period, published in the **Federal Register** on November 16, 2007 (72 FR 64545). The NIGC is again extending the comment period on the proposed Minimum Internal Control Standards for Class II Gaming to March 9, 2008. Comments should be submitted on or before March 9, 2008.

Dated: January 11, 2008.

Philip N. Hogen,

Chairman, National Indian Gaming Commission.

Norman H. DesRosiers,

Commissioner, National Indian Gaming Commission.

[FR Doc. E8–763 Filed 1–16–08; 8:45 am]

BILLING CODE 7565–01–P

DEPARTMENT OF THE INTERIOR

National Indian Gaming Commission

25 CFR Part 547

Technical Standards for Electronic, Computer, or Other Technologic Aids Used in the Play of Class II Games

AGENCY: National Indian Gaming Commission, Interior.

ACTION: Notice of Extension of Comment Period.

SUMMARY: The National Indian Gaming Commission (''NIGC'') announces the extension of the comment period on the proposed rule concerning Technical Standards for Electronic, Computer, or Other Technologic Aids Used in the Play of Class II Games. The proposed rule was published in the **Federal Register** on October 24, 2007 (72 FR 60508). The NIGC is extending the comment period to March 9, 2008.

DATES: Submit comments on the proposed Technical Standards for Electronic, Computer, or Other Technologic Aids Used in the Play of Class II Games on or before March 9, 2008.

ADDRESSES: Mail comments to ''Comments on Technical Standards,'' National Indian Gaming Commission, 1441 L Street, NW., Washington, DC 20005, Attn: Michael Gross, Associate General Counsel, General Law. Comments may be transmitted by facsimile to 202–632–7066. Comments may be sent electronically to *technical_standards@nigc.gov*. Comments may also be submitted through the Federal eRulemaking portal at *www.regulations.gov*.

FOR FURTHER INFORMATION CONTACT: Michael Gross, Associate General Counsel, General Law, Office of General Counsel, telephone: 202–632–7003 (this is not a toll free call).

SUPPLEMENTARY INFORMATION: Congress established the National Indian Gaming Commission under the Indian Gaming Regulatory Act of 1988 (25 U.S.C. 2701–21) (''IGRA'') to regulate gaming on Indian lands. The NIGC issued a proposed rule regarding technical standards for electronic, computer, or other technologic aids used in the play of class II games, which was published in the **Federal Register** on October 24, 2007 (72 FR 60508). The proposed rule provided for public comments to be submitted by December 10, 2007. The NIGC extended the comment period to January 24, 2008, in the Notice of Extension of Comment Period, published in the **Federal Register** on November 16, 2007 (72 FR 64545). The NIGC is again extending the comment period on the proposed Technical Standards for Electronic, Computer, or Other Technologic Aids Used in the Play of Class II Games to March 9, 2008. Comments should be submitted on or before March 9, 2008.

Importantly, the deadline for submitting comments on the burden, estimates or any other aspects of the information collection requirements under the Paperwork Reduction Act of 1995, 44 U.S.C. 3501, *et seq.*, remains January 24, 2008, as provided in the notice published in the **Federal Register** on November 28, 2007 (72 FR 67251).

Dated: January 11, 2008.

Philip N. Hogen,

Chairman, National Indian Gaming Commission.

Norman H. DesRosiers,

Commissioner, National Indian Gaming Commission.

[FR Doc. E8–768 Filed 1–16–08; 8:45 am]

BILLING CODE 7565–01–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2007–0644; FRL–8517–1]

Approval and Promulgation of Air Quality Implementation Plans; Maryland; Revisions to Stage II Requirements

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP)

revision submitted by the State of Maryland for the purpose of approving revisions and additions to the current Stage II regulations that apply to gasoline dispensing facilities. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by February 19, 2008.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2007–0644 by one of the following methods:

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

B. *E-mail: fernandez.cristina@epa.gov*

C. *Mail:* EPA–R03–OAR–2007–0644, Cristina Fernandez, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

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

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2007–0644. 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 electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Maryland Department of the Environment, 1800 Washington Boulevard, Suite 705, Baltimore, Maryland.

FOR FURTHER INFORMATION CONTACT: Catherine L. Magliocchetti, (215) 814–2174, or by e-mail at *magliocchetti.catherine@epa.gov*.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, Approval and Promulgation of Air Quality Implementation Plans; Maryland; Revisions to Stage II Requirements, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: January 8, 2008.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. E8–577 Filed 1–16–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R03–OAR–2006–1011; FRL–8517–3]

Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revisions to Stage II Requirements in Allegheny County

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA proposes to approve the State Implementation Plan (SIP) revision submitted by the Commonwealth of Pennsylvania for the purpose of modifying and clarifying existing regulatory requirements for the control of volatile organic compounds from gasoline dispensing facilities in Allegheny County. In the Final Rules section of this **Federal Register**, EPA is approving the State's SIP submittal as a direct final rule without prior proposal because the Agency views this as a noncontroversial submittal and anticipates no adverse comments. A detailed rationale for the approval is set forth in the direct final rule. If no adverse comments are received in response to this action, no further activity is contemplated. If EPA receives adverse comments, the direct final rule will be withdrawn and all public comments received will be addressed in a subsequent final rule based on this proposed rule. EPA will not institute a second comment period. Any parties interested in commenting on this action should do so at this time.

DATES: Comments must be received in writing by February 19, 2008.

ADDRESSES: Submit your comments, identified by Docket ID Number EPA–R03–OAR–2006–1011 by one of the following methods:

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

B. *E-mail: fernandez.cristina@epa.gov*

C. *Mail:* EPA–R03–OAR–2006–1011, Cristina Fernandez, Chief, Air Quality Planning Branch, Mailcode 3AP21, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103.

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

Instructions: Direct your comments to Docket ID No. EPA–R03–OAR–2006–1011. 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 electronic docket are listed in the *www.regulations.gov* index. Although listed in the index, some information is not publicly available, i.e., CBI or other information whose disclosure is restricted by statute. Certain other material, such as copyrighted material, is not placed on the Internet and will be publicly available only in hard copy form. Publicly available docket materials are available either electronically in *www.regulations.gov* or in hard copy during normal business hours at the Air Protection Division, U.S. Environmental Protection Agency, Region III, 1650 Arch Street, Philadelphia, Pennsylvania 19103. Copies of the State submittal are available at the Pennsylvania Department of Environmental Protection, Bureau of Air Quality Control, P.O. Box 8468, 400 Market Street, Harrisburg, Pennsylvania 17105; and the Allegheny County Health Department, Bureau of Environmental Quality, Division of Air Quality, 301 39th Street, Pittsburgh, Pennsylvania 15201.

FOR FURTHER INFORMATION CONTACT: Catherine L. Magliocchetti, (215) 814–2174, or by e-mail at *magliocchetti.catherine@epa.gov*.

SUPPLEMENTARY INFORMATION: For further information, please see the information provided in the direct final action, Approval and Promulgation of Air Quality Implementation Plans; Pennsylvania; Revisions to Stage II Requirements in Allegheny County, that is located in the ''Rules and Regulations'' section of this **Federal Register** publication.

Dated: January 8, 2008.

Donald S. Welsh,

Regional Administrator, Region III.

[FR Doc. E8–595 Filed 1–16–08; 8:45 am]

BILLING CODE 6560–50–P

ENVIRONMENTAL PROTECTION AGENCY

40 CFR Part 52

[EPA–R09–OAR–2007–1075, FRL–8506–3]

Revisions to the California State Implementation Plan, Kern County Air Pollution Control District

AGENCY: Environmental Protection Agency (EPA).

ACTION: Proposed rule.

SUMMARY: EPA is proposing to approve revisions to the Kern County Air Pollution Control District (KCAPCD) portion of the California State Implementation Plan (SIP). These revisions concern particulate matter (PM–10) emissions from ambient dust and propellant and rocket testing. We are proposing to approve local rules under the Clean Air Act as amended in 1990 (CAA or the Act).

DATES: Any comments on this proposal must arrive by *February 19, 2008.*

ADDRESSES: Submit comments, identified by docket number EPA–R09–OAR–2007–1075, by one of the following methods:

- *Federal eRulemaking Portal: www.regulations.gov.* Follow the online instructions.
- *E-mail: steckel.andrew@epa.gov.*
- *Mail or deliver:* Andrew Steckel (Air–4), U.S. Environmental Protection Agency Region IX, 75 Hawthorne Street, San Francisco, CA 94105.

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: Al Petersen, Rules Office (AIR–4), U.S. Environmental Protection Agency, Region IX, (415) 947–4118, *petersen.alfred@epa.gov.*

SUPPLEMENTARY INFORMATION: This proposal addresses the approval of KCAPCD Rules 404.1 and 431. In the Rules and Regulations section of this **Federal Register**, we are approving these local rules in a direct final action without prior proposal because we believe this SIP revision is not controversial. If we receive adverse comments, however, we will publish a timely withdrawal of the direct final rule and address the comments in subsequent action based on this proposed rule.

Please note that if EPA receives adverse comment on an amendment, paragraph, or section of this rule and if that provision may be severed from the remainder of the rule, EPA may adopt as final those provisions of the rule that are not the subject of an adverse comment.

We do not plan to open a second comment period, so anyone interested in commenting should do so at this time. If we do not receive adverse comments, no further activity is planned. For further information, please see the direct final action.

Dated: November 23, 2007.

Alexis Strauss,

Acting Regional Administrator, Region IX.

[FR Doc. E8–192 Filed 1–16–08; 8:45 am]

BILLING CODE 6560–50–P

Notices

Federal Register
Vol. 73, No. 12
Thursday, January 17, 2008

This section of the FEDERAL REGISTER contains documents other than rules or proposed rules that are applicable to the public. Notices of hearings and investigations, committee meetings, agency decisions and rulings, delegations of authority, filing of petitions and applications and agency statements of organization and functions are examples of documents appearing in this section.

AGENCY FOR INTERNATIONAL DEVELOPMENT

Privacy Act of 1974, as Amended

AGENCY: United States Agency for International Development.

ACTION: Notice of Significantly Altered System of Records.

SUMMARY: The United States Agency for International Development (USAID) is issuing public notice of its intent to alter its system of records maintained in accordance with the Privacy Act of 1974 (5 U.S.C. 552a), as amended, entitled ''AID–9—Criminal Law Enforcement Records.'' USAID is updating this system to reflect the current administrative status, to add new general routine uses, and to enhance the descriptions of other data elements in order to provide further transparency into USAID's record-keeping practices.

DATES: The update to the system of records set forth in this notice will become effective at the end of the comment period, unless comments are received that would require a revision. To be assured of consideration, comments must be received on or before February 26, 2008.

ADDRESSES: Comments may be submitted by any of the methods listed below.

Electronic Comments

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions on the Web site for submitting comments.
- *E-mail: Privacy@usaid.gov.*

Paper Comments

- *Mail:* Chief Privacy Officer, USAID, 1300 Pennsylvania Avenue, NW., Room 2.12–003, Washington, DC 20523
- *Facsimile:* (703) 666–1466.

FOR FURTHER INFORMATION CONTACT: For general questions, please contact: Kimberley Bynum (202–712–4010). For privacy-related issues, please contact: Olivia Gifford (202–712–1150).

SUPPLEMENTARY INFORMATION: USAID is undertaking a review of all its system of records notices to ensure that it maintains complete, accurate, timely, and relevant records. As a result of this effort, USAID is proposing to revise its ''Criminal Law Enforcement Records'' system of records notice in its entirety due to the number of proposed changes. The Criminal Law Enforcement Records are maintained by the Office of Investigations, Office of Inspector General (OIG), USAID, in the conduct of investigations of illegal, unlawful, or otherwise violative conduct, and inquiries preliminary thereto, undertaken by that office pursuant to the Inspector General Act of 1978, as amended. OIG is statutorily directed to conduct and supervise investigations related to the programs and operations of USAID; to promote economy, efficiency, and effectiveness in the administration of such programs and operations; and to prevent and detect fraud, waste, and abuse in such programs and operations. As such, the records in this system are used in the course of investigating individuals and entities suspected of having committed illegal or unethical acts, and in supporting related criminal prosecutions, civil proceedings, and administrative actions.

This notice is being published in connection with USAID/OIG's intent to automate a portion of the Office of Investigations's existing Criminal Law Enforcement Records system, to provide further transparency into USAID's record-keeping practices, and to update public information regarding the routine uses of personally identifiable information within that records system. This update to the system by way of automation will not involve the collection of additional categories of information, but will instead provide possibilities for methods of retrieval previously unavailable.

The revisions in this proposal will affect each data element as follows: change system classification; update system locations; clarify categories of individuals in the system; clarify categories of records in the system; clarify the authority for maintenance of the system; insert the purpose of the system of records; add new routine uses; revise policies and practices for storing, retrieving, accessing, retaining, and disposing of records in the system; update system manager name and address; insert procedures for notification of, access to, and contesting of records; identify record source categories; and clarify the exemptions claimed for the system. Due to the number of proposed alterations to the record system, USAID proposes to replace the existing AID 9 with the proposed altered system of record notice published in its entirety below.

In accordance with 5 U.S.C. 552a(r), a report concerning this system has been sent to the Office of Management and Budget, and to the requisite congressional committees.

Philip M. Heneghan,
Chief Privacy Officer.

USAID–009

SYSTEM NAME:

Criminal Law Enforcement Records System.

SECURITY CLASSIFICATION:

Sensitive but Unclassified (SBU).

SYSTEM LOCATION(S):

USAID, Office of Inspector General, 1300 Pennsylvania Avenue, NW., Washington DC 20523; USAID, Office of Inspector General, Regional Offices; and investigative site(s) used in the course of OIG investigation(s).

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

In connection with its investigative duties, OIG maintains records in its Criminal Law Enforcement Records System on the following categories of individuals insofar as they are relevant to any investigation or preliminary inquiry undertaken to determine whether to commence an investigation: complainants; witnesses; confidential and non-confidential informants; contractors; subcontractors; recipients of federal assistance or funds and their contractors/subcontractors and employees; individuals threatening USAID employees or the USAID Administrator; current, former, and prospective employees of USAID; alleged violators of USAID rules and regulations; union officials; individuals investigated and/or interviewed; persons suspected of violations of administrative, civil, and/or criminal provisions; grantees; sub-grantees;

lessees; licensees; and other persons engaged in official business with USAID.

CATEGORIES OF RECORDS IN THE SYSTEM:

The system contains investigative reports and materials gathered or created with regard to investigations of administrative, civil, and criminal matters by OIG and other Federal, State, local, tribal, territorial, or foreign regulatory or law enforcement agencies. Categories of records may include: complaints; requests to investigate; information contained in criminal, civil, or administrative referrals; statements from subjects, targets, and/or witnesses; affidavits, transcripts, police reports, photographs, and/or documents relative to a subject's prior criminal record; medical records, accident reports, materials and intelligence information from other governmental investigatory or law enforcement organizations; information relative to the status of a particular complaint or investigation, including any determination relative to criminal prosecution, civil, or administrative action; general case management documentation; subpoenas and evidence obtained in response to subpoenas; evidence logs; pen registers; correspondence; records of seized property; reports of laboratory examination; reports of investigation; and other data or evidence collected or generated by OIG's Office of Investigations during the course of conducting its official duties.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

The Inspector General Act of 1978, 5 U.S.C. App. 3, as amended.

PURPOSE:

The records contained in this system are used by OIG to carry out its statutory responsibilities under the Inspector General Act of 1978, as amended, to conduct and supervise investigations relating to programs and operations of USAID; to promote economy, efficiency, and effectiveness in the administration of such programs and operations; and to prevent and detect fraud, waste, and abuse in such programs and operations. The records are used in the course of investigating individuals and entities suspected of having committed illegal or unethical acts, and in conducting related criminal prosecutions, civil proceedings, and administrative actions.

ROUTINE USES OF RECORDS MAINTAINED IN THE SYSTEM, INCLUDING CATEGORIES OF USERS AND THE PURPOSES OF SUCH USES:

USAID's routine uses, *see* 42 FR 47371 (September 20, 1977) and 59 FR 52954 (October 20, 1994), apply to this system of records. As additional routine uses for this records system, USAID/OIG may disclose information in this system as follows:

(a) Disclosure to the Department of Justice (DOJ) or a legal representative designated by a Federal agency in circumstances in which:

(1) USAID or OIG, or any component thereof;

(2) Any employee of USAID or OIG in his or her official capacity;

(3) Any employee of USAID or OIG in his or her individual capacity, where the DOJ has agreed to represent or is considering a request to represent the employee; or

(4) The United States or any of its components is a party to pending or potential litigation or has an interest in such litigation, USAID or OIG will be affected by the litigation, or USAID or OIG determines that the use of such records by the DOJ is relevant and necessary to the litigation; provided, however, that in each case, USAID or OIG determines that disclosure of the records to the DOJ is a use of the information that is compatible with the purpose for which the records were collected.

(b) Disclosure to any source from which additional information is requested in order to obtain information relevant to:

(1) A decision by either USAID or OIG concerning the hiring, assignment, or retention of an individual or other personnel action;

(2) The issuance, renewal, retention, or revocation of a security clearance;

(3) The execution of a security or suitability investigation;

(4) The letting of a contract; or

(5) The issuance, retention, or revocation of a license, grant, award, contract, or other benefit to the extent the information is relevant and necessary to a decision by USAID or OIG on the matter.

(c) Disclosure to a Federal, State, local, foreign, tribal, territorial, or other public authority in response to its request in connection with:

(1) The hiring, assignment, or retention of an individual;

(2) The issuance, renewal, retention, or revocation of a security clearance;

(3) The execution of a security or suitability investigation;

(4) The letting of a contract; or

(5) The issuance, retention, or revocation of a license, grant, award, contract, or other benefit conferred by that entity to the extent that the information is relevant and necessary to the requesting entity's decision on the matter.

(d) Disclosure in the event that a record, either by itself or in combination with other information, indicates a violation or a potential violation of law, whether civil, criminal, or regulatory in nature, and whether arising by general statute or particular program statute, or by regulation, rule, or order issued pursuant thereto; or a violation or potential violation of a contract provision. In these circumstances, the relevant records in the system may be referred, as a routine use, to the appropriate entity, whether Federal, State, tribal, territorial, local or foreign, charged with the responsibility of investigating or prosecuting such violation or charged with enforcing or implementing the statute, rule, regulation, order, or contract.

(e) Disclosure to any source from which additional information is requested, either private or governmental, to the extent necessary to solicit information relevant to any investigation, audit, or evaluation.

(f) Disclosure to a foreign government pursuant to an international treaty, convention, or executive agreement entered into by the United States.

(g) Disclosure to contractors, grantees, consultants, or volunteers performing or working on a contract, service, grant, cooperative agreement, job, or other activity for USAID or OIG, who have a need to access the information in the performance of their duties or activities. When appropriate, recipients will be required to comply with the requirements of the Privacy Act of 1974 as provided in 5 U.S.C. 552a(m).

(h) Disclosure to representatives of the Office of Personnel Management, the Office of Special Counsel, the Merit Systems Protection Board, the Federal Labor Relations Authority, the Equal Employment Opportunity Commission, the Office of Government Ethics, and other Federal agencies in connection with their efforts to carry out their responsibilities to conduct examinations, investigations, and/or settlement efforts, in connection with administrative grievances, complaints, claims, or appeals filed by an employee, and such other functions promulgated in 5 U.S.C. 1205–06.

(i) Disclosure to a grand jury agent pursuant to a Federal or State grand jury subpoena or to a prosecution request that such record be released for the purpose of its introduction to a grand jury.

(j) Disclosure in response to a facially valid subpoena for the record.

(k) Disclosure to the National Archives and Records Administration for the purpose of records management inspections conducted under authority of 44 U.S.C. 2904, 2906.

(l) Disclosure to the Departments of the Treasury and Justice in circumstances in which OIG seeks to obtain, or has in fact obtained, an *ex parte* court order to obtain tax return information from the Internal Revenue Service.

(m) Disclosure to any Federal official charged with the responsibility to conduct qualitative assessment reviews of internal safeguards and management procedures employed in investigative operations for purposes of reporting to the President and Congress on the activities of OIG as contemplated by the Homeland Security Act of 2002 (Pub. L. No. 107–296; November 25, 2002). This disclosure category includes other Federal offices of inspectors general and members of the President's Council on Integrity and Efficiency, and officials and administrative staff within their investigative chain of command, as well as authorized officials of DOJ and its component, the Federal Bureau of Investigation.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

Not applicable.

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Paper records and all other media (photographs, audio recordings, diskettes, CD's, etc.) are stored in GSA-approved security containers with combination locks in a secured area. Electronic records are password protected and maintained on a file server in locked facilities that are secured at all times by security systems and video surveillance cameras.

RETRIEVABILITY:

Records are retrieved in a database by name and/or alias, as well as by non-personally identifiable information, such as case number.

SAFEGUARDS:

Access to paper records is restricted to authorized OIG employees on a need-to-know basis. At all times, paper records are maintained in locked safes in a secured area in offices that are occupied by authorized OIG employees. Access to electronic records is restricted to authorized OIG staff members on a need-to-know basis. Each person granted access to the system must be individually authorized to use the system. Disclosure of records maintained electronically is restricted through the use of passwords. The computer servers in which records are stored are password protected. Passwords are changed on a cyclical basis. The computer servers are located in locked facilities that are secured at all times by security systems and video surveillance cameras. The security systems provide immediate notification of any attempted intrusion to USAID Security personnel. All data exchanged between the servers and individual computers is encrypted. Backup tapes are stored in a locked and controlled room in a secure, off-site location.

RETENTION AND DISPOSAL:

Records relating to persons covered by this system are retained for two or five years after the investigation is closed. If an investigation does not involve allegations against a senior level USAID employee, is not of congressional interest, or does not yield a reportable result, the records within the closed case file are maintained for a period of two years from the date of closing by OIG. If the investigation yields a reportable result, has congressional interest, or involves allegations against a senior level USAID employee, the records within the closed case file will be retained for five years from the date of closing by OIG. After the applicable period (two or five years), closed investigative files will be sent from USAID, Office of Inspector General, 1300 Pennsylvania Avenue, NW., Washington, DC 20523, to the Washington National Records Center in Suitland, Maryland, where they will be retained for fifteen years, and subsequently destroyed. Any electronic file that qualifies as a record will be printed out and treated as a hard-copy record for disposition purposes.

SYSTEM MANAGER AND ADDRESS:

Kimberley Bynum, (202–712–4010).

NOTIFICATION PROCEDURES:

Records in this system are exempt from notification, access, and amendment procedures in accordance with subsections (j) and (k) of 5 U.S.C. 552a, and 22 CFR 215.13 and 215.14. Individuals requesting notification of the existence of records on themselves should send their request to the System Manager (see information above). The request must be in writing and include the requester's full name, his or her current address, his or her date and place of birth, and a return address for transmitting the information. The request shall be signed by either notarized signature or by signature under penalty of perjury. Requesters shall also reasonably specify the record contents being sought.

RECORDS ACCESS PROCEDURES:

An individual requesting access to records maintained on himself or herself should address the request to the System Manager as described in ''Notification Procedures'' above.

CONTESTING RECORD PROCEDURES:

An individual requesting amendment of a record maintained on himself or herself must identify the information to be changed and the corrective action sought. Requests should be addressed to the System Manager as described in ''Notification Procedures'' above.

RECORD SOURCE CATEGORIES:

OIG collects information from a wide variety of sources, including information from USAID and other Federal, State, and local agencies, subjects, witnesses, complainants, confidential and/or non-confidential sources, and other nongovernmental entities.

SYSTEM EXEMPTIONS FROM CERTAIN PROVISIONS OF THE ACT:

Under the specific authority provided by subsection (j)(2) of 5 U.S.C. 552a, USAID has adopted regulations, 22 CFR 215.13 and 215.14, which exempt this system from the notice, access, and amendment requirements of 5 U.S.C. 552a, except subsections (b); (c)(1) and (2); (e)(4)(A) through (F); (e)(6), (7), (9), (10), and (11); and (i). If the provision found at subsection (j)(2) of 5 U.S.C. 552a is held to be invalid, then, under subsections (k)(1) and (2) of 5 U.S.C. 552a, this system is determined to be exempt from the provisions of subsections (c)(3); (d); (e)(1); (e)(4)(G), (H), and (I); and (f) of 5 U.S.C. 552a. See 57 FR 38276, 38280–81 (August 24, 1992). The reasons for adoption of 22 CFR 215.13 and 215.14 are to protect the materials required by Executive order to be kept secret in the interest of national defense of foreign policy, to maintain the integrity of the law enforcement process, to ensure the proper functioning and integrity of law enforcement activities, to prevent disclosures of investigative techniques, to maintain the ability to obtain necessary information, to prevent subjects of investigation from frustrating the investigatory process, to avoid premature disclosure of the knowledge of criminal activity and the evidentiary bases of possible enforcement actions, to fulfill commitments made to sources to protect their identities and the confidentiality of information, and to avoid endangering these sources and law enforcement personnel.

[FR Doc. E8–784 Filed 1–16–08; 8:45 am]

BILLING CODE 6116–01–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

January 11, 2008.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8958.

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

Food and Nutrition Service

Title: CACFP Improper Payments Data Collection Pilot Project.

OMB Control Number: 0584–NEW.

Summary of Collection: The Child and Adult Care Food Program (CACFP), administered by the U.S. Department of Agriculture (USDA), Food and Nutrition Service (FNS), plays an important role in ensuring that children have adequate access to food. The CACFP is authorized under section 17 of the National School Lunch Act (42 U.S.C. 1766) to provide funds for meals and snacks served to children in day care centers, children residing in emergency shelters, and youths participating in eligible after-school care programs. In addition, the CACFP helps improve the quality of day care and makes it more affordable for low-income families by reimbursing family day care homes (FDCHs) for serving nutritious meals and snacks to children participating in these day care facilities. USDA has identified the CACFP as one of its programs ''susceptible to significant erroneous payments.'' Under the Improper Payment Information Act of 2002 (IPIA; Pub. L. 107–300), the USDA must identify and reduce improper (or erroneous) payments in various food and nutrition programs. Therefore the FNS is conducting a feasibility evaluation of four possible data collection methods for validating the number and type of meals claimed for reimbursement by FDCHs in the CACFP.

Need and Use of the Information: The data collected to document the number of valid meals served will be compared with data on the number of reimbursable meals claimed by the FDCHs and their sponsors to produce a national estimate of erroneous payments in the CACFP and thus meet the reporting requirements of the IPIA.

Description of Respondents: Individuals or households.

Number of Respondents: 255.

Frequency of Responses: Reporting: On Occasion.

Total Burden Hours: 70.

Ruth Brown,

Departmental Information Collection Clearance Officer.

[FR Doc. E8–738 Filed 1–16–08; 8:45 am]

BILLING CODE 3410–30–P

DEPARTMENT OF AGRICULTURE

Submission for OMB Review; Comment Request

January 11, 2008.

The Department of Agriculture has submitted the following information collection requirement(s) to OMB for review and clearance under the Paperwork Reduction Act of 1995, Public Law 104–13. Comments regarding (a) whether the collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility; (b) the accuracy of the agency's estimate of burden including the validity of the methodology and assumptions used; (c) ways to enhance the quality, utility and clarity of the information to be collected; (d) ways to minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology should be addressed to: Desk Officer for Agriculture, Office of Information and Regulatory Affairs, Office of Management and Budget (OMB), *OIRA_Submission@OMB.EOP.GOV* or fax (202) 395–5806 and to Departmental Clearance Office, USDA, OCIO, Mail Stop 7602, Washington, DC 20250–7602. Comments regarding these information collections are best assured of having their full effect if received within 30 days of this notification. Copies of the submission(s) may be obtained by calling (202) 720–8681.

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

Forest Service

Title: Research Data Archive Use Tracking System.

OMB Control Number: 0596–NEW.

Summary of Collection: Authorized under 16 U.S.C. 1645(c), Forest Service Research and Development (FS R&D) plans to create a data archive to store and disseminate data collected in the course of its scientific research. This archive will provide a sound balance between meeting obligations to scientific staff and ease-of-access by the public (research community). The information provided by this collection will assist FS R&D personnel in evaluating the research program.

Need and Use of the Information: Form FS 4000–5, General Data Use Agreement, will be used to collect the information electronically. When a member of the public requests a copy of a data set, FS R&D will collect the name, affiliation, contact information (including e-mail address), Statement of Intended Use and Data Use Agreement. FS archive staff will review the individual Data Use Agreements prior to approving release of the data set to the requestor. The collection of Data Use Agreements will be evaluated by the data archiving program to identify opportunities for improving the archive's function and offerings.

Description of Respondents: Not-for-profit Institutions.

Number of Respondents: 100.

Frequency of Responses: Reporting: Yearly.

Total Burden Hours: 25.

Charlene Parker,

Departmental Information Collection Clearance Officer.

[FR Doc. E8–739 Filed 1–16–08; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF AGRICULTURE

Agricultural Marketing Service

[Docket No. FV–08–376]

Fruit and Vegetable Industry Advisory Committee

AGENCY: Agricultural Marketing Service, USDA.

ACTION: Notice of public meeting.

SUMMARY: The purpose of this notice is to notify all interested parties that the Agricultural Marketing Service (AMS) will hold a Fruit and Vegetable Industry Advisory Committee (Committee) meeting that is open to the public. The U.S. Department of Agriculture (USDA) established the Committee to examine the full spectrum of issues faced by the fruit and vegetable industry and to provide suggestions and ideas to the Secretary of Agriculture on how USDA can tailor its programs to meet the fruit and vegetable industry's needs. This notice sets forth the schedule and location for the meeting.

DATES: Thursday, February 7, 2008, from 8 a.m. to 5 p.m., and Friday, February 8, 2008, from 8 a.m. to 12 noon.

ADDRESSES: The Committee meeting will be held at the Capital Hilton, 1001 16th Street, NW., Washington, DC.

FOR FURTHER INFORMATION CONTACT: Andrew Hatch, Designated Federal Official, USDA, AMS, Fruit and Vegetable Programs. Telephone: (202) 690–0182. Facsimile: (202) 720–0016. E-mail: *andrew.hatch@usda.gov*.

SUPPLEMENTARY INFORMATION: Pursuant to the Federal Advisory Committee Act (FACA) (5 U.S.C. App. II), the Secretary of Agriculture established the Committee in August 2001 to examine the full spectrum of issues faced by the fruit and vegetable industry and to provide suggestions and ideas to the Secretary on how USDA can tailor its programs to meet the fruit and vegetable industry's needs. The Committee was re-chartered in July 2003, June 2005 and again in May 2007 with new members appointed by USDA from industry nominations.

AMS Deputy Administrator for Fruit and Vegetable Programs, Robert C. Keeney, serves as the Committee's Executive Secretary. Representatives from USDA mission areas and other government agencies affecting the fruit and vegetable industry will be called upon to participate in the Committee's meetings as determined by the Committee Chairperson. AMS is giving notice of the Committee meeting to the public so that they may attend and present their recommendations. Reference the date and address section of this announcement for the time and place of the meeting.

Topics of discussion at the advisory committee meeting will include: the Agricultural Marketing Service's role in food safety related activities; the Food and Drug Administration's import food safety plan; fresh produce procurement activities under the National School Lunch Program; Country of Origin Labeling; and agriculture transportation matters. Additional agenda items can be expected.

Those parties that would like to speak at the meeting should register on or before January 31, 2008. To register as a speaker, please e-mail your name, affiliation, business address, e-mail address, and phone number to Mr. Andrew Hatch at: *andrew.hatch@usda.gov* or facsimile to (202) 720–0016. Speakers who have registered in advance will be given priority. Groups and individuals may submit comments for the Committee's consideration to the same e-mail address. The meeting will be recorded, and information about obtaining a transcript will be provided at the meeting.

The Acting Secretary of Agriculture selected a diverse group of members representing a broad spectrum of persons interested in providing suggestions and ideas on how USDA can tailor its programs to meet the fruit and vegetable industry's needs. Equal opportunity practices were considered in all appointments to the Committee in accordance with USDA policies.

If you require special accommodations, such as a sign language interpreter, please use either contact name listed above.

Dated: January 14, 2008.

Lloyd Day,

Administrator, Agricultural Marketing Service

[FR Doc. E8–801 Filed 1–16–08; 8:45 am]

BILLING CODE 3410–02–P

DEPARTMENT OF AGRICULTURE

Forest Service

Spruce Gulch Bark Beetle and Fuels Reduction Project

AGENCY: Forest Service, USDA—Medicine Bow-Routt National Forests.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: In accordance with the National Environmental Policy Act, notice is hereby given that the Forest Service, Medicine Bow-Routt National Forests, will prepare a Draft Environmental Impact Statement to disclose the environmental consequences of the proposed Spruce Gulch Bark Beetle and Fuels Reduction project (Spruce Gulch). The Spruce Gulch analysis area encompasses approximately 32,000 acres of National Forest System (NFS) land, 390 acres of interspersed private land, and 150 acres of State of Wyoming land. The majority of the analysis area is situated within the Ecological Restoration—Forest Products Management Area (MA 5.15). MA 5.15 is managed to maintain or restore healthy ecological conditions through a variety of management activities, including timber harvest, while providing a mix of ecological and human needs. The remaining area is situated within a Wildland—Residential Interface Management Area (MA 7.1). National Forest System (NFS) lands adjacent to the residential interface areas are managed to minimize risks of catastrophic fires and insect and disease epidemics.

Mountain pine beetles (*Dendroctonus ponderosae*) are at epidemic levels in northern Colorado and southern Wyoming and are causing significant mortality of lodgepole pine trees. In response to this situation, a Mountain Pine Beetle Epidemic Declaration was issued by the Rocky Mountain Regional Office on June 25, 2007. The declaration was based on analysis of aerial survey data and ground survey data sets of forests containing lodgepole pine at risk for mountain pine beetle infestation. The mountain pine beetle epidemic declaration encompasses the Spruce Gulch analysis area in southern Wyoming. Proposed treatments associated with the Spruce Gulch project will focus on salvaging dead and dying timber to promote regeneration of future lodgepole pine stands and reducing hazardous fuel concentrations adjacent to private lands and egress routes.

The Forest Supervisor of the Medicine Bow-Routt National Forests has

determined that the Spruce Gulch project is authorized under sections 102(a)(1) (Federal land in wildland-urban interface areas) and 102(a)(4) (insect and disease epidemics) of the Healthy Forests Restoration Act (HFRA) of 2003. HFRA provides for expedited environmental analysis and treatments of lands that are at risk of wildland fire, have experienced windthrow or blowdown or are at risk of insect and disease epidemics. Accordingly, the environmental analysis associated with the Spruce Gulch project will proceed according to section 104 of the HFRA.

To move toward the desired future condition, as described in the Medicine Bow Revised Land and Resource Management Plan (Revised Forest Plan 2003), and meet the purpose and need of the project proposal, proposed silvicultural treatments include: (1) Clearcutting; (2) commercial thinning; (3) shelterwood removal; (4) shelterwood preparatory cut; (5) shelterwood seed cut; (6) group selection; (7) individual tree selection; (8) sanitation/salvage; and (9) salvage treatments. Transportation activities associated with the project proposal consist of road construction and road reconstruction.

DATES: Comments concerning the scope of the analysis must be received by February 15, 2008. The Draft Environmental Impact Statement is expected to be available for public review in April 2008, the Final Environmental Impact Statement is expected to be available in June 2008, and the Record of Decision is expected to be released in September 2008.

ADDRESSES: Submit written, oral, or E-mail comments by: (1) Postal service–Medicine Bow-Routt National Forests, ATTN: Melissa Martin, Project Coordinator, 2468 Jackson Street, Laramie, WY 82070; (2) telephone–(307) 745–2371; (3) E-mail–*mmmartin@fs.fed.us.*

FOR FURTHER INFORMATION CONTACT: Charles Cobb at (307) 245–2338.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The *purpose* of the Spruce Gulch project is to reduce current mountain pine beetle populations in forested stands dominated by lodgepole pine trees, decrease the risk and hazard of catastrophic wildfire in the proximity of private lands and homes, and to reduce the susceptibility of vegetation to catastrophic fire and further mountain pine beetle attacks.

The project is *needed* to:

- Reduce the threat of future beetle infestations in stands that have a moderate to high beetle risk;
- Reduce the risk of high intensity/high severity wildfires within treatment areas by reducing hazardous fuel loadings associated with treatments and beetle killed trees;
- Reduce the effects of tree mortality on the overall health, scenic quality, and condition of forested areas; and
- Salvage forest products from forested lands classified as being suitable to keep them in production and positively contributing to the Forest's Allowable Sale Quantity.

Proposed Action

Under the Proposed Action, the Laramie Ranger District of the Medicine Bow-Routt National Forests will evaluate a variety of bark beetle related salvage, suppression, and prevention silvicultural treatments and hazardous fuels abatement treatments on approximately 4,500 acres. Current estimates identify 1,859 acres of clearcutting, 146 acres of commercial thinning, 38 acres of overstory removal, and 2,463 acres of adaptive management prescriptions. Adaptive management prescriptions including salvage, sanitation/salvage, shelterwood, group selection, individual tree selection, commercial thinning, and overstory removal. Adaptive management strategies are proposed on these acres because it would be difficult, at this point in time, to determine the exact location, timing, treatment types, and specific amounts of treatment type that would best address the rapidly spreading mountain pine beetle epidemic. The treatments would be located primarily within MAs 5.15 and 7.1, with a small amount of treatments within MA 5.13—Forest Products.

Approximately 1,041 of the 4,500 acres identified above fall within MA 7.1—Residential/Forest Interface; these acres would be managed using a combination of silvicultural treatments to reduce hazardous fuels. Management activities would generally occur less than one-half mile, or as identified within specific community wildfire protection plans, from the identified communities and would be subordinate to more restrictive management areas. Appropriate treatment boundaries would be based on site-specific conditions such as topography, vegetation conditions, and fuel loadings.

Approximately 0.3 miles of specified road construction, 2.7 miles of temporary road construction, and 8.8 miles of road reconstruction could be required for project implementation. The final assessment of road needs has not been determined, and could be more or less. To accommodate the amount of harvest and road construction, the proposal may include some soil and water projects to mitigate road related problems.

Note: Forest-wide Direction contained in the Medicine Bow Land and Resource Management Plan (Forest Plan 2003) generally limits the size of openings created by even-aged management (e.g. clearcuts) to 40 acres (Forest Plan page 1–35). Exceptions are granted, however, in areas that have experienced natural catastrophic conditions such as fire, insect or disease attacks, or windstorms. The Spruce Gulch Proposed Action currently proposes a clearcut prescription on 49 units (totaling 1,859 acres), 22 of which exceed the 40 acre maximum size limitation. The largest proposed clearcut unit is 138 acres, while the majority of the other units are between 41 and 80 acres. These larger clearcut units primarily fall within MA 5.15 (Ecological Restoration) which allows created openings as large as 250 acres (Forest Plan page 2–63, Vegetation Guideline #2)

Collaboration Process: As required by Title I, section 104 of the HFRA, the Forest Service engaged in a collaborative process with local stakeholders prior to developing the Proposed Action described above. Members of the collaborative group included, but were not limited to, private landowners within or adjacent to the analysis area boundary, industry representatives, State and local government officials, and members of public interest groups. The collaborators participated in three meetings hosted by the Forest Service during the months of November and December of 2007, and contributions from the group were considered and incorporated in to the final design of the Proposed Action.

Responsible Official

The responsible official for the Spruce Gulch Bark Beetle and Fuels Reduction project is the Laramie District Ranger of the Medicine Bow-Routt National Forests.

Nature of Decision To Be Made

The Spruce Gulch Bark Beetle and Fuels Reduction Environmental Impact Statement will evaluate site-specific management proposals, consider alternatives to the Proposed Action, and analyze the effects of the activities proposed in the alternatives. It will form the basis for the Responsible Official to determine: (1) Whether or not the Proposed Action and alternatives are responsive to the issues, are consistent with Forest Plan direction, meet the purpose and need, and are consistent with other related laws and regulations directing National Forest Management

activities; (2) whether or not the information in the analysis is sufficient to implement proposed activities; and (3) which actions, if any, to approve.

Preliminary Issues

The following potential issues and concerns were identified via internal scoping and collaboration efforts: (1) Beetle spread from NFS lands to adjacent private lands; (2) cumulative impacts of past and proposed treatments; (3) intensity of vegetative treatments and slash disposal adjacent to wildland-urban interface areas; (4) ingress/egress for forest users and property owners; and (5) management of mapped and inventoried old growth stands.

Comment Requested

This notice of intent initiates the scoping process that guides the development of the environmental impact statement. Comments that are site-specific in nature are most helpful to resource professionals when trying to narrow and address the public's issue and concerns. Comments on the Spruce Gulch proposal will be accepted until February 15, 2008 as identified previously in this notice of intent. Comments will be reviewed and issues will be identified. Issues that cannot be resolved by design criteria or minor changes to the Proposed Action may generate alternatives to the Proposed Action. This process is driven by comments received from the public, other agencies, and internal Forest Service concerns. To assist in commenting, a scoping letter providing more detail on the project proposal has been prepared and is available to interested parties. Contact Melissa Martin, Project Coordinator, at the address listed in this notice of intent if you would like to receive a copy.

Release of Names

Comments received in response to this solicitation, including names and addresses of those who commented, will be considered part of the public record on this Proposed Action and will be available for public inspection. Comments submitted anonymously will be accepted and considered; however, those who submit anonymous comments will not have standing to object to the subsequent decision under 36 CFR Part 218. Additionally, pursuant to 7 CFR 1.27(d), any person may request the agency to withhold a submission from the public record by showing how the Freedom of Information Act (FOIA) permits such confidentiality. Persons requesting such confidentiality should be aware that, under the FOIA, confidentiality may be granted in only very limited circumstances, such as to protect trade secrets. The Forest Service will inform the requester of the agency's decision regarding the request for confidentiality, and where the request is denied, the agency will return the submission and notify the requester that the comments may be resubmitted with or without name and address within ten (10) days.

Early Notice of Importance of Public Participation in Subsequent Environmental Review

A draft environmental impact statement will be prepared for comment. The comment period on the draft environmental impact statement will be 45 days from the date of the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, that it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised during the draft environmental impact statement stage, but are not raised until after completion of the final environmental impact statement, may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this Proposed Action participate by the close of the 45-day comment period so that substantive comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns related to the Proposed Action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft document. Comments may also address the adequacy of the draft environmental impact statement or the merits of the alternatives displayed in the document. Reviewers should refer to the Council on Environmental Quality Regulations at 40 CFR 1503.3 for implementing the procedural provisions of the National Environmental Policy Act for addressing these points.

Dated: January 9, 2008.

Thomas A. Florich,

Acting Laramie District Ranger.

[FR Doc. 08–113 Filed 1–16–08; 8:45 am]

BILLING CODE 3410–11–M

DEPARTMENT OF AGRICULTURE

Forest Service

San Juan National Forest; Columbine Ranger District; Colorado; Hermosa Landscape Grazing Analysis

AGENCY: Forest Service, USDA.

ACTION: Notice of intent to prepare an environmental impact statement.

SUMMARY: The San Juan National Forest proposes to continue to authorize livestock grazing on all or portions of the Missionary Ridge-Lakes Landscape in a manner that moves resource conditions toward desired on-the-ground conditions and is consistent with Forest Plan standards and guidelines. The analysis area encompasses approximately 119,000 acres on 12 active cattle allotments: Bear Creek, Coon Creek, Elkhorn, Graham Creek, Haflin Creek, Jack Creek, Lemon, Lion Creek, Red Creek, Stevens/Shearer, Vallecito, and Waldner Allotments. The area is located north of Durango and Bayfield, Colorado; from the Animas Valley on the west to just past the La Plata County line on the east; in T35N and T36N, R5–9W, N.M.P.M. and is within the Columbine Ranger District, San Juan National Forest, Colorado.

The proposed action is designed to increase the flexibility of livestock grazing systems through adaptive management, which will allow quicker and more effective response to problems areas when they are revealed. Problems will be revealed through the use of short and long term monitoring. Application of adaptive management practices should result in healthier soil, watershed, and vegetative conditions.

DATES: Comments concerning the scope of the analysis should be received on or before February 19, 2008. The draft environmental impact statement is expected in June 2008 and the final environmental impact statement is expected in September 2008.

ADDRESSES: Send written comments to Cam Hooley, Environmental Coordinator, Columbine Public Lands, POB 439, 367 South Pearl Street, Bayfield, CO 81122; e-mail *chooley@fs.fed.us*.

For further information, mail correspondence to Rowdy Wood, Rangeland Management Specialist, Columbine Public Lands, POB 439, 367 South Pearl Street, Bayfield, CO 81122; e-mail *rwood03@fs.fed.us*.

FOR FURTHER INFORMATION CONTACT: Rowdy Wood, Rangeland Management Specialist, Columbine Public Lands, 970–884–1416.

SUPPLEMENTARY INFORMATION:

Purpose and Need for Action

The purpose of this project is to reauthorize grazing on all or portions of the Hermosa Landscape in such a manner that will move resource conditions toward desired conditions and be consistent with Forest Plan standards and guidelines. There is a need to move some existing conditions towards desired conditions. Livestock grazing has been identified in the Forest Plan as an appropriate use of the Forest and falls under the multiple-use mandate of the Forest Service. This action is needed at this time because in the early 1990's, the courts determined that livestock grazing permits should not be re-issued without a NEPA analysis. This put many livestock operations at risk until such time as these analyses could be completed. In response, Congress passed the Rescissions Act of 1995, which provided for continuation of permit issuance if the only reason they could not be issued was lack of a NEPA analysis. The Act directed the Forest Service to develop and adhere to a schedule for completion of the analyses. This project analysis is being undertaken as part of the schedule that was developed for the San Juan National Forest.

Proposed Action

The proposed action is to continue to permit livestock grazing by incorporating adaptive management strategies across the Hermosa Landscape. Adaptive Management is defined as the process of making use of monitoring information to determine if management changes are needed, and if so, what changes, and to what degree. An adaptive management strategy would define the desired resource conditions, monitoring requirements, resource triggers or thresholds, and actions to be taken if triggers are reached. Site-specific actions to move the existing ground conditions toward desired conditions could also be identified.

Possible Alternatives

The following alternatives have been preliminarily identified: No Action Alternative. The proposed project as described above would not occur. Grazing would not be reauthorized on these allotments. Traditional Management Alternative (No change from current). This alternative is based on analyzing a specific number of livestock and specific grazing dates in specific pastures. This has been the conventional approach to grazing analysis. Adaptive Management Alternative (Proposed Action). Described above. This alternative is based on meeting certain resource conditions using a variety of ''tools'', or actions, to reach or maintain those conditions.

Responsible Official

Pauline E. Ellis, Columbine District Ranger/Field Office Manager, POB 439, 367 South Pearl Street, Bayfield, CO, 81122.

Nature of Decision To Be Made

Given the purpose and need, the deciding official reviews the proposed action and the other alternatives in order to make the following decisions: Will livestock grazing will proceed as proposed, as modified, or not at all, on all or part of the Missionary Ridge-Lakes landscape? If livestock grazing proceeds: Where will on-the-ground activities occur, and what types of associated activities will occur? What mitigation measures and monitoring requirements will the Forest Service apply to the project? If Adaptive Management is chosen, how will monitoring be used to guide when adaptive options will be activated?

Scoping Process

Scoping is initiated with the publication of this notice in the **Federal Register**. A news release will be issued and scoping letters will be mailed to affected individuals during January 2008, and the project has been posted in the San Juan National Forest Quarterly Schedule of Proposed Actions since January 2008. A meeting with the current term grazing permit holders in the project landscape was held on March 15, 2007, and another will be held on January 25, 2008 at 2:30 p.m. the Lavena McCoy Public Library in Bayfield, Colorado.

Preliminary Issues

During internal review and analysis of monitoring data, the Columbine District/Field Office has already identified the following concerns or issues with the proposal: Livestock can affect plant community species composition and vigor; Livestock can impact riparian areas and watershed conditions; Livestock can impact wildlife habitat, including habitat for special status species such as Canada lynx and Colorado River cutthroat trout; Livestock can conflict with recreation in developed campgrounds and trailheads.

Comment Requested

This notice of intent initiates the scoping process which guides the development of the environmental impact statement. Comments regarding the scope of issues to be analyzed in the Environmental Impact Statement are requested, and should be relevant to the nature of the decision to be made.

Early Notice of Importance of Public Participation in Subsequent Environmental Review: A draft environmental impact statement will be prepared for comment. The comment period on the draft environmental impact statement will be 45 days from the date the Environmental Protection Agency publishes the notice of availability in the **Federal Register**.

The Forest Service believes, at this early stage, it is important to give reviewers notice of several court rulings related to public participation in the environmental review process. First, reviewers of draft environmental impact statements must structure their participation in the environmental review of the proposal so that it is meaningful and alerts an agency to the reviewer's position and contentions. *Vermont Yankee Nuclear Power Corp.* v. *NRDC*, 435 U.S. 519, 553 (1978). Also, environmental objections that could be raised at the draft environmental impact statement stage but that are not raised until after completion of the final environmental impact statement may be waived or dismissed by the courts. *City of Angoon* v. *Hodel*, 803 F.2d 1016, 1022 (9th Cir. 1986) and *Wisconsin Heritages, Inc.* v. *Harris*, 490 F. Supp. 1334, 1338 (E.D. Wis. 1980). Because of these court rulings, it is very important that those interested in this proposed action participate by the close of the 45 day comment period so that comments and objections are made available to the Forest Service at a time when it can meaningfully consider them and respond to them in the final environmental impact statement.

To assist the Forest Service in identifying and considering issues and concerns on the proposed action, comments on the draft environmental impact statement should be as specific as possible. It is also helpful if comments refer to specific pages or chapters of the draft statement. Comments may also address the adequacy of the draft environmental impact statement or the merits of the

alternatives formulated and discussed in the statement. Reviewers may wish to refer to the Council on Environmental Quality Regulations for implementing the procedural provisions of the National Environmental Policy Act at 40 CFR 1503.3 in addressing these points.

Comments received, including the names and addresses of those who comment, will be considered part of the public record on this proposal and will be available for public inspection.

(Authority: 40 CFR 1501.7 and 1508.22; Forest Service Handbook 1909.15, Section 21)

Dated: January 9, 2008.

Pauline E. Ellis,

District Ranger/Field Office Manager.

[FR Doc. E8–749 Filed 1–16–08; 8:45 am]

BILLING CODE 3410–11–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–849]

Certain Cut-to-Length Carbon Steel Plate From the People's Republic of China; Initiation of New Shipper Review

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

EFFECTIVE DATE: January 17, 2008.

SUMMARY: The Department of Commerce (the ''Department'') has determined that a request for a new shipper review of the antidumping duty order on certain cut-to-length steel plate (''CTL steel plate'') from the People's Republic of China (''PRC''), received in November 2007, meets the statutory and regulatory requirements for initiation. The period of review (''POR'') of this new shipper review is November 1, 2006, through October 31, 2007.

FOR FURTHER INFORMATION CONTACT: Demitrios Kalogeropoulos or Blanche Ziv, AD/CVD Operations, Office 8, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–2623 and (202) 482–4207, respectively.

SUPPLEMENTARY INFORMATION:

Background

The notice announcing the antidumping duty order on CTL steel plate from the PRC was published on October 21, 2003. *See Suspension Agreement on Certain Cut-to-Length Carbon Steel Plate From the People's Republic of China; Termination of Suspension Agreement and Notice of Antidumping Duty Order*, 68 FR 60081 (October 21, 2003). On November 30, 2007, we received a timely request for a new shipper review from Hunan Valin Xiangtan Iron & Steel Co., Ltd. (''Hunan Valin'') in accordance with 19 CFR 351.214(d)(2). Hunan Valin has certified that it produced and exported the CTL steel plate on which it based its request for a new shipper review. The Department initially denied Hunan Valin's request for a new shipper review in this case. However, as a result of subsequent information submitted by the requester, the Department has reconsidered its decision and is now initiating the new shipper review.

Initiation of New Shipper Reviews

Pursuant to section 751(a)(2)(B)(i)(I) of the Tariff Act of 1930, as amended (''the Act''), and 19 CFR 351.214(b)(2), Hunan Valin certified that it did not export CTL steel plate to the United States during the period of investigation (''POI''). Pursuant to section 751(a)(2)(B)(i)(II) of the Act and 19 CFR 351.214(b)(2)(iii)(A), Hunan Valin certified that, since the initiation of the investigation, it has never been affiliated with any exporter or producer who exported CTL steel plate to the United States during the POI, including those not individually examined during the investigation. As required by 19 CFR 351.214(b)(2)(iii)(B), Hunan Valin also certified that its export activities were not controlled by the central government of the PRC.

In addition to the certifications described above, the exporter submitted documentation establishing the following: (1) The date on which it first shipped CTL steel plate for export to the United States and the date on which the CTL steel plate was first entered, or withdrawn from warehouse, for consumption; (2) the volume of its first shipment; and (3) the date of its first sale to an unaffiliated customer in the United States.

Pursuant to section 751(a)(2)(B) of the Act and 19 CFR 351.214(d)(1), we are initiating this new shipper review for shipments of CTL steel plate from the PRC produced and exported by Hunan Valin.

The POR is November 1, 2006, through October 31, 2007. *See* 19 CFR 351.214(g)(1)(i)(B). We intend to issue preliminary results of these reviews no later than 180 days from the date of initiation, and final results of these reviews no later than 270 days from the date of initiation. *See* section 751(a)(2)(B)(iv) of the Act.

On August 17, 2006, the Pension Protection Act of 2006 (''H.R. 4'') was signed into law. Section 1632 of H.R. 4 temporarily suspends the authority of the Department to instruct U.S. Customs and Border Protection to collect a bond or other security in lieu of a cash deposit in new shipper reviews during the period April 1, 2006, through June 30, 2009. Therefore, the posting of a bond or other security under section 751(a)(2)(B)(iii) of the Act in lieu of a cash deposit is not available in this case. Importers of CTL steel plate manufactured and exported by Hunan Valin must continue to pay a cash deposit of estimated antidumping duties on each entry of subject merchandise at the current PRC-wide rate of 128.59 percent.

Interested parties requiring access to proprietary information in this new shipper review should submit applications for disclosure under administrative protective order in accordance with 19 CFR 351.305 and 351.306. This initiation and notice are in accordance with section 751(a)(2)(B) of the Act and 19 CFR 351.214 and 351.221(c)(1)(i).

Dated: January 11, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8–788 Filed 1–16–08; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[A–570–803]

Heavy Forged Hand Tools From the People's Republic of China: Notice of Court Decision Not in Harmony With Final Results of Administrative Review

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

SUMMARY: On November 20, 2007, the United States Court of International Trade (''CIT'') sustained the remand redetermination issued by the Department of Commerce (''the Department'') pursuant to the CIT's remand of the final results of the twelfth administrative review of the antidumping duty orders on heavy forged hand tools from the People's Republic of China. *See Shandong Huarong Machinery Co. Ltd., Shandong Machinery Import & Export Corporation, Liaoning Machinery Import & Export Corporation, and Tianjin Machinery Import & Export Corporation* v. *United States*, Slip Op. 07–169 (CIT, 2007) (''*Shandong Huarong II*''). On January 8, 2008, the CIT released the public version of this opinion. This case

arises out of the Department's final results in the administrative review covering the period February 1, 2002, through January 31, 2003. *See Heavy Forged Hand Tools, Finished or Unfinished, With or Without Handles, From the People's Republic of China: Final Results of Antidumping Duty Administrative Reviews, Final Partial Rescission of Antidumping Duty Administrative Reviews, and Determination Not to Revoke in Part*, 69 FR 55581 (September 15, 2004) (''*Final Results*''). Consistent with the decision of the United States Court of Appeals for the Federal Circuit (''Federal Circuit'') in *Timken Co.* v. *United States*, 893 F.2d 337 (Fed. Cir. 1990) (''*Timken*''), the Department is notifying the public that *Shandong Huarong II* is not in harmony with the Department's *Final Results*.

EFFECTIVE DATE: January 17, 2008.

FOR FURTHER INFORMATION CONTACT: Thomas Martin, AD/CVD Operations, Office 4, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Ave., NW., Washington, DC 20230; telephone: (202) 482–3936.

SUPPLEMENTARY INFORMATION: In *Shandong Huarong Machinery Co. Ltd., Liaoning Machinery Import & Export Corp. Ltd., Shandong Machinery Import & Export Corp., and Tianjin Machinery Import & Export Corp.* v. *United States and Ames True Temper*, Court No. 04–00460, Slip Op. 06–88 (June 9, 2006) (''*Shandong Huarong I*''), the CIT remanded the underlying final results of review to the Department to: (1) Explain why the failure of Shandong Huarong Machinery Co., Ltd. (''Huarong'') and Tianjin Machinery Import & Export Corporation (''Tianjin'') to report information on scrapers and forged tampers, respectively, justifies the use of total adverse facts available (''AFA''), rather than just partial AFA, pursuant to sections 776(a) and (b) of the Tariff Act of 1930 (the ''Act''), for the axe/adze order for Huarong and the bar/wedge order for Tianjin; (2) provide a factual basis showing that the rate calculated for Tianjin is a reasonable estimate of its actual rate plus an added amount to encourage cooperation; (3) explain how the Department's commercial quantities methodology fulfills the purpose of 19 CFR 351.222(e)(1), in relation to its refusal to revoke Shandong Machinery Import & Export Corporation (''SMC'') from the hammers/sledges order; (4) analyze further the issue of valuation of steel pallets manufactured by certain hand tool factories; (5) revisit its decision that certain miscellaneous handling expenses are not included in the surrogate price of foreign brokerage and handling and, if the Department continues to find that the handling expenses in question are not in the surrogate price of brokerage and handling, to provide a thorough explanation; (6) explain why its decision to analyze market economy (''ME'') purchases of ocean freight in aggregate is reasonable; and (7) explain further its decision to deny the request for a circumstance of sale (''COS'') adjustment to Tianjin's normal value (''NV'').

The Department released the *Draft Results of Redetermination Pursuant to Court Remand* (''*Draft Redetermination*'') to the petitioner, Ames True Temper (''Ames''), and the respondents for comment on December 15, 2006. The Department received comments from both Ames and the respondents on December 29, 2006. On January 12, 2007, the Department issued to the CIT its final results of redetermination pursuant to *Shandong Huarong I*. *See Final Results of Redetermination Pursuant to Court Remand*, Court No. 04–00460, (January 12, 2007) (''*Final Redetermination*''), found at *http://ia.ita.doc.gov/remands/06–88.pdf*. In the remand redetermination the Department did the following: (1)(a) Explained that AFA was applied to all of Huarong's sales of axes/adzes, pursuant to sections 776(a) and (b) of the Act, because it failed to report requested information regarding its production and sales of scrapers, which are subject to the axes/adzes order; (1)(b) explained that total AFA was applied to Tianjin's sales of bars/wedges because, in part, it failed to report its sales of forged tampers, which are subject to the bars/wedges order; (2) redetermined an AFA rate for Tianjin's sales of merchandise covered by the bars/wedges order; (3) explained that the period of investigation (''POI'') sales quantity is a valid benchmark for determining whether the respondent sold in commercial quantities because it represents the respondent's behavior without the discipline of an antidumping order; (4) included in the Department's calculation of NV the cost of labor and welding rod consumed in making steel pallets; (5) examined the record of *Stainless Steel Wire Rod From India; Final Results of Administrative Review*, 63 FR 48184 (September 9, 1998), and concluded that the brokerage and handling surrogate value included all expenses noted by the petitioner, except those that the record does not show were incurred; (6) chose to continue to apply the respondents' average ME ocean freight expense to sales shipped with non-market economy (''NME'') carriers; and (7) continued to deny the petitioner's request for a COS adjustment to Tianjin's NV because there was insufficient detail to determine whether there was a correlation between the expenses incurred by Tianjin and the surrogate producer. The Department recalculated the antidumping duty rates applicable to SMC's sale of bars/wedges and Tianjin's sales of axes/adzes, bars/wedges, hammers/sledges, and picks/mattocks as a result of the Department's modifications to NV. The Department made no change to the antidumping duty rates of Huarong's and Liaoning Machinery Import & Export Corporation's sales of bars/wedges. On November 20, 2007, the CIT sustained all aspects of the remand redetermination made by the Department pursuant to the CIT's remand of the *Final Results*.

In its decision in *Timken*, 893 F.2d at 341, the Federal Circuit held that, pursuant to section 516A(e) of the Tariff Act of 1930, as amended (''the Act''), the Department must publish a notice of a court decision that is not ''in harmony'' with a Department determination, and must suspend liquidation of entries pending a ''conclusive'' court decision. As a result of the Department's addition of the cost of labor and welded rod consumed in making steel pallets in the remand redetermination, the CIT's decision in this case on November 20, 2007, constitutes a final decision of the court that is not in harmony with the Department's *Final Results*. This notice is published in fulfillment of the publication requirements of *Timken*. Accordingly, the Department will continue the suspension of liquidation of the subject merchandise pending the expiration of the period of appeal or, if appealed, pending a final and conclusive court decision. In the event the CIT's ruling is not appealed or, if appealed, upheld by the Federal Circuit, the Department will instruct U.S. Customs and Border Protection to revise the cash deposit rates covering the subject merchandise.

This notice is issued and published in accordance with section 516A(c)(1) of the Act.

Dated: January 11, 2008.

Stephen J. Claeys,

Deputy Assistant Secretary for Import Administration.

[FR Doc. E8–789 Filed 1–16–08; 8:45 am]

BILLING CODE 3510–DS–P

DEPARTMENT OF COMMERCE

International Trade Administration

[C–570–913]

Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Alignment of Final Countervailing Duty Determination With Final Antidumping Duty Determination

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

SUMMARY: The Department of Commerce (the Department) is aligning the final determination in the countervailing duty investigation of certain new pneumatic off-the-road tires (OTR Tires) from the People's Republic of China (PRC) with the final determination in the companion antidumping investigation.

EFFECTIVE DATE: January 17, 2008.

FOR FURTHER INFORMATION CONTACT: Mark Hoadley, Jack Zhao, or Nicholas Czajkowski, AD/CVD Operations, Office 6, Import Administration, International Trade Administration, U.S. Department of Commerce, 14th Street and Constitution Avenue, NW., Washington, DC 20230; telephone: (202) 482–3148, (202) 482–1396, and (202) 482–1395, respectively.

Background: On August 7, 2007, the Department initiated the countervailing duty and antidumping duty investigations on OTR Tires from PRC. *See Certain New Pneumatic Off-the-Road Tires From the People's Republic of China: Initiation of Countervailing Duty Investigation,* 72 FR 44122 (August 7, 2007), and *Initiation of Antidumping Duty Investigation: Certain New Pneumatic Off-the-Road Tires From the People's Republic of China,* 72 FR 43591 (August 7, 2007). The countervailing duty and antidumping duty investigations have the same scope with regard to the subject merchandise covered. On December 17, 2007, the Department published the preliminary affirmative countervailing duty determination pertaining to OTR Tires from the PRC. *See Certain New Pneumatic Off-the-Road Tires from the People's Republic of China: Preliminary Affirmative Countervailing Duty Determination,* 72 FR 71360 (December 17, 2007). On December 11, 2007, the petitioners, Titan Tire Corporation and United Steel, Paper and Forestry, Rubber, Manufacturing, Energy Allied Industrial and Service Workers International Union, AFL–CIO–CLC, submitted a letter, pursuant to 19 CFR 351.210(b)(4), requesting alignment of the final countervailing duty determination with the final determination in the companion antidumping duty investigation of OTR Tires from the PRC.

Therefore, in accordance with section 705(a)(1) of the Tariff Act of 1930, as amended (the Act), and 19 CFR 351.210(b)(4), we are aligning the final countervailing duty determination on OTR Tires from the PRC with the final determinations in the companion antidumping duty investigation of OTR Tires from the PRC. The final countervailing duty determination will be issued on the same date as the final antidumping duty determination currently scheduled for April 21, 2008, the first business day following the April 20, 2008 deadline for the final antidumping duty determination.

This notice is issued and published pursuant to section 705(a)(1) of the Act.

Dated: January 10, 2008.

David M. Spooner,

Assistant Secretary for Import Administration.

[FR Doc. E8–790 Filed 1–16–08; 8:45 am]

BILLING CODE 3510–DS–P

CONSUMER PRODUCT SAFETY COMMISSION

[CPSC Docket No. 08–C0002]

Stamina Products, Inc., a Corporation, Provisional Acceptance of a Settlement Agreement and Order

AGENCY: Consumer Product Safety Commission.

ACTION: Notice.

SUMMARY: It is the policy of the Commission to publish settlements which it provisionally accepts under the Consumer Product Safety Act in the **Federal Register** in accordance with the terms of 16 CFR 1118.20(e). Published below is a provisionally-accepted Settlement Agreement with Stamina Products, Inc., a corporation, containing a civil penalty of $105,000.

DATES: Any interested person may ask the Commission not to accept this agreement or otherwise comment on its contents by filing a written request with the Office of the Secretary by February 1, 2008.

ADDRESSES: Persons wishing to comment on this Settlement Agreement should send written comments to the Comment 08–0002, Office of the Secretary, Consumer Product Safety Commission, 4330 East West Highway, Room 502, Bethesda, Maryland 20814–4408.

FOR FURTHER INFORMATION CONTACT: Dennis C. Kacoyanis; Trial Attorney, Office of Compliance and Field Operations, Consumer Product Safety Commission, 4330 East West Highway, Bethesda, Maryland 20814–4408; telephone (301) 504–7587.

SUPPLEMENTARY INFORMATION: The text of the Agreement and Order appears below.

Dated: January 14, 2008.

Todd A. Stevenson,

Secretary.

In the Matter of Stamina Products, Inc., a corporation.

CPSC Docket No. 08–C0002

I. Settlement Agreement and Order

1. This Settlement Agreement is made by and between the staff (''the staff'') of the U.S. Consumer Product Safety Commission (''the Commission'') and Stamina Products, Inc. (''Stamina''), a corporation, in accordance with the Commission's Procedures for Investigations, Inspections, and Inquiries under the Consumer Product Safety Act (''CPSA''), 16 CFR 1118.20. This Settlement Agreement and the incorporated attached Order settle the staff's allegations set forth below.

II. The Parties

2. The Commission is an independent federal regulatory agency responsible for the enforcement of the CPSA, 15 U.S.C. 2051–2084.

3. Stamina is a corporation organized and existing under the laws of the State of Missouri, with its principal corporate office located in Springfield, MO. At all times relevant, Stamina imported and/or distributed exercise equipment and sporting and recreational products.

II. Allegations of the Staff

4. Between August 2000 and March 2006, Stamina imported for sale nationwide approximately 668,000 In-Motion Trampolines (''trampolines''), Model Numbers 35–1625, 35–1625A–LC, 35–1625AW, and 36–1625AW–LC.

5. The trampolines are ''consumer products'' and, at the times relevant herein, Stamina was a ''manufacturer'' of those consumer products, which were ''distributed in commerce,'' as those terms are defined in sections 3(a)(1), (4), (11), and (12) of the CPSA, 15 U.S.C. 2052(a)(1), (4), (11), and (12).

6. The trampolines are defective because the trampoline's folding/unfolding instructions did not adequately warn consumers of the hazards resulting from use of the product.

7. On or about April 11, 2002, Stamina received a report from a

consumer who alleged that while folding/unfolding the trampoline, it popped up and hit her in the mouth knocking a veneer off her tooth.

8. On or about January 2, 2004, Stamina received another report from a consumer who alleged chin lacerations requiring nine sutures when the trampoline sprang back during the folding/unfolding process.

9. From September 2004 through June 2005, Stamina received seven additional complaints from consumers who alleged that the trampoline sprang back during the folding/unfolding process. In six of these complaints, consumers alleged serious injuries consisting of facial lacerations requiring sutures, bruises, headaches, neck pain, broken facial bones, loss of mouth sensation, and blurred vision.

10. All but one of the injuries described in paragraphs 7–9, above constitute 'serious' injuries as that term is defined in 16 CFR 1115.6(c).

11. Although Stamina obtained sufficient information to reasonably support the conclusion that the trampolines contained a defect which could create a substantial product hazard or created an unreasonable risk of serious injury or death, Stamina failed to immediately inform the Commission of such defect or risk as required by sections 15(b)(2) and (3) of the CPSA, 15 U.S.C. 2064(b)(2) and (3).

12. By failing to furnish information in a timely manner as required by section 15(b) of the CPSA, 15 U.S.C. 2064(b), Stamina knowingly violated section 19(a)(4) of the CPSA, 15 U.S.C. 2068(a)(4), as the term ''knowingly'' is defined in section 20(d) of the CPSA, 15 U.S.C. 2069(d).

13. Pursuant to section 20 of the CPSA, 15 U.S.C. 2069, Stamina is subject to civil penalties for its failure to make a timely report under section 15(b) of the CPSA, 15 U.S.C. 2064(b).

III. Stamina's Response

14. Stamina denies the staff's allegations set forth in paragraphs 4 through 13 above.

15. Stamina denies that the trampoline product contained a defect which could create a substantial product hazard, or created an unreasonable risk of serious injury or death, and denies that it violated the reporting requirements of section 15(b) of the CPSA, 15 U.S.C. 2064(b).

16. Stamina reported to the Commission on July 11, 2005.

17. The trampoline's folding/unfolding instructions adequately warned consumers of the hazards that could result from misuse or misassembly of the product.

18. The trampoline product contained assembly and disassembly instructions that Stamina contends, if followed, would have prevented the alleged incidents identified in paragraphs 7 through 9.

19. Stamina contends the incidents identified in paragraphs 7 through 9 were the result of consumer misuse or misassembly.

20. Stamina denies the alleged injuries were 'serious' injuries as that term is defined in 16 CFR 1115.6(c).

IV. Agreement of the Parties

21. The Commission has jurisdiction over this matter and over Stamina under the Consumer Product Safety Act, 15 U.S.C. 2051–2084.

22. In settlement of the staff's allegations, Stamina agrees to pay a civil penalty in the amount of $105,000.00 as set forth in the attached incorporated Order.

23. The parties enter this Settlement Agreement for settlement purposes only. Neither the Settlement Agreement nor the Order constitute an admission by Stamina or a determination by the Commission that Stamina violated the CPSA's reporting requirements or that the trampoline contained a defect.

24. Upon provisional acceptance of this Settlement Agreement by the Commission, the Commission shall place this Agreement and Order on the public record and shall publish it in the **Federal Register** in accordance with the procedures set forth in 16 CFR. 1118.20(e). If the Commission does not receive any written request not to accept the Settlement Agreement and Order within 15 calendar days, the Agreement shall be deemed finally accepted on the 16th calendar day after the date it is published in the **Federal Register** in accordance with 16 CFR 1118.20(f).

25. This Settlement Agreement and Order resolves the alleged violations of the CPSA set forth in paragraphs 4 through 12, above.

26. Upon final acceptance of this Settlement Agreement by the Commission and issuance of the Final Order, Stamina knowingly, voluntarily, and completely waives any rights it may have in this matter to the following: (i) An administrative or judicial hearing; (ii) judicial review or other challenge or contest of the validity of the Commission's actions, (iii) a determination by the Commission as to whether Stamina failed to comply with the CPSA and the underlying regulations; (iv) a statement of findings of fact or conclusions of law; and (v) any claims under the Equal Access to Justice Act.

27. The Commission may publicize the terms of the Settlement Agreement and Order.

28. This Settlement Agreement and Order shall apply to, and be binding upon Stamina and each of its successors and assigns.

29. The Commission's Order in this matter is issued under the provisions of the CPSA, 15 U.S.C. 2051–2084, and a violation of this Order may subject those referenced in paragraph 24 to appropriate legal action.

30. This Settlement Agreement may be used in interpreting the Order. Agreements, understandings, representations, or interpretations made outside of this Settlement Agreement and Order may not be used to vary or contradict its terms.

31. This Settlement Agreement and Order shall not be waived, changed, amended, modified, or otherwise altered without written agreement thereto executed by the party against whom such amendment, modification, alteration or waiver is sought to be enforced, and approval by the Commission.

32. If after the effective date hereof, any provision of this Settlement Agreement and Order is held to be illegal, invalid, or unenforceable under present or future laws effective during the terms of the Settlement Agreement and Order, such provisions shall be fully severable. The rest of the Settlement Agreement and Order shall remain in full effect, unless the Commission and Stamina jointly determine that severing the provision materially changes the purpose of the Settlement Agreement Order

Stamina Products, Inc.

Dated: November 29, 2007

Kevin Gerschefske,
Vice-President & Secretary,
Stamina Products, Inc.,
2040 N. Alliance,
Springfield, MO 65803.

Dated: November 30, 2007

Randall E. Hindricks, Esquire,
Brandon J.B. Boulware, Esquire,
Rouse, Hendricks, German May, P.C.,
Attorneys for Stamina Products, Inc.,
1010 Walnut, Suite 400,
Kansas City, MO 64106.

Consumer Product Safety Commission

John Gibson Mullan,
Assistant Executive Director,
Office of Compliance and Field Operations,
Consumer Product Safety Commission,
4330 East West Highway,
Bethesda, MD 20814.

Ronald G. Yelenik,
Acting Director,
Legal Division,
Office of Compliance and Field Operations.

Dated: November 30, 2007

Dennis C. Kacoyanis,
Trial Attorney,
Office of Compliance and Field Operations.
In the Matter of Stamina Products, Inc., a corporation

[CPSC DOCKET NO. 08–C0002]

Order

Upon consideration of the Settlement Agreement entered into between Stamina Products, Inc. (''Stamina'') and the staff of the Consumer Product Safety Commission (''the Commission''); and the Commission having jurisdiction over the subject matter and Stamina; and it appearing that the Settlement Agreement is in the public interest, it is

Ordered that the Settlement Agreement be, and hereby, is accepted; and it is

Further ordered that Stamina shall pay a civil penalty of *one hundred five-thousand dollars* ($105,000.00) to the order of the United States Treasury within twenty (20) calendar days of service of the Final Order of the Commission upon Stamina. Upon the failure of Stamina to make full payment in the prescribed time, interest on the outstanding balance shall accrue and be paid of the Federal legal rate of interest under the provisions of 28 U.S.C. 1961(a) and (b).

Provisionally accepted and provisional Order issued on the 11th day of January, 2008.

By order of the Commission.

Todd A. Stevenson, Secretary,
Consumer Product Safety Commission.

[FR Doc. 08–153 Filed 1–16–08; 8:45 am]

BILLING CODE 6355–01–M

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

Proposed Information Collection; Comment Request

AGENCY: Corporation for National and Community Service.

ACTION: Notice.

SUMMARY: The Corporation for National and Community Service (hereinafter the ''Corporation''), as part of its continuing effort to reduce paperwork and respondent burden, conducts a pre-clearance consultation program to provide the general public and Federal agencies with an opportunity to comment on proposed collection of information in accordance with the Paperwork Reduction Act of 1995 (PRA95) (44 U.S.C. 3506(c)(2)(A)). This program helps to ensure that requested data can be provided in the desired format, reporting burden (time and financial resources) is minimized, collection instruments are clearly understood, and the impact of collection requirement on respondents can be properly assessed.

Currently, the Corporation is soliciting comments concerning the proposed data collection for the VISTA Evaluation Study. This study will evaluate the contributions of the VISTA program in strengthening local organizations to help them develop anti-poverty programs. The study will develop a predictive model based on information obtained from completed VISTA projects to test likely outcomes for projects in their third year of funding.

Copies of the information collection requests can be obtained by contacting the office listed in the address section of this notice.

DATES: Written comments must be submitted to the individual and office listed in the **ADDRESSES** section by March 17, 2008.

ADDRESSES: You may submit comments, identified by the title of the information collection activity, by any of the following methods:

(1) By mail sent to: Corporation for National and Community Service, Attn. Carol Rogers, Director, Program Evaluation & Planning, Room 9201, 1201 New York Avenue, NW., Washington, DC 20525.

(2) By hand delivery or by courier to the Corporation's mailroom at Room 8100 at the mail address given in paragraph (1) above, between 9 a.m. and 4 p.m. Monday through Friday except Federal holidays.

(3) By fax to: (202) 565–2789, Attention Ms. Carol Rogers, Director, Program Evaluation & Planning.

(4) Electronically through the Corporation's e-mail address system: *crogers@cns.gov.*

FOR FURTHER INFORMATION CONTACT: Carol Rogers (202) 606–5000, ext. 419, or by e-mail at *crogers@cns.gov.*

SUPPLEMENTARY INFORMATION: The Corporation is particularly interested in comments which:

- Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the Corporation, including whether the information will have practical utility;
- Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;
- Enhance the quality, utility and clarity of the information to be collected; and,
- Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology (e.g., permitting electronic submissions of responses).

Background

AmeriCorps*VISTA is a national program administered by the Corporation that provides grants to nonprofit organizations and government entities to support members and volunteers serving in national and local community service programs. The proposed evaluation study will gather information from applications and subsequent project reports of sponsoring organizations about their VISTA projects to develop an understanding of their success in reaching their goals; interview the most knowledgeable person in 250 VISTA projects that have been closed for at least two years; gather information from Corporation State Offices; and conduct 40 site visits to VISTA projects.

Current Action

The Corporation seeks to enhance data elements collected via these information collection tools.

Type of Review: New.

Agency: Corporation for National and Community Service.

Title: VISTA Evaluation Study.

OMB Number:

Agency Number: None.

Affected Public: AmeriCorps*VISTA sponsoring organization staff.

Total Respondents: 455.

Frequency: One time.

Average Time per Response: 1 hour.

Estimated Total Burden Hours: 455 hours.

Total Burden Cost (capital/startup): None.

Total Burden Cost (operating/maintenance): None.

Comments submitted in response to this notice will be summarized and/or included in the request for Office of Management and Budget approval of the information collection request; they will also become a matter of public record.

Dated: January 11, 2008.

Jean Whaley,

*Director, AmeriCorps*VISTA.*

[FR Doc. E8–762 Filed 1–16–08; 8:45 am]

BILLING CODE 6050–$$–P

DEPARTMENT OF DEFENSE

GENERAL SERVICES ADMINISTRATION

NATIONAL AERONAUTICS AND SPACE ADMINISTRATION

[OMB Control No. 9000–0029]

Federal Acquisition Regulation; Information Collection; Extraordinary Contractual Action Requests

AGENCIES: Department of Defense (DOD), General Services Administration (GSA), and National Aeronautics and Space Administration (NASA).

ACTION: Notice of request for public comments regarding an extension to an existing OMB clearance.

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 of a currently approved information collection requirement concerning extraordinary contractual action requests. The clearance currently expires on April 30, 2008.

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 March 17, 2008.

ADDRESSES: Submit comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing this burden to the General Services Administration, FAR Secretariat (VIR), 1800 F Street, NW, Room 4035, Washington, DC 20405.

FOR FURTHER INFORMATION CONTACT: Ed Loeb, Contract Policy Division, GSA (202) 501–0650.

SUPPLEMENTARY INFORMATION:

A. Purpose

This request covers the collection of information as a first step under Public Law 85–804, as amended by Public Law 93–155 and Executive Order 10789 dated November 14, 1958, that allows contracts to be entered into, amended, or modified in order to facilitate national defense. In order for a firm to be granted relief under the Act, specific evidence must be submitted which supports the firm's assertion that relief is appropriate and that the matter cannot be disposed of under the terms of the contract.

B. Annual Reporting Burden

Respondents: 100
Responses Per Respondent: 1.
Annual Responses: 100.
Hours Per Response: 16.
Total Burden Hours: 1600.
Obtaining Copies of Proposals: Requesters may obtain a copy of the information collection documents from the General Services Administration, FAR Secretariat (VIR), Room 4035, 1800 F Street, NW, Washington, DC 20405, telephone (202) 501–4755. Please cite OMB Control No. 9000–0029, Extraordinary Contractual Action Requests, in all correspondence.

Dated: January 10, 2008

Al Matera,

Director, Office of Acquisition Policy.

[FR Doc. E8–798 Filed 1–16–08; 8:45 am]

BILLING CODE 6820–EP–S

DEPARTMENT OF DEFENSE

Department of the Army

Availability for Non-Exclusive, Exclusive, or Partially Exclusive Licensing of U.S. Patent Application Concerning Arthropod Repellent Pharmacophore Models, Compounds Identified as Fitting the Pharmacophore Models, and Methods of Marking and Using Thereof

AGENCY: Department of the Army, DoD.

ACTION: Notice.

SUMMARY: In accordance with 37 CFR 404.6 and 404.7, announcement is made of the availability for licensing of U.S. Patent Application No. 10/701,565 entitled ''Arthropod Repellent Pharmacophore Models, Compounds Identified as Fitting the Pharmacophore Models, and Methods of Marking and Using Thereof,'' filed November 6, 2003. Foreign rights are also available (PCT/US03/35424). The United States Government, as represented by the Secretary of the Army, has rights in this invention.

ADDRESSES: Commander, U.S. Army Medical Research and Materiel Command, ATTN: Command Judge Advocate, MCMR–ZA–J, 504 Scott Street, Fort Detrick, Frederick, MD 21702–5012.

FOR FURTHER INFORMATION CONTACT: For patent issues, Ms. Elizabeth Arwine, Patent Attorney, (301) 619–7808. For licensing issues, Dr. Paul Mele, Office of Research & Technology Assessment, (301) 619–6664, both at telefax (301) 619–5034.

SUPPLEMENTARY INFORMATION: Disclosed herein is a pharmacophore model for arthropod repellent activity and methods of making and using thereof. The pharmacophore comprises two hydrophobic aliphatic functions, one aromatic function and one hydrogen bond acceptor function. The pharmacophore model was made using a test set of arthropod repellent compounds. Also disclosed are arthropod repellent compounds identified by screening databases with the pharmacophore model. Also disclosed are methods of repelling arthropods from a surface or area. Compositions and formulations comprising the compounds of the present invention as well as objects having the compounds of the present invention are disclosed.

Brenda S. Bowen,

Army Federal Register Liaison Officer.

[FR Doc. E8–813 Filed 1–16–08; 8:45 am]

BILLING CODE 3710–08–P

DEPARTMENT OF DEFENSE

Department of the Army; Corps of Engineers

Intent To Prepare a Draft Environmental Impact Statement for the Construction and Operation of a 300-MW Coal-Fired Electric Generating Unit Proposed by Wisconsin Power and Light Company near Cassville in Grant County, WI

AGENCY: Department of the Army, U.S. Army Corps of Engineers, DOD.

ACTION: Notice of intent.

SUMMARY: Wisconsin Power and Light Company (WPL) has applied to the St. Paul District, Corps of Engineers (Corps) for a permit to conduct work below the ordinary high water mark of the Mississippi River, a navigable water of the U.S., and to discharge dredged or fill material into waters of the U.S. to facilitate the construction and operation of a 300 megawatt (MW) baseload coal-fired electric generating unit, referred to as NED 3, near Cassville in Grant County, WI. Specifically, the WPL is proposing an atmospheric circulating fluidized bed boiler and steam turbine

generator unit at a site adjacent to the existing Nelson Dewey Generating Station (NED) Units 1 and 2 on the Mississippi River at River Mile 607.7. In addition to the new power generating unit, the following associated facilities would be constructed and operated: A new lateral collector well to supply cooling water; additional barge unloading capacity including three additional barge moorings in the Mississippi River, a new barge unloading tower foundation, and a temporary equipment barge unloading ramp; a new storm water detention pond and pipe outfall structure; 1.7-mile-long off-site parallel industrial railroad tracks, including a sheet pile retaining wall, adjacent to the existing BNSF railroad mainline tracks; new railroad bridges over two creeks for the off-site parallel industrial railroad tracks; and two new coal pile runoff ponds to replace the existing coal pile runoff pond adjacent to the railroad tracks.

The project would require the discharge of dredged or fill material into the Mississippi River and two creeks that are tributaries to the Mississippi River. The Mississippi River is a navigable water of the U.S. The discharge of dredged or fill material into waters of the U.S. requires a permit issued by the Corps under Section 404 of the Clean Water Act. Construction work conducted below the ordinary high water mark of a navigable water of the U.S. requires a permit issued by the Corps under Section 10 of the Rivers and Harbors Act. The final environmental impact statement will be used as a basis for the permit decision and to ensure compliance with the National Environmental Policy Act (NEPA).

ADDRESSES: Questions concerning the Draft Environmental Impact Statement (DEIS) can be addressed to Mr. Jon K. Ahlness, Regulatory Branch by letter at U.S. Army Corps of Engineers, 190 Fifth Street East, Suite 401, St. Paul, MN 55101–1638, by telephone or by e-mail at *jon.k.ahlness@usace.army.mil.*

FOR FURTHER INFORMATION CONTACT: Mr. Jon K. Ahlness, (651) 290–5381.

SUPPLEMENTARY INFORMATION: The Corps and the Public Service Commission of Wisconsin (PSCW) will jointly prepare the federal/state DEIS. The Corps is the lead federal agency and the PSCW is the lead state agency. The Wisconsin Department of Natural Resources (WDNR) is participating in the preparation of the DEIS. The Corps and the PSCW will jointly conduct two public scoping meetings to identify issues that will be addressed in the DEIS. The first public scoping meeting will be held at the Cassville Elementary School Gym, 412 Crawford St., Cassville, Wisconsin on January 30, 2008 from 6:30 p.m. to 9 p.m. The second public scoping meeting will be held at the City of Portage Municipal Building Community Room, 115 West Pleasant St., Portage, Wisconsin, on February 11, 2008 from 6:30 p.m. to 9 p.m.

We anticipate that the DEIS will be made available to the public in April of 2008. The DEIS will assess impacts of the proposed action and reasonable alternatives, identify and evaluate mitigation alternatives, and discuss potential environmental monitoring. Significant issues and resources to be identified in the DEIS will be determined through coordination with responsible federal, state, and local agencies; the general public; interested private organizations and parties; and affected Native American Tribes. Anyone who has an interest in participating in the development of the DEIS is invited to contact the St. Paul District, Corps of Engineers. Significant issues that will be addressed in the DEIS include:

1. Fish, wildlife, and ecologically sensitive resources.

2. Water resources, including: Surface water hydrology; groundwater hydrology; and waters of the U.S., including wetlands.

3. Water quality, including: Surface water runoff; and storm water management.

4. Air quality, including: Mercury emissions; and carbon dioxide emissions.

5. Cumulative impacts, including: Wildlife habitat loss; water quality; and air quality.

Additional issues of interest may be identified through the public scoping process.

Our environmental review will be conducted to meet the requirements of the National Environmental Policy Act of 1969, National Historic Preservation Act of 1966, Endangered Species Act of 1973, Section 404 of the Clean Water Act, and other applicable laws and regulations.

Dated: January 10, 2008.

Jon L. Christensen,

Colonel, Corps of Engineers District Engineer.

[FR Doc. E8–819 Filed 1–16–08; 8:45 am]

BILLING CODE 3710–CY–P

DEPARTMENT OF DEFENSE

Department of the Navy

Notice of Intent To Prepare a Supplement to the Hawaii Range Complex Draft Environmental Impact Statement/Overseas Environmental Impact Statement (SDEIS/OEIS) for a Proposal To Enhance Training, Testing, and Operational Capability Within the Hawaii Range Complex (HRC)

AGENCY: Department of the Navy, DoD.

ACTION: Notice.

SUMMARY: The Department of the Navy (DON) announces its intent to prepare a Supplement to the Draft Environmental Impact Statement/Overseas Environmental Impact Statement (SDEIS/OEIS) for the Hawaii Range Complex (HRC). This SDEIS/OEIS will be focused on the methodology used to analyze potential marine mammal behavioral effects related to mid-frequency active sonar exposure. In addition, DON may make adjustments to the alternatives.

SUPPLEMENTARY INFORMATION: On August 29, 2006, pursuant to section 102(2)(c) of the National Environmental Policy Act of 1969 as implemented by the Council on Environmental Quality regulations (40 CFR parts 1500–1508), and Executive Order 12114 (Environmental Effects Abroad of Major Federal Actions), the DON announced its intent to prepare an EIS/OEIS for the HRC and invited the public to comment on the scope of the EIS/OEIS (71 FR 51188). A DEIS/OEIS was subsequently released on July 27, 2007, (72 FR 41324), which evaluated the potential environmental effects of increasing usage and enhancing the capabilities of the HRC to achieve and maintain Fleet readiness and to conduct current, emerging, and future training and research, development, test, and evaluation (RDT&E) activities. As described in the DEIS/OEIS at section 4.1.2.4.9, a dose function approach was used to evaluate potential behavioral harassment of marine mammals incidental to the use of mid-frequency active sonar during Navy training and testing within the HRC. Since the release of the DEIS/OEIS in July 2007, the DON, in cooperation with NMFS, has further refined the dose function approach. Given the nature of these refinements, the Navy has decided to prepare a SDEIS/OEIS to provide opportunity for public review of the methodology. In addition, DON may make adjustments to the alternatives.

All public comments previously received during the July through September 2007 DEIS/OEIS public review period on the dose function approach and the marine mammals effects analysis are still valid and will be considered in the SDEIS/OEIS and Final EIS/OEIS for this action. Previously submitted comments need not be resubmitted. A notice of availability of the SDEIS/OEIS and dates of the public hearings will be published in the **Federal Register** at a later date. No decision will be made to implement any alternative in the HRC until the EIS/OEIS process is completed and a Record of Decision is signed by the DON.

FOR FURTHER INFORMATION CONTACT: Public Affairs Officer, Pacific Missile Range Facility, *Attention:* HRC EIS/OEIS, P.O. Box 128, Kekaha, Kauai, Hawaii 96752–0128. Voice mail 1–866–767–3347 or facsimile at 808–335–4520.

Dated: January 14, 2008.

T.M. Cruz,

Lieutenant, Office of the Judge Advocate General, U.S. Navy, Federal Register Liaison Officer.

[FR Doc. E8–796 Filed 1–16–08; 8:45 am]

BILLING CODE 3810–FF–P

DEPARTMENT OF ENERGY

Environmental Management Site-Specific Advisory Board, Oak Ridge Reservation

AGENCY: Department of Energy.

ACTION: Notice of Open Meeting.

SUMMARY: This notice announces a meeting of the Environmental Management Site-Specific Advisory Board (EM SSAB), Oak Ridge Reservation. The Federal Advisory Committee Act (Pub. L. No. 92–463, 86 Stat. 770) requires that public notice of this meeting be announced in the **Federal Register**.

DATES: Wednesday, February 13, 2008, 6 p.m.

ADDRESSES: DOE Information Center, 475 Oak Ridge Turnpike, Oak Ridge, Tennessee.

FOR FURTHER INFORMATION CONTACT: Pat Halsey, Federal Coordinator, Department of Energy Oak Ridge Operations Office, P.O. Box 2001, EM–90, Oak Ridge, TN 37831. Phone (865) 576–4025; Fax (865) 576–2347 or e-mail: *halseypj@oro.doe.gov* or check the Web site at *http://www.oakridge.doe.gov/em/ssab*.

SUPPLEMENTARY INFORMATION:

Purpose of the Board: The purpose of the Board is to make recommendations to DOE in the areas of environmental restoration, waste management, and related activities.

Tentative Agenda: The presentation topic will be ''EM Budget and Prioritization Review.''

Public Participation: The meeting is open to the public. Written statements may be filed with the Board either before or after the meeting. Individuals who wish to make oral statements pertaining to the agenda item should contact Pat Halsey at the address or telephone number listed above. Requests must be received five days prior to the meeting and reasonable provision will be made to include the presentation in the agenda. The Deputy Designated Federal Officer is empowered to conduct the meeting in a fashion that will facilitate the orderly conduct of business. Individuals wishing to make public comment will be provided a maximum of five minutes to present their comments.

Minutes: Minutes will be available by writing or calling Pat Halsey at the address and phone number listed above. Minutes will also be available at the following Web site *http://www.oakridge.doe.gov/em/ssab/minutes.htm*.

Issued at Washington, DC on January 14, 2008.

Rachel Samuel,

Deputy Committee Management Officer.

[FR Doc. E8–811 Filed 1–16–08; 8:45 am]

BILLING CODE 6450–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. EL08–32–000]

Central Minnesota Municipal Power Agency, Midwest Municipal Transmission Group; Notice of Filing

January 9, 2008.

Take notice that on December 31, 2007, the Central Minnesota Municipal Power Agency and the Midwest Municipal Transmission Group tendered for filing a Petition for Declaratory Order and Request for Waivers.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211, 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the comment date. On or before the comment date, it is not necessary to serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on January 30, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–716 Filed 1–16–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER08–148–000]

Central Power & Lime, Inc.; Notice of Issuance of Order

January 9, 2008.

Central Power & Lime, Inc. (Central Power) filed an application for market-based rate authority, with an accompanying rate schedule. The proposed market-based rate schedule provides for the sale of energy, capacity and ancillary services at market-based rates. Central Power also requested waivers of various Commission regulations. In particular, Central Power requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Central Power.

On December 19, 2007, pursuant to delegated authority, the Director, Division of Tariffs and Market

Development-West, granted the requests for blanket approval under part 34 (Director's Order). The Director's Order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard concerning the blanket approvals of issuances of securities or assumptions of liability by Central Power, should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing protests is January 18, 2008.

Absent a request to be heard in opposition to such blanket approvals by the deadline above, Central Power is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Central Power, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approvals of Central Power's issuance of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov* , using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a) (1) (iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–717 Filed 1–16–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket Nos. ER08–201–000; ER08–201–001; ER08–202–000; ER08–202–001]

Cogentrix Virginia Leasing Corporation, James River Cogeneration Company, LLC; Notice of Issuance of Order

January 10, 2008.

Cogentrix Virginia Leasing Corporation and James River Cogeneration, LLC (collectively, the Applicants) filed applications for market-based rate authority, with accompanying rate schedules. The proposed market-based rate schedules provide for the sale of energy, capacity and ancillary services at market-based rates. The Applicants also requested waivers of various Commission regulations. In particular, the Applicants requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by the Applicants.

On January 10, 2008, pursuant to delegated authority, the Director, Division of Tariffs and Market Development-West, granted the requests for blanket approval under part 34 (Director's Order). The Director's Order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard concerning the blanket approvals of issuances of securities or assumptions of liability by the Applicants, should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing protests is January 22, 2008.

Absent a request to be heard in opposition to such blanket approvals by the deadline above, the Applicants are authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of the Applicants, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approvals of the Applicants' issuance of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a) (1) (iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–714 Filed 1–16–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

Combined Notice of Filings#1

January 11, 2008.

Take notice that the Commission has received the following Natural Gas Pipeline Rate and Refund Report filings:

Docket Numbers: RP96–320–076.

Applicants: Gulf South Pipeline Company, LP.

Description: Gulf South Pipeline Co, LP submits an interim negotiated rate letter agreements executed with East Texas to Mississippi Expansion Project.

Filed Date: 01/02/2008.

Accession Number: 20080103–0191.

Comment Date: 5 p.m. Eastern Time on Wednesday, January 16, 2008.

Docket Numbers: RP96–320–077.

Applicants: Gulf South Pipeline Company, LP.

Description: Gulf South Pipeline Company, LP submits replacement negotiated rate letter agreement executed with Kaiser Trading, LLC.

Filed Date: 01/08/2008.

Accession Number: 20080110–0116.

Comment Date: 5 p.m. Eastern Time on Tuesday, January 22, 2008.

Docket Numbers: RP96–320–078.

Applicants: Gulf South Pipeline Company, LP.

Description: Gulf South Pipeline Company, LP submits correction to the interim negotiated rate letter agreement regarding the East Texas to Mississippi Expansion Project.

Filed Date: 01/08/2008.

Accession Number: 20080110–0117.

Comment Date: 5 p.m. Eastern Time on Tuesday, January 22, 2008

Docket Numbers: RP08–157–000.
Applicants: Colorado Interstate Gas Company.
Description: Colorado Interstate Gas Company submits its Second Revised Sheet 323A et al to its FERC Gas Tariff, First Revised Volume 1, to become effective 2/8/08.
Filed Date: 01/08/2008.
Accession Number: 20080109–0201.
Comment Date: 5 p.m. Eastern Time on Tuesday, January 22, 2008.
Docket Numbers: RP08–158–000.
Applicants: Texas Gas Transmission. LLC.
Description: Texas Gas Transmission, LLC submits its Annual Cash-Out Report for the billing period of 11/1/06–10/31/07.
Filed Date: 01/10/2008.
Accession Number: 20080111–0079.
Comment Date: 5 p.m. Eastern Time on Tuesday, January 22, 2008.

Any person desiring to intervene or to protest in any of the above proceedings must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214) on or before 5 p.m. Eastern time on the specified comment date. It is not necessary to separately intervene again in a subdocket related to a compliance filing if you have previously intervened in the same docket. Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Anyone filing a motion to intervene or protest must serve a copy of that document on the Applicant. In reference to filings initiating a new proceeding, interventions or protests submitted on or before the comment deadline need not be served on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper, using the FERC Online links at *http://www.ferc.gov.* To facilitate electronic service, persons with Internet access who will eFile a document and/or be listed as a contact for an intervenor must create and validate an eRegistration account using the eRegistration link. Select the eFiling link to log on and submit the intervention or protests.

Persons unable to file electronically should submit an original and 14 copies of the intervention or protest to the Federal Energy Regulatory Commission, 888 First St., NE., Washington, DC 20426.

The filings in the above proceedings are accessible in the Commission's eLibrary system by clicking on the appropriate link in the above list. They are also available for review in the Commission's Public Reference Room in Washington, DC. There is an eSubscription link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed dockets(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov.* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Nathaniel J. Davis, Sr.,
Deputy Secretary.
[FR Doc. E8–679 Filed 1–16–08; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. ER08–237–000]

Forward Energy, Inc.; Notice of Issuance of Order

January 9, 2008.

Forward Energy, Inc. (Forward Energy) filed an application for market-based rate authority, with an accompanying rate schedule. The proposed market-based rate schedule provides for the sale of energy, capacity and ancillary services at market-based rates. Forward Energy also requested waivers of various Commission regulations. In particular, Forward Energy requested that the Commission grant blanket approval under 18 CFR part 34 of all future issuances of securities and assumptions of liability by Forward Energy.

On January 9, 2008, pursuant to delegated authority, the Director, Division of Tariffs and Market Development-West, granted the requests for blanket approval under part 34 (Director's Order). The Director's Order also stated that the Commission would publish a separate notice in the **Federal Register** establishing a period of time for the filing of protests. Accordingly, any person desiring to be heard concerning the blanket approvals of issuances of securities or assumptions of liability by Forward Energy, should file a protest with the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426, in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure. 18 CFR 385.211, 385.214 (2004).

Notice is hereby given that the deadline for filing protests is February 8, 2008.

Absent a request to be heard in opposition to such blanket approvals by the deadline above, Forward Energy is authorized to issue securities and assume obligations or liabilities as a guarantor, indorser, surety, or otherwise in respect of any security of another person; provided that such issuance or assumption is for some lawful object within the corporate purposes of Forward Energy, compatible with the public interest, and is reasonably necessary or appropriate for such purposes.

The Commission reserves the right to require a further showing that neither public nor private interests will be adversely affected by continued approvals of Forward Energy's issuance of securities or assumptions of liability.

Copies of the full text of the Director's Order are available from the Commission's Public Reference Room, 888 First Street, NE., Washington, DC 20426. The Order may also be viewed on the Commission's Web site at *http://www.ferc.gov*, using the eLibrary link. Enter the docket number excluding the last three digits in the docket number filed to access the document. Comments, protests, and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site under the ''e-Filing'' link. The Commission strongly encourages electronic filings.

Kimberly D. Bose,
Secretary.
[FR Doc. E8–718 Filed 1–16–08; 8:45 am]
BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RP04–67–003]

NGO Transmission, Inc.; Notice of Tariff Filing

January 9, 2008.

Take notice that on January 8, 2008, NGO Transmission, Inc., (NGO) tendered for filing as part of its FERC Gas Tariff, First Revised Volume No. 1, Substitute Original Sheet No. 170, with an effective date of January 1, 2008.

NGO states that the substitute sheets corrects and replaces Original Sheet No. 170 filed in the above-referenced proceeding on December 21, 2007.

Any person desiring to protest this filing must file in accordance with Rule 211 of the Commission's Rules of Practice and Procedure (18 CFR 385.211). Protests to this filing will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding.

Such protests must be filed on or before the date as indicated below. Anyone filing a protest must serve a copy of that document on all the parties to the proceeding.

The Commission encourages electronic submission of protests in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time January 14, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–715 Filed 1–16–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR08–12–000]

ONEOK WesTex Transmission, L.L.C.; Notice of Petition for Rate Approval

January 10, 2008.

Take notice that on January 3, 2008, ONEOK WesTex Transmission, L.L.C. (WesTex) tendered for filing a rate petition seeking to continue to charge its existing rate of $.1832 per MMBtu for interruptible transportation service and its existing fuel rate of 1.5082 percent. WesTex's further states that the filing contains a revised Statement of Operating Conditions to reflect the recent change in name to ONEOK WesTex Transmission, L.L.C.

Any person desiring to participate in this rate filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on January 23, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–712 Filed 1–16–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Project No. 459–200]

Osage Hydroelectric Project; Notice of Application for Amendment of License and Soliciting Comments, Motions To Intervene, and Protests

January 9, 2008.

Take notice that the following hydroelectric application has been filed with the Commission and is available for public inspection:

a. *Application Type:* Amendment Application.

b. *Project No:* 459–200.

c. *Date Filed:* November 19, 2007.

d. *Applicant:* AmerenUE.

e. *Name of Project:* Osage Hydroelectric Project.

f. *Location:* On the Osage River, in Benton, Camden, Miller, and Morgan Counties, Missouri. The project is located immediately downstream from the U.S. Army Corps of Engineers' Harry S. Truman Dam and occupies 1.6 acres of inundated federal lands administered by the Bureau of Land Management.

g. *Filed Pursuant to:* Federal Power Act, 16 U.S.C. 791a–825r.

h. *Applicant Contact:* Mr. Mark Birk, Vice President—Power Operations, AmerenUE, One Ameren Plaza, 1901 Chouteau Avenue, P.O. Box 66149, St. Louis, Missouri 63166–6149, (314) 554–3010.

i. *FERC Contact:* Jake Tung, Telephone (202) 502–8757, and e-mail: *hong.tung@ferc.gov.*

j. *Deadline for filing comments, motions to intervene, and protest:* February 11, 2008. All documents (original and eight copies) should be filed with: Secretary, Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

The Commission's Rules of Practice and Procedure require all intervenors filing documents with the Commission to serve a copy of that document on each person whose name appears on the official service list for the project. Further, if an intervenor files comments or documents with the Commission relating to the merits of an issue that may affect the responsibilities of a particular resource agency, they must also serve a copy of the document on that resource agency. A copy of any motion to intervene must also be served upon each representative of the Applicant specified in the particular application.

k. *Description of Request:* AmerenUE proposes to amend the license for the Osage Project to replace two main turbines with two new Voith Siemens turbines. Each of the new turbines would have a rated installed capacity of 31,500 kW, and a rated hydraulic capacity of 4,400 cfs, as compared to the existing 25,125 kW and 4,210 cfs, respectively. The total increase of rated hydraulic capacity would be 380 cfs. The project's total generating capacity would remain unchanged at 176,200 kW, which is limited by generators capacities.

l. *Locations of the Application:* A copy of the application is available for inspection and reproduction at the Commission's Public Reference Room, located at 888 First Street, NE., Room 2A, Washington, DC 20426, or by calling (202) 502–8371. This filing may also be viewed on the Commission's Web site at *http://www.ferc.gov* using the ''eLibrary'' link. Enter the docket number excluding the last three digits in the docket number field to access the document. You may also register online at *http://www.ferc.gov/docs-filing/*

esubscription.asp to be notified via e-mail of new filings and issuances related to this or other pending projects. For assistance, call 1–866–208–3676 or e-mail *FERCOnlineSupport@ferc.gov,* for TTY, call (202) 502–8659. A copy is also available for inspection and reproduction at the address in item (h) above.

m. Individuals desiring to be included on the Commission's mailing list should so indicate by writing to the Secretary of the Commission.

n. *Comments, Protests, or Motions To Intervene:* Anyone may submit comments, a protest, or a motion to intervene in accordance with the requirements of Rules of Practice and Procedure, 18 CFR 385.210, .211, .214. In determining the appropriate action to take, the Commission will consider all protests or other comments filed, but only those who file a motion to intervene in accordance with the Commission's Rules may become a party to the proceeding. Any comments, protests, or motions to intervene must be received on or before the specified comment date for the particular application.

o. Any filings must bear in all capital letters the title ''COMMENTS'', ''PROTEST'', or ''MOTION TO INTERVENE'', as applicable, and the Project Number of the particular application to which the filing refers.

p. *Agency Comments:* Federal, State, and local agencies are invited to file comments on the described application. A copy of the application may be obtained by agencies directly from the Applicant. If an agency does not file comments within the time specified for filing comments, it will be presumed to have no comments. One copy of an agency's comments must also be sent to the Applicant's representatives.

q. Comments, protests and interventions may be filed electronically via the Internet in lieu of paper. See, 18 CFR 385.2001(a)(1)(iii) and the instructions on the Commission's Web site at *http://www.ferc.gov* under the ''e-Filing'' link.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–719 Filed 1–16–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. PR08–11–000]

Dow Pipeline Company; Notice of Petition for Rate Approval

January 10, 2008.

Take notice that on January 2, 2008, Dow Pipeline Company (Dow Pipeline) filed with the Federal Energy Regulatory Commission (Commission) a petition pursuant to section 284.123(b)(2) of the Commission's regulations requesting that the Commission approve as fair and equitable its proposed rate for interruptible transportation service being provided pursuant to section 311 of the NGPA and for acceptance of the revised provisions in the Statement of Operating Conditions.

Any person desiring to participate in this rate proceeding must file a motion to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must be filed on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov.* Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov,* using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov,* or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time on January 23, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–711 Filed 1–16–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. RM98–1–000]

Records Governing Off-the-Record Communications; Public Notice

January 10, 2008.

This constitutes notice, in accordance with 18 CFR 385.2201(b), of the receipt of prohibited and exempt off-the-record communications.

Order No. 607 (64 FR 51222, September 22, 1999) requires Commission decisional employees, who make or receive a prohibited or exempt off-the-record communication relevant to the merits of a contested proceeding, to deliver to the Secretary of the Commission, a copy of the communication, if written, or a summary of the substance of any oral communication.

Prohibited communications are included in a public, non-decisional file associated with, but not a part of, the decisional record of the proceeding. Unless the Commission determines that the prohibited communication and any responses thereto should become a part of the decisional record, the prohibited off-the-record communication will not be considered by the Commission in reaching its decision. Parties to a proceeding may seek the opportunity to respond to any facts or contentions made in a prohibited off-the-record communication, and may request that the Commission place the prohibited communication and responses thereto in the decisional record. The Commission will grant such a request only when it determines that fairness so requires. Any person identified below as having made a prohibited off-the-record communication shall serve the document on all parties listed on the official service list for the applicable proceeding in accordance with Rule 2010, 18 CFR 385.2010.

Exempt off-the-record communications are included in the decisional record of the proceeding, unless the communication was with a cooperating agency as described by 40

CFR 1501.6, made under 18 CFR 385.2201(e)(1)(v).

The following is a list of off-the-record communications recently received by the Secretary of the Commission. The communications listed are grouped by docket numbers in ascending order. These filings are available for review at the Commission in the Public Reference Room or may be viewed on the Commission's Web site at *http://www.ferc.gov* using the eLibrary link. Enter the docket number, excluding the last three digits, in the docket number field to access the document. For assistance, please contact FERC, Online Support at *FERCOnlineSupport@ferc.gov* or toll free at (866) 208–3676, or for TTY, contact (202) 502–8659.

Docket Number	Date Received	Presenter or Requester
Prohibited		
1. Project No. 460–033.	12–19–07	Gerald G. Richert
2. Project No. 2100–000.	12–17–07	Bob Balocchi
Exempt		
1. Project No. 2100–000.	12–21–07	Hon. Diane Feinstein.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–710 Filed 1–16–08; 8:45 am]

BILLING CODE 6717–01–P

DEPARTMENT OF ENERGY

Federal Energy Regulatory Commission

[Docket No. CP08–41–000]

Transcontinental Gas Pipe Line Corporation; Notice of Application for Abandonment

January 9, 2008.

Take notice that on December 19, 2007, Transcontinental Gas Pipe Line Corporation (Transco) tendered for filing an application under section 7 of the Natural Gas Act to abandon and terminate for purposes of consolidation, in accordance with the provisions in section 22 of the general terms and conditions in its FERC Gas Tariff, certain service agreements under Transco's Rate Schedules FT and FT-G for Alabama Gas Corporation.

Any person desiring to intervene or to protest this filing must file in accordance with Rules 211 and 214 of the Commission's Rules of Practice and Procedure (18 CFR 385.211 and 385.214). Protests will be considered by the Commission in determining the appropriate action to be taken, but will not serve to make protestants parties to the proceeding. Any person wishing to become a party must file a notice of intervention or motion to intervene, as appropriate. Such notices, motions, or protests must on or before the date as indicated below. Anyone filing an intervention or protest must serve a copy of that document on the Applicant. Anyone filing an intervention or protest on or before the intervention or protest date need not serve motions to intervene or protests on persons other than the Applicant.

The Commission encourages electronic submission of protests and interventions in lieu of paper using the ''eFiling'' link at *http://www.ferc.gov*. Persons unable to file electronically should submit an original and 14 copies of the protest or intervention to the Federal Energy Regulatory Commission, 888 First Street, NE., Washington, DC 20426.

This filing is accessible on-line at *http://www.ferc.gov*, using the ''eLibrary'' link and is available for review in the Commission's Public Reference Room in Washington, DC. There is an ''eSubscription'' link on the Web site that enables subscribers to receive e-mail notification when a document is added to a subscribed docket(s). For assistance with any FERC Online service, please e-mail *FERCOnlineSupport@ferc.gov*, or call (866) 208–3676 (toll free). For TTY, call (202) 502–8659.

Comment Date: 5 p.m. Eastern Time January 16, 2008.

Kimberly D. Bose,

Secretary.

[FR Doc. E8–720 Filed 1–16–08; 8:45 am]

BILLING CODE 6717–01–P

EXPORT-IMPORT BANK OF THE U.S.

[Public Notice 105]

Agency Information Collection Activities; Comment Request

AGENCY: Export-Import Bank of the United States (Ex-Im Bank).

ACTION: Notice and Request for Comments.

SUMMARY: The Export-Import Bank , as a part of its continuing effort to reduce paperwork and respondent burden, invites the general public and other Federal agencies to comment on the proposed information collection, as required by the Paperwork Reduction Act of 1995.

DATES: Written comments should be received on or before March 17, 2008 to be assured of consideration.

ADDRESSES: Direct all comments and requests for additional information to Nicole Valtos, Export-Import Bank of the U.S., 811 Vermont Avenue, NW., Washington, DC 20571, (202) 565–3411, (800) 565–3946, Ext. 3411, or *nicole.valtos@exim.gov.*

SUPPLEMENTARY INFORMATION:

Title and Form Number: Ex-Im Bank Letter of Interest Application, EIB Form 95–9.

OMB Number: 3048–0005.

Type of Review: Extension of a currently approved collection.

Need and Use: The information requested enables the applicant to provide Ex-Im Bank with the information necessary to determine eligibility for an indicative offer of support under the loan and guarantee programs.

Affected Public: Business and other for-profit institutions.

Respondents: Entities involved in the provision of financing or arranging of financing for foreign buyers of U.S. exports.

Estimated Annual Respondents: 500.

Estimated Time Per Respondent: 20 Minutes.

Estimated Annual Burden: 167 Hours.

Frequency of Response: When applying for a Letter of Interest.

Solomon Bush,

Agency Clearance Officer.

[FR Doc. E8–680 Filed 1–16–08; 8:45 am]

BILLING CODE 6690–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

January 9, 2008.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501–3520. An agency may not conduct or sponsor a collection of information unless it displays a current valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid control number. Comments are

requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written PRA comments should be submitted on or before March 17, 2008. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: You may submit all PRA comments by e-mail or U.S. mail. To submit your comments by e-mail, send them to *PRA@fcc.gov*. To submit your comments by U.S. mail, send them to Leslie F. Smith, Federal Communications Commission, Room 1–C216, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *PRA@fcc.gov*.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s), contact Leslie F. Smith via the Internet at *PRA@fcc.gov* or call (202) 418–0217.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0410.

Title: Forecast of Investment Usage Report and Actual Usage of Investment Report.

Report Numbers: FCC Reports 495A and 495B.

Form Numbers: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 94 respondents; 188 responses.

Estimated Time per Response: 40 hours.

Obligation To Respond: Mandatory—The ARMIS reporting requirements were established by the Commission in 1987 to facilitate the timely and efficient analysis of carrier operating costs and rates of return, to provide an improved basis for audits and other oversight functions, and to enhance the Commission's ability to quantify the effects of alternative policy proposals. Additional ARMIS Reports were added in 1991 and 1992. Incumbent LECs must submit the ARMIS reports to the Commission annually on or before April 1. See Reporting Requirements of Certain Class A and Tier I Telephone Companies (Parts 31, 43, 67 and 69 of the FCC's Rules), *Order*, 2 FCC Rcd 5770 (1987), *modified on recon*, 3 FCC Rcd 6375 (1988) (ARMIS Order). Also, *see* 47 CFR Part 43, Section 43.21.

Frequency of Response: Annual reporting requirement.

Total Annual Burden: 7,520 hours.

Total Annual Cost: $0.00.

Privacy Act Impact Assessment: No impacts.

Nature of Extent of Confidentiality: This collection addresses information of a confidential nature. Respondents have requested and filed for confidential treatment of information they believe should be withheld from public inspection under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The 495A Report provides the forecast and resulting investment allocation incorporated in a carrier's cost support for its access tariff. The 495B Report enables the Commission's staff to monitor actual and forecasted investment use. These reports help ensure that the regulated operations of the carriers do not subsidize the nonregulated operations of those same carriers. This information is also a part of the data necessary to support the Commission's audit and other oversight functions. This data provides the necessary detail to enable the Commission to fulfill it regulatory responsibility. There are no changes to the ARMIS Reports 495A and 495B.

OMB Control Number: 3060–0511.

Title: ARMIS Access Report.

Report Number: FCC Report 43–04.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents and Responses: 79 respondents; 79 responses.

Estimated Time per Response: 153 hours.

Obligation To Respond: Mandatory—The ARMIS reporting requirements were established by the Commission in 1987 to facilitate the timely and efficient analysis of carrier operating costs and rates of return, to provide an improved basis for audits and other oversight functions, and to enhance the Commission's ability to quantify the effects of alternative policy proposals. Additional ARMIS Reports were added in 1991 and 1992. Incumbent LECs must submit the ARMIS reports to the Commission annually on or before April 1. See Reporting Requirements of Certain Class A and Tier I Telephone Companies (Parts 31, 43, 67 and 69 of the FCC's Rules), *Order*, 2 FCC Rcd 5770 (1987), *modified on recon*, 3 FCC Rcd 6375 (1988) (ARMIS Order). Also, *see* 47 CFR Part 43, Section 43.21.

Frequency of Response: Annual reporting requirement.

Total Annual Burden: 12,087 hours.

Total Annual Cost: $0.00.

Privacy Act Impact Assessment: No impacts.

Nature of Extent of Confidentiality: This collection does not address information of a confidential nature. Respondents may request confidential treatment for information they believe should be withheld from public inspection under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The ARMIS 43–04 provides jurisdictional separations and access charge data by Part 36 category of the Commission's rules and regulations. The ARMIS Report 43–04 enables the Commission to monitor revenue requirements, joint cost allocations, jurisdictional separations and access charges. This information is also a part of the data necessary to support the Commission's audit and other oversight functions. This data provides the necessary detail to enable the Commission to fulfill its regulatory responsibility.

In this collection, we are revising the number of carriers filing this ARMIS report from 92 to 89 to reflect three carriers that were sold.

OMB Control Number: 3060–0395.

Title: The ARMIS USOA Report (ARMIS Report 43–02); the ARMIS Service Quality Report (ARMIS Report 43–05); and the ARMIS Infrastructure Report (ARMIS Report 43–07).

Report Numbers: FCC Reports 43–02, 43–05 and 43–07.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 47 respondents; 47 responses.

Estimated Time per Response: 1264 hours.

Obligation to Respond: Mandatory—The ARMIS reporting requirements were established by the Commission in 1987 to facilitate the timely and efficient analysis of carrier operating costs and rates of return, to provide an improved basis for audits and other oversight functions, and to enhance the Commission's ability to quantify the effects of alternative policy proposals. Additional ARMIS Reports were added in 1991 and 1992. Incumbent LECs must

submit the ARMIS reports to the Commission annually on or before April 1. See Reporting Requirements of Certain Class A and Tier I Telephone Companies (Parts 31, 43, 67 and 69 of the FCC's Rules), *Order*, 2 FCC Rcd 5770 (1987), *modified on recon*, 3 FCC Rcd 6375 (1988) (ARMIS Order). Also, *see* 47 CFR Part 43, Section 43.21.

Frequency of Reponse: Annual reporting requirements.

Total Annual Burden: 20,754 hours.

Total Annual Cost: $0.00.

Privacy Act Impact Assessment: No impacts.

Nature of Extent of Confidentiality: This collection addresses information of a confidential nature for two of these reports. Respondents have requested and filed for confidential treatment of information they believe should be withheld from public inspection under 47 CFR Section 0.459 of the Commission's rules.

Needs and Uses: FCC Report 43–02 contains company-wide data for each account specified in the Uniform System of Accounts (USOA). It provides the annual operating results of the carriers' activities for every account in the USOA. In this report, we are adjusting the number of carriers filing the 43–02 ARMIS report from 28 respondents to 26 to reflect the sale of two respondents. We are also increasing the burden hours to reflect the Commission's requirement in its Report and Order and Memorandum Opinion and Order (MOO) released August 31, 2007. The Commission required AT&T, Qwest, and Verizon to include the imputation charges it debits to account 5280 accompanied by an explanatory footnote for each line item identifying the amount imputed in three ARMIS report filings. The MOO required this information in FCC Reports 43–01, ARMIS Annual Summary Report; 43–02, ARMIS USOA Report; and, 43–03, ARMIS Joint Cost Report.

ARMIS Report 43–05 collects data at the study level and holding company level and is designed to capture trends in service quality under price cap regulation. It provides service quality information in the areas of interexchange access service installation and repair intervals, local service installation and repair intervals, trunk blockage, and total switch downtime for price cap companies. We are adjusting the number of respondents submitting the 43–05 from 15 to 14 to reflect the merger of two respondents and the spin-off of their landline business.

ARMIS Report 43–07 is designed to capture trends in telephone industry infrastructure development under price cap regulation. It provides switch deployment and capabilities data. The information is also part of the data necessary to support the Commission's audit and other oversight functions. This data provides the necessary detail to enable the Commission to fulfill its regulatory responsibility.

There are no changes to the ARMIS Report 43–07.

OMB Control Number: 3060–0512.

Title: ARMIS Annual Summary Report.

Report Number: FCC Report 43–01.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 124 respondents; 124 responses.

Estimated Time per Response: 90 hours.

Obligation To Respond: Mandatory—The ARMIS reporting requirements were established by the Commission in 1987 to facilitate the timely and efficient analysis of carrier operating costs and rates of return, to provide an improved basis for audits and other oversight functions, and to enhance the Commission's ability to quantify the effects of alternative policy proposals. Additional ARMIS Reports were added in 1991 and 1992. Incumbent LECs must submit the ARMIS reports to the Commission annually on or before April 1. See Reporting Requirements of Certain Class A and Tier I Telephone Companies (Parts 31, 43, 67 and 69 of the FCC's Rules), *Order*, 2 FCC Rcd 5770 (1987), *modified on recon*, 3 FCC Rcd 6375 (1988) (ARMIS Order). Also, *see* 47 CFR Part 43, Section 43.21

Frequency of Response: Annual reporting requirement.

Total Annual Burden: 11,196 hours.

Total Annual Cost: $0.00.

Privacy Act Impact Assessment: No impacts.

Nature of Extent of Confidentiality: This collection does not address information of a confidential nature. Respondents may request confidential treatment for information they believe should be withheld from public inspection under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: FCC Report 43–01 facilitates the annual collection of the results of accounting, rate base, and cost allocation requirements prescribed in Parts 32, 36, 64, 65 and 69 of the Commission's rules. ARMIS was implemented to facilitate the timely and efficient analysis of revenue requirements, rates of return and price caps; to provide an improved basis for audits and other oversight functions; and to enhance the Commission's ability to quantify the effects of alternative policy. The FCC Report 43–01 contains financial and operating data and is used to monitor the incumbent local exchange carriers and to perform routine analyses of cost and revenues. This information is also a part of the data necessary to support the Commission's audit and other oversight functions. This data provides the necessary detail to enable the Commission to fulfill it regulatory responsibility.

The Commission uses an indexed revenue threshold to determine which carriers are required to file the ARMIS Reports. The revenue threshold for mid-sized carriers is currently $134 million. In this collection, we are revising the number of carriers filing this ARMIS report from 126 to 124 to reflect one carrier that fell below the threshold and another carrier that was sold. We are also increasing the burden hours to reflect the Commission's requirement in its Report and Order and Memorandum Opinion and Order (MOO) released August 31, 2007. The Commission required AT&T, Qwest, and Verizon to include the imputation charges it debits to account 5280 accompanied by an explanatory footnote for each line item identifying the amount imputed in three ARMIS report filings. The MOO required this information in FCC Reports 43–01, ARMIS Annual Summary Report; 43–02, ARMIS USOA Report; and, 43–03, ARMIS Joint Cost Report.

OMB Control Number: 3060–0513.

Title: ARMIS Joint Cost Report.

Report Number: FCC Report 43–03.

Form Number: N/A.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 80 respondents; 80 responses.

Estimated Time per Response: 52 hours.

Obligation to Respond: Mandatory—The ARMIS reporting requirements were established by the Commission in 1987 to facilitate the timely and efficient analysis of carrier operating costs and rates of return, to provide an improved basis for audits and other oversight functions, and to enhance the Commission's ability to quantify the effects of alternative policy proposals. Additional ARMIS Reports were added in 1991 and 1992. Incumbent LECs must submit the ARMIS reports to the Commission annually on or before April

1. See Reporting Requirements of Certain Class A and Tier I Telephone Companies (Parts 31, 43, 67 and 69 of the FCC's Rules), *Order*, 2 FCC Rcd 5770 (1987), *modified on recon*, 3 FCC Rcd 6375 (1988) (ARMIS Order). Also, *see* 47 CFR Part 43, Section 43.21.

Frequency of Response: Annual reporting requirement.

Total Annual Burden: 4,160 hours.

Total Annual Cost: $0.00.

Privacy Act Impact Assessment: No impacts.

Nature of Extent of Confidentiality: This collection does not address information of a confidential nature. Respondents may request confidential treatment of information they believe should be withheld from public inspection under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The ARMIS Joint Cost Report, FCC Report 04–03, contains financial and operating data. The Report details the incumbent local exchange carriers regulated and nonregulated cost and revenue allocations by study area pursuant to Part 64 of the Commission's rules. This information is also a part of the data necessary to support the Commission's audit and other oversight functions. This data provides the necessary detail to enable the Commission to fulfill it regulatory responsibility. The Commission is revising the number of respondents filing this ARMIS report from 83 to 80 to reflect three carriers that were sold. We are also increasing the burden hours to reflect the Commission's requirement in its Report and Order and Memorandum Opinion and Order (MOO) released August 31, 2007. The Commission required AT&T, Qwest, and Verizon to include the imputation charges it debits to Account 5280 accompanied by an explanatory footnote for each line item identifying the amount imputed in three ARMIS report filings. The MOO required this information in FCC Reports 43–01, ARMIS Annual Summary Report; 43–02, ARMIS USOA Report; and, 43–03, ARMIS Joint Cost Report.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–741 Filed 1–16–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

January 9, 2008.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501–3520. An agency may not conduct or sponsor a collection of information unless it displays a current valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid control number. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written PRA comments should be submitted on or before March 17, 2008. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: You may submit all PRA comments by e-mail or U.S. mail. To submit your comments by e-mail, send them to *PRA@fcc.gov*. To submit your comments by U.S. mail, send them to Leslie F. Smith, Federal Communications Commission, Room 1–C216, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s), contact Leslie F. Smith via the Internet at *PRA@fcc.gov* or call (202) 418–0217.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0391.

Title: Program To Monitor the Impacts of the Universal Service Support Mechanisms, CC Docket Nos. 98–202 and 96–45.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit.

Number of Respondents and Responses: 195 respondents; 1,443 responses.

Estimated Time per Response: 40 minutes (0.666 hours).

Obligation To Respond: Required to obtain or retain benefits.

Frequency of Response: Annual reporting requirement; and third party disclosure requirement.

Total Annual Burden: 962 hours.

Total Annual Cost: $0.00.

Privacy Act Impact Assessment: No impacts.

Nature of Extent of Confidentiality: The respondents may request confidentiality protection for the special access performance information. The respondents are not required to file their customers' monthly usage information with the Federal Communications Commission (FCC).

Needs and Uses: This information is collected by the National Exchange Carriers Association (NECA). NECA acts as the access billing agent for most small companies, and requests the data from the other companies. The Commission notes that there has been some to industry consolidations, resulting in fewer responses.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–742 Filed 1–16–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

January 10, 2008.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501–3520. An agency may not conduct or sponsor a collection of information unless it displays a current valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the

PRA that does not display a valid control number. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written PRA comments should be submitted on or before March 17, 2008. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: You may submit all PRA comments by e-mail or U.S. mail. To submit your comments by e-mail, send them to *PRA@fcc.gov*. To submit your comments by U.S. mail, send them to Leslie F. Smith, Federal Communications Commission, Room 1–C216, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s), contact Leslie F. Smith via the Internet at *PRA@fcc.gov* or call (202) 418–0217.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0819.

Title: Lifeline Assistance (Lifeline) Connection Assistance (Link-Up) Reporting Worksheet and Instructions *(47 CFR 54.400–54.417).*

Form Number: FCC Form 497.

Type of Review: Revision of a currently approved collection.

Respondents: Individuals or households; and business or other for-profit.

Number of Respondents and Responses: 181,855 respondents; 181,855 responses.

Estimated Time per Response: 0.08–18 hours.

Obligation To Respond: Required to obtain or retain benefits.

Frequency of Response: On occasion, monthly, annually, and one-time reporting requirements; recordkeeping requirement; and third party disclosure requirement.

Total Annual Burden: 48,619 hours.

Total Annual Cost: $0.00.

Privacy Act Impact Assessment: No impacts.

Nature of Extent of Confidentiality: The respondents may request confidentiality protection for the special access performance information. The respondents are not required to file their customers' monthly usage information with the Federal Communications Commission (FCC).

Needs and Uses: In the Lifeline Order, WC Docket No. 03–109, FCC 04–87, adopted and released in April 2004, the Commission adopted the Joint Board's recommendation to require all states, including federal default states, to adopt certification procedures to document income-based eligibility for Lifeline/Link-Up enrollment. Because self-certification of income is more difficult to confirm than is a self-certification of program participation, the Commission agreed with the Joint Board that requiring presentation of documentation supporting income eligibility would protect against fraud and abuse. The Commission held similar concerns for continued enrollment in the Lifeline/Link-Up program and required documentation of eligibility for continued enrollment in the program. In conjunction with presentation of income eligibility documentation, all eligible telecommunications carriers (ETC) are required to certify that the ETC has procedures in place to review presented documentation or to certify that it is in compliance with the state requirements established to review income eligibility documentation. ETCs must retain records of their certifications. In addition, the applicant is required to certify the accuracy of the state household income and the number of persons in the household. ETCs are required to collect and retain these certifications. The FCC Form 497 was revised to clarify instructions, add new data elements to the form to clarify specific requirements and reformatted for ease of completing. In addition to the certification and verification requirements noted above, the Commission directed USAC to issue a voluntary survey to gather data and information about state Lifeline/Link-Up programs. This will enable the Commission to make more informed decisions in any future Commission orders.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–744 Filed 1–16–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

January 9, 2008.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burden, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995 (PRA), 44 U.S.C. 3501–3520. An agency may not conduct or sponsor a collection of information unless it displays a current valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid control number. Comments are requested concerning: (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written PRA comments should be submitted on or before March 17, 2008. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the FCC contact listed below as soon as possible.

ADDRESSES: You may submit all PRA comments by e-mail or U.S. mail. To submit your comments by e-mail, send them to *PRA@fcc.gov*. To submit your comments by U.S. mail, send them to Leslie F. Smith, Federal Communications Commission, Room 1–C216, 445 12th Street, SW., Washington, DC 20554, or via the Internet to *PRA@fcc.gov.*

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s), contact Leslie F. Smith via the Internet at *PRA@fcc.gov* or call (202) 418–0217.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0430.

Title: Section 1.1206, Permit-But-Disclose Proceedings.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Individuals or households; business or other for-profit; not-for-profit institutions; Federal Government; and state, local, or tribal governments.

Number of Respondents and Responses: 10,000 respondents; 10,000 responses.

Estimated Time per Response: 0.5 hours.

Obligation to Respond: Required to obtain or retain benefits.

Frequency of Response: On-occasion reporting requirements; recordkeeping; and third party disclosure.

Total Annual Burden: 5,000 hours.

Total Annual Cost: $0.00.

Privacy Act Impact Assessment: No impacts.

Nature of Extent of Confidentiality: The Commission is not requesting that the respondents submit confidential information to the FCC. Respondents may, however, request confidential treatment for information they believe to be confidential under 47 CFR 0.459 of the Commission's rules.

Needs and Uses: The Commission's rules, under 47 CFR 1.1206, require that a public record be made of *ex parte* presentations (*i.e.*, written presentations not served on all parties to the proceeding or oral presentations as to which all parties have not been given notice and an opportunity to be present) to decision-making personnel in ''permit-but-disclose'' proceedings, such as notice-and-comment rulemakings and declaratory ruling proceedings. Persons making such presentations must file two copies of written presentations and two copies of memoranda reflecting new data or arguments in oral presentations no later than the next business day after the presentation. The information is used by parties to permit-but-disclose proceedings, including interested members of the public, to respond to the arguments made and data offered in the presentations. The responses may then be used by the Commission in its decision-making. The availability of the *ex parte* materials ensures that the Commission's decisional processes are fair, impartial, and comport with the concept of due process in that all interested parties can know of and respond to the arguments made to the decision-making officials.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–745 Filed 1–16–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Being Reviewed by the Federal Communications Commission for Extension Under Delegated Authority, Comments Requested

January 9, 2008.

SUMMARY: The Federal Communications Commissions, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to comment on the following information collections, as required by the Paperwork Reduction Act of 1995 (PRA), Public Law 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid control number. Comments are requested concerning (a) Whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written PRA comments should be submitted on or before March 17, 2008. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: You may submit all PRA comments by e-mail or U.S. postal mail. To submit your comments by e-mail, send them to *PRA@fcc.gov.* To submit your comments by U.S. postal mail, mark them to the attention of: Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collections, send an e-mail to *PRA@fcc.gov* or contact Cathy Williams at (202) 418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–1043.

Title: Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, CG Docket No. 03–123, FCC 04–137.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 13.

Estimated Time per Response: 10 hours.

Frequency of Response: Annual reporting requirement; Third party disclosure requirement.

Total Annual Burden: 130 burden hours.

Total Annual Cost: None.

Obligation to Respond: Required to obtain or retain benefits.

Nature and Extent of Confidentiality: An assurance of confidentiality is not offered because this information collection does not require the collection of personally identifiable information from individuals.

Privacy Impact Assessment: No Impact(s).

Needs and Uses: The reporting requirements included under OMB Control Number 3060–1043 enable the Commission to collect waiver reports from Video Relay Service (VRS) and Internet-Protocol Relay (IP Relay) providers requesting waivers from certain Telecommunications Relay Services (TRS) mandatory minimum standards. On June 30, 2004, the Commission released a *Report and Order* and *Order on Reconsideration* in Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, FCC 04–137. In the *Report and Order*, the Commission granted VRS and IP Relay providers waivers of the following TRS mandatory minimum requirements, amongst others: (1) 47 CFR 64.604(a)(3)—types of calls that must be handled; (2) 47 CFR 64.604(a)(4)—emergency call handling; and (3) 47 CFR 64.604(b)(3)—equal access to interexchange carriers. These waivers are granted provided that VRS and IP Relay providers submit annual reports to the Commission, in a narrative form, detailing: (1) The provider's plan or general approach to meet the waived standards; (2) any additional costs that would be required to meet the standards; (3) the development of any new technology that may affect the particular waivers; (4) the progress made by the provider to meet the standards; (5) the specific steps taken to resolve any technical problems that prohibit the provider from meeting the standards; and (6) any other factors relevant to whether the waiver should continue in effect.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–758 Filed 1–16–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collection(s) Being Reviewed by the Federal Communications Commission, Comments Requested

January 11, 2008.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to comment on the following information collection(s), as required by the Paperwork Reduction Act of 1995 (PRA), Public Law No. 104–13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. Subject to the PRA, no person shall be subject to any penalty for failing to comply with a collection of information that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written PRA comments should be submitted on or before March 17, 2008. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: You may submit all PRA comments by e-mail or U.S. post mail. To submit your comments by e-mail, send them to *PRA@fcc.gov.* To submit your comments by U.S. mail, mark them to the attention of Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collection(s), contact Cathy Williams at (202) 418–2918 or send an e-mail to *PRA@fcc.gov.*

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0463.

Title: Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities, Report and Order and Declaratory Ruling, CG Docket No. 03–123, FCC 07–186.

Form Number: Not applicable.

Type of Review: Revision of a currently approved collection.

Respondents: Business or other for-profit entities; State, local or tribal government.

Number of Respondents: 5,053.

Estimated Time per Response: 10–25 hours.

Frequency of Response: Annual reporting requirement; Recordkeeping requirement; Third Party Disclosure.

Obligation to Respond: Required to obtain or retain benefits.

Total Annual Burden: 27,412 burden hours.

Total Annual Cost: None.

Nature and Extent of Confidentiality: An assurance of confidentiality is not offered because this information collection does not require the collection of personally identifiable information (PII) from individuals.

Privacy Impact Assessment: No impact(s).

Needs and Uses: On November 19, 2007, the Commission released the *Telecommunications Relay Services and Speech-to-Speech Services for Individuals with Hearing and Speech Disabilities,* Report and Order and Declaratory Ruling (*2007 TRS Cost Recovery Order*), CG Docket No. 03–123, FCC 07–186, adopting (1) a new cost recovery methodology for interstate traditional TRS and interstate Speech-to-Speech (STS) based on the Mulitistate Average Rate Structure (MARS) plan proposed by Hamilton Relay, Inc., (2) a new cost recovery methodology for interstate captioned telephone service (CTS) and interstate and intrastate Internet-Protocol (IP) Captioned Telephone Service (IP CTS) based on the MARS plan, (3) a cost recovery methodology for IP Relay based on price caps, and (4) a cost recovery methodology for Video Relay Services (VRS) that adopts tiered rates based on call volume. The *2007 TRS Cost Recovery Order* also clarifies the nature and extent that certain categories of costs are compensable from the Interstate TRS Fund (Fund), and addresses certain issues concerning the management and oversight of the Fund, including financial incentives offered to consumers to make relay calls and the role of the Interstate TRS Fund Advisory Council.

The *2007 TRS Cost Recovery Order* establishes reporting requirements associated with the MARS plan cost recovery methodology for compensation from the Fund. Specifically, TRS providers must submit to the Fund administrator the following information annually, on a per-state basis, regarding the previous calendar year: (1) The per-minute compensation rate(s) for intrastate traditional TRS, STS and CTS, (2) whether the rate applies to session minutes or conversation minutes, (3) the number of intrastate session minutes for traditional TRS, STS and CTS, and (4) the number of intrastate conversation minutes for traditional TRS, STS, and CTS. Also, STS providers must file a report annually with the Fund administrator and the Commission on their specific outreach efforts directly attributable to the additional compensation approved by the Commission for STS outreach.

In the *2007 TRS Cost Recovery Order,* the Commission has assessed the effects of imposing the submission of rate data, and has found that there is no increased administrative burden on businesses with fewer than 25 employees. The Commission recognizes that the required rate data is presently available with the states and the providers of interstate traditional TRS, interstate STS, and interstate CTS, thereby no additional step is required to produce such data.

The Commission therefore believes that the submission of the rate data does not increase an administrative burden on businesses.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–761 Filed 1–16–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL COMMUNICATIONS COMMISSION

Notice of Public Information Collections Being Reviewed by the Federal Communications Commission, Comments Requested

January 9, 2008.

SUMMARY: The Federal Communications Commission, as part of its continuing effort to reduce paperwork burdens, invites the general public and other Federal agencies to take this opportunity to comment on the following information collections, as required by the Paperwork Reduction Act (PRA) of 1995, Public Law No. 104–

13. An agency may not conduct or sponsor a collection of information unless it displays a currently valid control number. No person shall be subject to any penalty for failing to comply with a collection of information subject to the PRA that does not display a valid control number. Comments are requested concerning (a) whether the proposed collection of information is necessary for the proper performance of the functions of the Commission, including whether the information shall have practical utility; (b) the accuracy of the Commission's burden estimate; (c) ways to enhance the quality, utility, and clarity of the information collected; and (d) ways to minimize the burden of the collection of information on the respondents, including the use of automated collection techniques or other forms of information technology.

DATES: Written PRA comments should be submitted on or before March 17, 2008. If you anticipate that you will be submitting comments, but find it difficult to do so within the period of time allowed by this notice, you should advise the contact listed below as soon as possible.

ADDRESSES: You may submit all PRA comments by e-mail or U.S. Postal mail. To submit your comments by e-mail, send them to *PRA@fcc.gov.* To send your comments by U.S. Postal mail, mark them to the attention of: Cathy Williams, Federal Communications Commission, Room 1–C823, 445 12th Street, SW., Washington, DC 20554.

FOR FURTHER INFORMATION CONTACT: For additional information about the information collections, send an e-mail to *PRA@fcc.gov* or contact Cathy Williams at 202–418–2918.

SUPPLEMENTARY INFORMATION:

OMB Control Number: 3060–0653.

Title: Section 64.703(b) and (c), Consumer Information—Posting by Aggregators.

Form Number: N/A.

Type of Review: Extension of a currently approved collection.

Respondents: Business or other for-profit entities.

Number of Respondents: 56,075.

Estimated Time per Response: .017–3 hours.

Frequency of Response: On occasion reporting requirement; Third party disclosure requirement.

Total Annual Burden: 172,630 hours.

Total Annual Cost: $1,557,764.

Obligation To Respond: Required to obtain or retain benefits.

Nature and Extent of Confidentiality: An assurance of confidentiality is not offered because this information collection does not require the collection of personally identifiable information from individuals.

Privacy Impact Assessment: No impact(s).

Needs and Uses: Pursuant to the information collection requirements included under OMB Control Number 3060–0653, aggregators making telephones available to the public or transient users of their premises under 47 U.S.C. 226(c)(1)(A) and 47 CFR 64.703(b) must post in writing, on or near such phones, information about pre-subscribed operator services, rates, carrier access, and the FCC address to which consumers may direct complaints. Section 64.703(c) of the Commission's rules establishes a 30-day outer limit for updating the posted consumer information when an aggregator has changed the pre-subscribed operator service provider (OSP). Consumers will use this information to determine whether they wish to use the services of the identified OSP.

Federal Communications Commission.

Marlene H. Dortch,

Secretary.

[FR Doc. E8–767 Filed 1–16–08; 8:45 am]

BILLING CODE 6712–01–P

FEDERAL RESERVE SYSTEM

Formations of, Acquisitions by, and Mergers of Bank Holding Companies

The companies listed in this notice have applied to the Board for approval, pursuant to the Bank Holding Company Act of 1956 (12 U.S.C. 1841 *et seq.*) (BHC Act), Regulation Y (12 CFR Part 225), and all other applicable statutes and regulations to become a bank holding company and/or to acquire the assets or the ownership of, control of, or the power to vote shares of a bank or bank holding company and all of the banks and nonbanking companies owned by the bank holding company, including the companies listed below.

The applications listed below, as well as other related filings required by the Board, are available for immediate inspection at the Federal Reserve Bank indicated. The applications also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the standards enumerated in the BHC Act (12 U.S.C. 1842(c)). If the proposal also involves the acquisition of a nonbanking company, the review also includes whether the acquisition of the nonbanking company complies with the standards in section 4 of the BHC Act (12 U.S.C. 1843). Unless otherwise noted, nonbanking activities will be conducted throughout the United States. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding each of these applications must be received at the Reserve Bank indicated or the offices of the Board of Governors not later than February 11, 2008.

A. Federal Reserve Bank of Chicago (Burl Thornton, Assistant Vice President) 230 South LaSalle Street, Chicago, Illinois 60690–1414:

1. Heartland Financial USA, Inc., Dubuque, Iowa; to acquire at least 80 percent of the voting shares of Minnesota Bank & Trust (in organization), Edina, Minnesota.

Board of Governors of the Federal Reserve System, January 14, 2008.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E8–786 Filed 1–16–08; 8:45 am]

BILLING CODE 6210–01–S

FEDERAL RESERVE SYSTEM

Notice of Proposals To Engage in Permissible Nonbanking Activities or To Acquire Companies That are Engaged in Permissible Nonbanking Activities

The companies listed in this notice have given notice under section 4 of the Bank Holding Company Act (12 U.S.C. 1843) (BHC Act) and Regulation Y (12 CFR Part 225) to engage *de novo*, or to acquire or control voting securities or assets of a company, including the companies listed below, that engages either directly or through a subsidiary or other company, in a nonbanking activity that is listed in § 225.28 of Regulation Y (12 CFR 225.28) or that the Board has determined by Order to be closely related to banking and permissible for bank holding companies. Unless otherwise noted, these activities will be conducted throughout the United States.

Each notice is available for inspection at the Federal Reserve Bank indicated. The notice also will be available for inspection at the offices of the Board of Governors. Interested persons may express their views in writing on the question whether the proposal complies with the standards of section 4 of the BHC Act. Additional information on all bank holding companies may be obtained from the National Information Center website at *www.ffiec.gov/nic/*.

Unless otherwise noted, comments regarding the applications must be received at the Reserve Bank indicated

or the offices of the Board of Governors not later than February 1, 2008.

A. Federal Reserve Bank of San Francisco (Tracy Basinger, Director, Regional and Community Bank Group) 101 Market Street, San Francisco, California 94105–1579:

1. NHB Holdings, Inc., and Proficio Mortgage Ventures, LLC, both of Jacksonville, Florida; to engage *de novo* through its subsidiary, The MIGroup Mortgage Resources, Whippany, New Jersey, in conducting mortgage banking activities, pursuant to section 225.28(b)(1) of Regulation Y.

Board of Governors of the Federal Reserve System, January 14, 2008.

Robert deV. Frierson,

Deputy Secretary of the Board.

[FR Doc. E8–787 Filed 1–16–08; 8:45 am]

BILLING CODE 6210–01–S

GENERAL SERVICES ADMINISTRATION

[PBS–N03]

Extension of Comment Period of the Draft Environmental Assessment and Wetland Involvement for the Transformation of Facilities and Infrastructure for the Non-Nuclear Production Activities Conducted at the National Nuclear Security Administration's Kansas City Plant at Kansas City, MO

AGENCY: General Services Administration and National Nuclear Security Administration, Department of Energy.

ACTION: Notice of extension of comment period.

SUMMARY: On Monday, December 10, 2007, the General Services Administration (GSA) and National Nuclear Security Administration (NNSA), Department of Energy (DOE) published a Notice of Availability of the Draft Environmental Assessment for the Transformation of Facilities and Infrastructure for the Non-Nuclear Production Activities conducted at the National Nuclear Security Administration's Kansas City Plant at Kansas City, Missouri, (72 FR 69690) and announced a public comment period ending Monday, January 14, 2008. In the interest of maximizing public participation, GSA and NNSA are extending the public comment period until Wednesday, January 30, 2008.

DATES: Comments should be submitted to GSA no later than Wednesday, January 30, 2008. Comments postmarked after this date will be considered to the extent practicable.

ADDRESSES: Further information, including an electronic copy of the draft EA and other supporting NEPA documents, may be found on the following Web site, *http://www.gsa.gov/kansascityplant*.

Comments, or requests for copies of the draft EA, should be sent to Carlos Salazar, General Services Administration, 1500 East Bannister Road, Room 2191 (6PTA), Kansas City, MO 64131. Comments may also be e-mailed to *NNSA-KC@gsa.gov*.

Requests for copies of the draft EA may also be made by calling 816–823–2305 or via e-mail to *NNSA-KC@gsa.gov*.

Carlos Salazar,

Regional NEPA Coordinator, GSA Public Buildings Service, Heartland Region.

[FR Doc. E8–797 Filed 1–16–08; 8:45 am]

BILLING CODE 6820–14–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Centers for Disease Control and Prevention

Healthcare Infection Control Practices Advisory Committee (HICPAC)

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 meeting for the aforementioned committee:

Times and Dates: 8 a.m.–5 p.m., February 11, 2008. 8 a.m.–4 p.m., February 12, 2008.

Place: Centers for Disease Control and Prevention (CDC), 1600 Clifton Road, Atlanta, Georgia 30333, Global Communications Center, Bldg 19, Auditorium B3.

Status: Open to the public, limited only by the space available.

Purpose: The Committee is charged with providing advice and guidance to the Secretary, the Assistant Secretary for Health, the Director, CDC, and the Director, National Center for Preparedness, Detection, and Control of Infectious Diseases, regarding (1) the practice of hospital infection control; (2) strategies for surveillance, prevention, and control of infections (e.g., nosocomial infections), antimicrobial resistance, and related events in settings where healthcare is provided; and (3) periodic updating of guidelines and other policy statements regarding prevention of healthcare-associated infections and healthcare-related conditions.

Matters To Be Discussed: Agenda items will include: Urinary Tract Infection Guidelines and Norvirus Guidelines.

Agenda items are subject to change as priorities dictate.

Contact Person for More Information: Angela B. Scott, Committee Management Specialist, HICPAC, Division of Healthcare Quality Promotion, NCPDCID, CDC, l600 Clifton Road, NE., Mailstop A–45, Atlanta, Georgia 30333. Telephone (404) 639–1526.

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: January 11, 2008.

Elaine L. Baker,

Director, Management Analysis and Services Office, Centers for Disease Control and Prevention (CDC).

[FR Doc. E8–779 Filed 1–16–08; 8:45 am]

BILLING CODE 4163–18–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Food and Drug Administration

Anti-Infective Drugs Advisory Committee; Notice of Meeting

AGENCY: Food and Drug Administration, HHS.

ACTION: Notice.

This notice announces a forthcoming meeting of a public advisory committee of the Food and Drug Administration (FDA). The meeting will be open to the public.

Name of Committee: Anti-Infective Drugs Advisory Committee.

General Function of the Committee: To provide advice and recommendations to the agency on FDA's regulatory issues.

Date and Time: The meeting will be held on April 1 and 2, 2008, from 8 a.m. to 5 p.m.

Location: Sheraton College Park Hotel, The Ballroom, 4095 Powder Mill Rd., Beltsville, MD. The hotel telephone number is 301–937–4422.

Contact Person: Sohail Mosaddegh, Center for Drug Evaluation and Research, Food and Drug Administration, 5600 Fishers Lane (for express delivery, 5630 Fishers Lane, rm. 1093), Rockville, MD 20857, 301–827–7001, FAX: 301–827–6776, e-mail: *sohail.mosaddegh@fda.hhs.gov*, or FDA Advisory Committee Information Line, 1–800–741–8138 (301–443–0572 in the Washington, DC area), code 3014512530. Please call the Information Line for up-to-date information on this meeting. A notice in the **Federal Register** about last minute modifications that impact a previously announced advisory committee meeting cannot always be published quickly enough to provide timely notice. Therefore, you should always check the agency's Web

site and call the appropriate advisory committee hot line/phone line to learn about possible modifications before coming to the meeting.

Agenda: On both days, the committee will discuss product development and clinical trial design for both mild/moderate and moderate/severe community acquired pneumonia (CAP). A primary objective for committee deliberations is to discuss issues relating to the identification of an appropriate noninferiority margin for active controlled trials.

FDA intends to make background material available to the public no later than 2 business days before the meeting. If FDA is unable to post the background material on its Web site prior to the meeting, the background material will be made publicly available at the location of the advisory committee meeting, and the background material will be posted on FDA's Web site after the meeting. Background material is available at *http://www.fda.gov/ohrms/dockets/ac/acmenu.htm*, click on the year 2008 and scroll down to the appropriate advisory committee link.

Procedure: Interested persons may present data, information, or views, orally or in writing, on issues pending before the committee. Written submissions may be made to the contact person on or before March 18, 2008. Oral presentations from the public will be scheduled between approximately 12 noon and 1 p.m. on April 2, 2008. Those desiring to make formal oral presentations should notify the contact person and submit a brief statement of the general nature of the evidence or arguments they wish to present, the names and addresses of proposed participants, and an indication of the approximate time requested to make their presentation on or before March 10, 2008. Time allotted for each presentation may be limited. If the number of registrants requesting to speak is greater than can be reasonably accommodated during the scheduled open public hearing session, FDA may conduct a lottery to determine the speakers for the scheduled open public hearing session. The contact person will notify interested persons regarding their request to speak by March 11, 2008.

Persons attending FDA's advisory committee meetings are advised that the agency is not responsible for providing access to electrical outlets.

FDA welcomes the attendance of the public at its advisory committee meetings and will make every effort to accommodate persons with physical disabilities or special needs. If you require special accommodations due to a disability, please contact Sohail Mosaddegh at least 7 days in advance of the meeting.

FDA is committed to the orderly conduct of its advisory committee meetings. Please visit our Web site at *http://www.fda.gov/oc/advisory/default.htm* for procedures on public conduct during advisory committee meetings.

Notice of this meeting is given under the Federal Advisory Committee Act (5 U.S.C. app. 2).

Dated: January 7, 2008.

Randall W. Lutter,

Deputy Commissioner for Policy.

[FR Doc. E8–814 Filed 1–16–08;

BILLING CODE 4160–01–S

DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

National Advisory Committee on Rural Health and Human Services; Notice of Meeting

In accordance with section 10(a)(2) of the Federal Advisory Committee Act (Public Law 92–463), notice is hereby given that the following committee will convene its fifty-eighth meeting.

Name: National Advisory Committee on Rural Health and Human Services.

Dates and Times: February 20, 2008, 9 a.m.–5 p.m., February 21, 2008, 9 a.m.–4:30 p.m., February 22, 2008, 8:30 a.m.–10:30 a.m.

Place: The Sofitel Lafayette Square, 806 15th Street, NW., Washington, DC 20005, Phone: 202–730–8800.

Status: The meeting will be open to the public.

Purpose: The National Advisory Committee on Rural Health and Human Services provides advice and recommendations to the Secretary with respect to the delivery, research, development and administration of health and human services in rural areas.

Agenda: Wednesday morning, February 20, at 9 a.m., the meeting will be called to order by the Chairperson of the Committee, the Honorable David Beasley. Elizabeth M. Duke, Administrator of the Health Resources and Services Administration, has been invited to give opening remarks. The first presentation will be by Joan Ohl, Commissioner, Administration on Children, Youth and Families in the Administration for Children and Families. Other invited speakers are Jan McCarthy and Joyce Sabien, Child Protective Services and Mental Health Researchers, Georgetown University, and Thomas M. Dowd, Deputy Assistant Secretary, Employment and Training Administration, U.S. Department of Labor. The presentations will be followed by a Committee discussion. The Wednesday meeting will close at 5 p.m.

Thursday morning, February 21, at 9 a.m., the Committee will open with a presentation by Dr. Bob Berenson with The Urban Institute. This will be followed by a presentation from Cheryl Sparks with The Rural Community College Alliance. The Committee will break into Subcommittee format to discuss the topics presented and reconvene at 3 p.m. for a discussion of the Committee as a whole. The Thursday meeting will close at 4:30 p.m.

The final session will be convened Friday morning, February 22, at 8:30 a.m. There will be a review of the meeting and action items will be developed for the Committee members and staff. The Committee will draft the letter to the Secretary and discuss the June meeting. The meeting will be adjourned at 10:30 a.m.

FOR FURTHER INFORMATION CONTACT: Anyone requiring information regarding the Committee should contact Jennifer Chang, MPH, Executive Secretary, National Advisory Committee on Rural Health and Human Services, Health Resources and Services Administration, Parklawn Building, Room 9A–55, 5600 Fishers Lane, Rockville, MD 20857, Telephone (301) 443–0835, Fax (301) 443–2803.

Persons interested in attending any portion of the meeting should contact Michele Pray-Gibson, Office of Rural Health Policy (ORHP), Telephone (301) 443–0835. The Committee meeting agenda will be posted on ORHP's Web site: *http://www.ruralhealth.hrsa.gov.*

Dated: January 10, 2008.

Alexandra Huttinger,

Acting Director, Division of Policy Review and Coordination.

[FR Doc. E8–836 Filed 1–16–08; 8:45 am]

BILLING CODE 4165–15–P

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be open to the public, with attendance limited to space available. Individuals who plan to attend and need special assistance, such as sign language interpretation or other reasonable accommodations, should notify the Contact Person listed below in advance of the meeting.

Name of Committee: National Cancer Institute Board of Scientific Advisors.

Date: March 3–4, 2008.

Time: March 3, 2008, 8 a.m. to 6 p.m.

Agenda: Director's Report: Ongoing and New Business; Reports of Program Review Group(s); and Budget Presentation; Reports of

Special Initiatives; RFA and RFP Concept Reviews; and Scientific Presentations.

Place: National Institutes of Health, Building 31, 31 Center Drive, 6th Floor, Conference Room 10, Bethesda, MD 20892.

Time: March 4, 2008, 8:30 a.m. to 12 p.m.

Agenda: Reports of Special Initiatives; RFA and RFP Concept Reviews; and Scientific Presentations.

Place: National Institutes of Health, Building 31, 31 Center Drive, 6th Floor, Conference Room 10, Bethesda, MD 20892.

Contact Person: Paulette S. Gray, PhD., Executive Secretary, Director, Division of Extramural Activities, National Cancer Institute, National Institutes of Health, 6116 Executive Boulevard, 8th Floor, Rm. 8001, Bethesda, MD 20892, 301–496–5147, *grayp@mail.nih.gov.*

Any interested person may file written comments with the committee by forwarding the statement to the Contact Person listed on this notice. The statement should include the name, address, telephone number and when applicable, the business or professional affiliation of the interested person.

In the interest of security, NIH has instituted stringent procedures for entrance onto the NIH campus. All visitor vehicles, including taxicabs, hotel, and airport shuttles will be inspected before being allowed on campus. Visitors will be asked to show one form of identification (for example, a government-issued photo ID, driver's license, or passport) and to state the purpose of their visit.

Information is also available on the Institute's/Center's home page: *http://deainfo.nci.nih.gov/advisory/bsa.htm,* where an agenda and any additional information for the meeting will be posted when available.

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: January 9, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–133 Filed 1–16–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Cancer Institute; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Cancer Institute Special Emphasis Panel, Cellular & Tissue Biology (SEP).

Date: February 6–8, 2008.

Time: 5 p.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Shakeel Ahmad, PhD, Scientific Review Administrator, Research Programs Review Branch, National Cancer Institute, Division of Extramural Activities, 6116 Executive Boulevard, Room 8137, Bethesda, MD 20892–8328, (301) 594–0114, *ahmads@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel, Clinical Studies SEP.

Date: February 13–14, 2008.

Time: 8 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: Gaithersburg Marriott Washingtonian Center, 9751 Washingtonian Boulevard, Gaithersburg, MD 20878.

Contact Person: Majed M. Hamawy, PhD, MBA., Scientific Review Officer, Research Programs Review Branch, Division of Extramural Activities, National Cancer Institute, NIH, 6116 Executive Boulevard, Room 8135, Bethesda, MD 20892, (301) 594–5659, *mh101v@nih.gov.*

Name of Committee: National Cancer Institute Initial Review Group.

Date: February 26–27, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Arlington, 1325 Wilson Boulevard, Arlington, VA 22209.

Contact Person: Lynn M. Amende, PhD, Scientific Review Administrator, Research Programs and Training Review Branch, Division of Extramural Activities, National Cancer Institute, 6116 Executive Blvd., Room 8105, Bethesda, MD 20892, (301) 451–4759, *amendel@mail.nih.gov.*

Name of Committee: National Cancer Institute Initial Review Group. Subcommittee I—Career Development.

Date: February 26–27, 2008.

Time: 8 a.m. to 12 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Arlington, 1325 Wilson Boulevard, Arlington, VA 22209.

Contact Person: Robert Bird, PhD, Scientific Review Administrator, Resources and Training Review Branch, National Cancer Institute, National Institutes of Health, 6116 Executive Blvd., Room 8113, MSC 8328, Bethesda, MD 20892–8328, 301–496–7978, *birdr@mail.nih.gov.*

Name of Committee: National Cancer Institute Special Emphasis Panel, Ruth L. Kirschstein National Research Service Award (T32).

Date: February 26, 2008.

Time: 5 p.m. to 6 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Arlington, 1325 Wilson Boulevard, Arlington, VA 22209.

Contact Person: Robert Bird, PhD., Scientific Review Administrator, Resources and Training Review Branch, National Cancer Institute, National Institutes of Health, 6116 Executive Blvd., Room 8113, MSC 8328, Bethesda, MD 20892–8328, 301–496–7978, *birdr@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.392, Cancer Construction; 93.393, Cancer Cause and Prevention Research; 93.394, Cancer Detection and Diagnosis Research; 93.395, Cancer Treatment Research; 93.396, Cancer Biology Research; 93.397, Cancer Centers Support; 93.398, Cancer Research Manpower; 93.399, Cancer Control, National Institutes of Health, HHS)

Dated: January 9, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–134 Filed 0–16–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Research Resources Initial Review Group, Clinical Research Review Committee, CTSA.

Date: February 5–6, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, Double Tree Name Changed, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Mohan Viswanathan, PhD, Deputy Director, National Center for Research Resources, or, National Institutes of

Health, 6701 Democracy Blvd., 1 Democracy Plaza, Room 1084, MSC 4874, Bethesda, MD 20892–4874, 301–435–0829, *mv10f@nih.gov.*

Name of Committee: National Center for Research Resources Initial Review Group, Comparative Medicine Review Committee.

Date: February 14, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: John R. Glowa, PhD, Scientific Review Officer, National Center for Research Resources, or, National Institutes of Health, 6701 Democracy Blvd., 1 Democracy Plaza, Room 1078, MSC 4874, Bethesda, MD 20892–4874, 301–435–0807, *glowaj@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research; 93.371, Biomedical Technology; 93.389, Research Infrastructure; 93.306, 93.333, National Institutes of Health, HHS)

Dated: January 9, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–135 Filed 1–16–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Closed Meetings

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meetings.

The meetings will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Research Resources Special Emphasis Panel, CTSA #2.

Date: February 12, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, Double Tree Name Changed, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Guo Zhang, PhD, MD., Scientific Review Officer, National Center for Research Resources, or National Institutes of Health, 6701 Democracy Blvd., 1 Democracy Plaza, Room 1064, MSC 4874, Bethesda, MD 20892–4874, 301–435–0812, *zhanggu@mail.nih.gov.*

Name of Committee: National Center for Research Resources Special Emphasis Panel, CTSA #1.

Date: February 19–20, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hilton Washington/Rockville, Double Tree Name Changed, 1750 Rockville Pike, Rockville, MD 20852.

Contact Person: Mohan Viswanathan, PhD, Deputy Director, National Center for Research Resources, or National Institutes of Health, 6701 Democracy Blvd., 1 Democracy Plaza, Room 1084, MSC 4874, Bethesda, MD 20892–4874, 301–435–0829, *mv10f@mail.nih.gov.*

Name of Committee: National Center for Research Resources Special Emphasis Panel, SEPA 08'.

Date: February 21, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Residence Inn by Marriott Bethesda Downtown, 7335 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Bonnie Dunn, PhD, Scientific Review Officer, Office of Review, National Center for Research Resources, National Institutes of Health, 6701 Democracy Blvd., 1 Democracy Plaza, Room 1074, MSC 4874, Bethesda, MD 20892–4874, 301–435–0824, *dunnbo@mail.nih.gov.*

Name of Committee: National Center for Research Resources Special Emphasis Panel, C.O.B.R.E–II.

Date: February 21–22, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Barbara J. Nelson, PhD, Scientific Review Officer, Office of Review, National Center for Research Resources, NIH, 6701 Democracy Blvd., Room 1080, 1 Democracy Plaza, Bethesda, MD 20892, 301–435–0806.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research; 93.371, Biomedical Technology; 93.389, Research Infrastructure; 93.306, 93.333, National Institutes of Health, HHS)

Dated: January 9, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–136 Filed 1–16–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Center for Research Resources; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Center for Research Resources Special Emphasis Panel, Wisconsin NPRC.

Date: January 23–25, 2008.

Time: 8 a.m. to 5 p.m.

Agenda: To review and evaluate grant applications.

Place: The Madison Concourse Hotel and Governor's Club, One West Dayton Street, Madison, WI 53703.

Contact Person: Carol Lambert, PhD, Scientific Review Officer, Office of Review, National Center for Research Resources, National Institutes of Health, 6701 Democracy Blvd., 1 Dem. Plaza, Room 1076, Bethesda, MD 20892, 301–435–0814, *lambert @mail.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.306, Comparative Medicine; 93.333, Clinical Research; 93.371, Biomedical Technology; 93.389, Research Infrastructure; 93.306, 93.333, National Institutes of Health, HHS)

Dated: January 9, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–138 Filed 1–16–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy And Infections Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as

amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Review of Unsolicited T32 Applications.

Date: February 11, 2008.

Time: 12 p.m. to 3 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, 6700 B, Rockledge, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Quirijn Vos, PhD., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892, 301–451–2666, *qvos@niaid.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS).

Dated: January 9, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–130 Filed 1–16–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Dental and Craniofacial Research; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The grant applications and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the grant applications, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Dental and Craniofacial Research Special Emphasis Panel, Review R01s, R21.

Date: February 11, 2008.

Time: 10 a.m. to 1 p.m.

Agenda: To review and evaluate grant applications.

Place: National Institutes of Health, Bethesda, MD (Telephone Conference Call).

Contact Person: Jonathan Horsford, PhD, Scientific Review Officer, NIDCR, 45 Center Drive, 4AN–24E, Bethesda, MD 20892, 301–594–4859, *horsforj@mail.nih.gov.*

(Catalogue of Federal Domestic Assistance Program Nos. 93.121, Oral Diseases and Disorders Research, National Institutes of Health, HHS)

Dated: January 9, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–131 Filed 1–16–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Allergy and Infectious Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Allergy and Infectious Diseases Special Emphasis Panel, Statistical Data Coordinating Center.

Date: February 4, 2008.

Time: 8 a.m. to 6 p.m.

Agenda: To review and evaluate contract proposals.

Place: Hyatt Regency Bethesda, One Bethesda Metro Center, 7400 Wisconsin Avenue, Bethesda, MD 20814.

Contact Person: Paul A. Amstad, PhD., Scientific Review Officer, Scientific Review Program, Division of Extramural Activities, DHHS/National Institutes of Health/NIAID, 6700B Rockledge Drive, MSC 7616, Bethesda, MD 20892–7616, 301–402–7098, *pamstad@niaid.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.855, Allergy, Immunology, and Transplantation Research; 93.856, Microbiology and Infectious Diseases Research, National Institutes of Health, HHS)

Dated: January 9, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–132 Filed 1–16–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institutes of Health

National Institute of Diabetes and Digestive and Kidney Diseases; Notice of Closed Meeting

Pursuant to section 10(d) of the Federal Advisory Committee Act, as amended (5 U.S.C. Appendix 2), notice is hereby given of the following meeting.

The meeting will be closed to the public in accordance with the provisions set forth in sections 552b(c)(4) and 552b(c)(6), Title 5 U.S.C., as amended. The contract proposals and the discussions could disclose confidential trade secrets or commercial property such as patentable material, and personal information concerning individuals associated with the contract proposals, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.

Name of Committee: National Institute of Diabetes and Digestive and Kidney Diseases Special Emphasis Panel, Contract Review.

Date: January 28, 2008.

Time: 10 a.m. to 1 p.m.

Agenda: To review and evaluate contract proposals.

Place: National Institutes of Health, Two Democracy Plaza, 6707 Democracy Boulevard, Bethesda, MD 20892, (Telephone Conference Call).

Contact Person: Michele L. Barnard, PhD, Scientific Review Administrator, Review Branch, DEA, NIDDK, National Institutes of Health, Room 753, 6707 Democracy Boulevard, Bethesda, MD 20892–5452, (301) 594–8898, *barnardm@extra.niddk.nih.gov.*

This notice is being published less than 15 days prior to the meeting due to the timing limitations imposed by the review and funding cycle.

(Catalogue of Federal Domestic Assistance Program Nos. 93.847, Diabetes, Endocrinology and Metabolic Research; 93.848, Digestive Diseases and Nutrition Research; 93.849, Kidney Diseases, Urology and Hematology Research, National Institutes of Health, HHS).

Dated: January 9, 2008.

Jennifer Spaeth,

Director, Office of Federal Advisory Committee Policy.

[FR Doc. 08–137 Filed 1–16–08; 8:45 am]

BILLING CODE 4140–01–M

DEPARTMENT OF HOMELAND SECURITY

Transportation Security Administration

[Docket Nos. TSA–2006–24191; Coast Guard–2006–24196]

Transportation Worker Identification Credential (TWIC); Enrollment Dates for the Ports of Vicksburg, MS; Muskegon, MI; and Miami, FL

AGENCY: Transportation Security Administration; United States Coast Guard; DHS.

ACTION: Notice.

SUMMARY: The Department of Homeland Security (DHS) through the Transportation Security Administration (TSA) issues this notice of the dates for the beginning of the initial enrollment for the Transportation Worker Identification Credential (TWIC) for the Ports of Vicksburg, MS; Muskegon, MI; and Miami, FL.

DATES: TWIC enrollment will begin in Vicksburg, Muskegon, and Miami on January 31, 2008.

ADDRESSES: You may view published documents and comments concerning the TWIC Final Rule, identified by the docket numbers of this notice, using any one of the following methods.

(1) Searching the Federal Docket Management System (FDMS) Web page at *http://www.regulations.gov*;

(2) Accessing the Government Printing Office's Web page at *http://www.gpoaccess.gov/fr/index.html*; or

(3) Visiting TSA's Security Regulations Web page at *http://www.tsa.gov* and accessing the link for ''Research Center'' at the top of the page.

FOR FURTHER INFORMATION CONTACT: James Orgill, TSA–19, Transportation Security Administration, 601 South 12th Street, Arlington, VA 22202–4220. Transportation Threat Assessment and Credentialing (TTAC), TWIC Program, (571) 227–4545; e-mail: *credentialing@dhs.gov*.

Background

The Department of Homeland Security (DHS), through the United States Coast Guard and the Transportation Security Administration (TSA), issued a joint final rule (72 FR 3492; January 25, 2007) pursuant to the Maritime Transportation Security Act (MTSA), Pub. L. 107–295, 116 Stat. 2064 (November 25, 2002), and the Security and Accountability for Every Port Act of 2006 (SAFE Port Act), Pub. L. 109–347 (October 13, 2006). This rule requires all credentialed merchant mariners and individuals with unescorted access to secure areas of a regulated facility or vessel to obtain a TWIC. In this final rule, on page 3510, TSA and Coast Guard stated that a phased enrollment approach based upon risk assessment and cost/benefit would be used to implement the program nationwide, and that TSA would publish a notice in the **Federal Register** indicating when enrollment at a specific location will begin and when it is expected to terminate.

This notice provides the start date for TWIC initial enrollment at the Ports of Vicksburg, MS; Muskegon, MI; and Miami, FL. Enrollment will begin in Vicksburg, Muskegon, and Miami, FL on January 31, 2008. The Coast Guard will publish a separate notice in the **Federal Register** indicating when facilities within the Captain of the Port Zone New Orleans, including those in the Port of Vicksburg; Captain of the Port Zone Lake Michigan, including those in the Port of Muskegon; and Captain of the Port Zone Miami, including those in the Port of Miami must comply with the portions of the final rule requiring TWIC to be used as an access control measure. That notice will be published at least 90 days before compliance is required.

To obtain information on the pre-enrollment and enrollment process, and enrollment locations, visit TSA's TWIC Web site at *http://www.tsa.gov/twic*.

Issued in Arlington, Virginia, on January 11, 2008.

Rex Lovelady,

Program Manager, TWIC, Office of Transportation Threat Assessment and Credentialing, Transportation Security Administration.

[FR Doc. E8–770 Filed 1–16–08; 8:45 am]

BILLING CODE 9110–05–P

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

Construction of an Industrial Center in Lake County, FL

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Notice: Receipt of Application for an Incidental Take Permit; Request for Comments.

SUMMARY: We, the Fish and Wildlife Service (Service), announce the availability of an Incidental Take Permit (ITP) Application and Habitat Conservation Plan (HCP). Ladd Development Inc. (applicant) requests an ITP for a 5-year duration under the Endangered Species Act of 1973, as amended (Act). The applicant anticipates taking approximately 5.75 acres of Florida scrub-jay (*Alphelocoma coerulescens*)-occupied habitat incidental to construction of an industrial center in Lake County, Florida (project). The applicant's HCP describes the mitigation and minimization measures the applicant proposes to address the effects of the project to the scrub-jay.

DATES: We must receive any written comments on the ITP application and HCP on or before February 19, 2008.

ADDRESSES: If you wish to review the application and HCP, you may write the Field Supervisor at our Jacksonville Field Office, 6620 Southpoint Drive South, Suite 310, Jacksonville, FL 32216, or make an appointment to visit during normal business hours. If you wish to comment, you may mail or hand deliver comments to the Jacksonville Field Office, or you may e-mail comments to *paula_sisson@fws.gov*. For more information on reviewing documents and public comments and submitting comments, see **SUPPLEMENTARY INFORMATION**.

FOR FURTHER INFORMATION CONTACT: Paula Sisson, Fish and Wildlife Biologist, Jacksonville Field Office (see **ADDRESSES**); telephone: 904/232–2580, ext. 126.

SUPPLEMENTARY INFORMATION:

Public Availability of 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.

Please reference permit number TE155485–0 for Ladd Development, Inc. in all requests or comments. Please include your name and return address in your e-mail message. If you do not receive a confirmation from us that we have received your e-mail message, contact us directly at the telephone number listed under **FOR FURTHER INFORMATION CONTACT**.

Background

The Florida scrub-jay (scrub-jay) is found exclusively in peninsular Florida and is restricted to xeric upland communities (predominately in oak-dominated scrub with open canopies) of the interior and Atlantic coast sand ridges. Increasing urban and agricultural development has resulted in habitat loss and fragmentation, which have adversely affected the distribution and numbers of scrub-jays. Remaining habitat is largely degraded due to the exclusion of fire, which is needed to maintain xeric uplands in conditions suitable for scrub-jays. The total estimated population is between 7,000 and 11,000 individuals.

Applicant's Proposal

The applicant is requesting take of approximately 5.75 ac of occupied scrub-jay habitat incidental to the project. The 44-ac project is located northeast of the Hancock Road and Lost Lake intersection within Section 34, Township 22 South, Range 26 East, Lake County. The proposed project currently includes commercial buildings, infrastructure and a stormwater management system. The applicant proposes to mitigate for the take of the Florida scrub-jay at a ratio of 2:1 based on Service Mitigation Guidelines. The applicant will contribute a total of $215,050.00 to the USDA Forest Service to be utilized for scrub-jay conservation pursuant to an MOU between the Service and the Forest Service. As minimization for impacts to the species, clearing activities during project construction will occur outside the scrub-jay nesting season (March 1–June 30).

We have determined that the applicant's proposal, including the proposed mitigation and minimization measures, would have minor or negligible effects on the species covered in the HCP. Therefore, the ITP is a ''low-effect'' project and qualifies for categorical exclusions under the National Environmental Policy Act (NEPA), as provided by the Department of the Interior Manual (516 DM 2 Appendix 1 and 516 DM 6 Appendix 1). This preliminary information may be revised based on our review of public comments that we receive in response to this notice. A low-effect HCP is one involving (1) minor or negligible effects on federally listed or candidate species and their habitats, and (2) minor or negligible effects on other environmental values or resources.

We will evaluate the HCP and comments submitted thereon to determine whether the application meets the requirements of section 10(a) of the Act (16 U.S.C. 1531 *et seq.*). If we determine that the application meets those requirements, we will issue the ITP for incidental take of the scrub-jay. We will also evaluate whether issuance of the section 10(a)(1)(B) ITP complies with section 7 of the Act by conducting an intra-Service section 7 consultation. We will use the results of this consultation, in combination with the above findings, in the final analysis to determine whether or not to issue the ITP.

Authority: We provide this notice under section 10 of the Act and NEPA regulations (40 CFR 1506.6).

Dated: January 10, 2008.

David L. Hankla,

Field Supervisor, Jacksonville Field Office.

[FR Doc. E8–753 Filed 1–16–08; 8:45 am]

BILLING CODE 4310–55–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA–9205–C; AK–964–1410–HY–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Goldbelt, Incorporated. The lands are in the vicinity of Juneau, Alaska, and are located in:

Tract A, U.S. Survey No. 1640, Alaska.
Containing 28.97 acres.

Copper River Meridian, Alaska

T. 42 S., R. 66 E.,
Sec. 15.
Containing approximately 1 acre.

T. 42 S., R. 67 E.,
Secs. 15 and 16.
Containing 90.05.
Aggregating approximately 91 acres.
Total aggregate is approximately 120 acres.

The subsurface estate in these lands will be conveyed to Sealaska Corporation when the surface estate is conveyed to Goldbelt, Incorporated. Notice of the decision will also be published four times in the Juneau Empire.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by the decision shall have until February 19, 2008 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR Part 4, Subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7504.

FOR FURTHER INFORMATION CONTACT: The Bureau of Land Management by phone at 907–271–5960, or by e-mail at *ak.blm.conveyance@ak.blm.gov.* Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8330, 24 hours a day, seven days a week, to contact the Bureau of Land Management.

Michael Bilancione,

Land Transfer Resolution Specialist, Land Transfer Adjudication I.

[FR Doc. E8–776 Filed 1–16–08; 8:45 am]

BILLING CODE 4310–44–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[AA–11157; AK–964–1410–KC–P]

Alaska Native Claims Selection

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of decision approving lands for conveyance.

SUMMARY: As required by 43 CFR 2650.7(d), notice is hereby given that an appealable decision approving the surface estate in certain lands for conveyance pursuant to the Alaska Native Claims Settlement Act will be issued to Tanalian, Incorporated. The lands are in the vicinity of Port Alsworth, Alaska, and located in:

U.S. Survey No. 12170, Alaska.
Containing 159.96 acres.

Seward Meridian, Alaska

T. 1 N., R. 29 W.,
Sec. 19.
Containing approximately 39 acres.
Aggregating approximately 199 acres.

Notice of the decision will also be published four times in the Anchorage Daily News.

DATES: The time limits for filing an appeal are:

1. Any party claiming a property interest which is adversely affected by

the decision shall have until February 19, 2008 to file an appeal.

2. Parties receiving service of the decision by certified mail shall have 30 days from the date of receipt to file an appeal.

Parties who do not file an appeal in accordance with the requirements of 43 CFR part 4, subpart E, shall be deemed to have waived their rights.

ADDRESSES: A copy of the decision may be obtained from: Bureau of Land Management, Alaska State Office, 222 West Seventh Avenue, #13, Anchorage, Alaska 99513–7504.

FOR FURTHER INFORMATION CONTACT: The Bureau of Land Management by phone at 907–271–5960, or by e-mail at *ak.blm.conveyance@ak.blm.gov*. Persons who use a telecommunication device (TTD) may call the Federal Information Relay Service (FIRS) at 1–800–877–8330, 24 hours a day, seven days a week, to contact the Bureau of Land Management.

John Leaf,

Land Law Examiner, Branch of Land Transfer Adjudication I.

[FR Doc. 08–150 Filed 1–16–08; 8:45 am]

BILLING CODE 4310–$$–M

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[ID–957–1420–BJ]

Idaho: Filing of Plats of Survey

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Filing of Plats of Surveys.

SUMMARY: The Bureau of Land Management (BLM) has officially filed the plats of survey of the lands described below in the BLM Idaho State Office, Boise, Idaho, effective 9 a.m., on the dates specified.

FOR FURTHER INFORMATION CONTACT: Stanley G. French, Bureau of Land Management, 1387 South Vinnell Way, Boise, Idaho, 83709–1657, (208) 373–3981.

SUPPLEMENTARY INFORMATION: These surveys were executed at the request of the BLM to meet their administrative needs. The lands surveyed are:

The plat representing the dependent resurvey of a portion of the First Standard Parallel South (north boundary) and a portion of the subdivisional lines, and the subdivision of sections 2, 4, and 5, T. 7 S., R. 24 E., Boise Meridian, Idaho Group Number 1230, was accepted October 23, 2007.

The plat representing the dependent resurvey of a portion of the Second Standard Parallel South (north boundary), and a portion of the subdivisional lines, and the subdivision of section 2, T. 13 S., R. 25 E., Boise Meridian, Idaho Group Number 1235, was accepted December 5, 2007.

This survey was executed at the request of the Bureau of Indian Affairs to meet certain administrative and management purposes. The lands surveyed are: The supplemental plat prepared to show new lots in sections 33, 34, 35, and 36, T. 3 S., R. 35 E., Boise Meridian, Idaho, was accepted on December 7, 2007. The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in the BLM Idaho State Office, Boise, Idaho, 30 days from the date of publication in the **Federal Register**. This survey was executed at the request of the Bureau of Land Management to meet their administrative needs. The plat representing the dependent resurvey of portions of the east boundary, the subdivisional lines, and the 1915–1917 left bank meanders of the Snake River, Mineral Survey Number 2693, and the subdivision of section 12, a metes-and-bounds survey of lots 17 and 18, section 12, and the survey of 2004–2007 meanders of an island in the Snake River, designated as lot 16, section 12, T. 9 S., R. 15 E., of the Boise Meridian, Idaho, Group Number 1199, was accepted on December 7, 2007.

Jeff Lee,

Acting Chief Cadastral Surveyor for Idaho.

[FR Doc. E8–818 Filed 1–16–08; 8:45 am]

BILLING CODE 4310–GG–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–952–08–1420–BJ, 14x1109]

Filing of Plats of Survey; Nevada

AGENCY: Bureau of Land Management.

ACTION: Notice.

SUMMARY: The purpose of this notice is to inform the public and interested State and local government officials of the filing of Plats of Survey in Nevada.

EFFECTIVE DATES: Filing is effective at 10 a.m. on the dates indicated below.

FOR FURTHER INFORMATION CONTACT: David D. Morlan, Chief, Branch of Geographic Sciences, Bureau of Land Management (BLM), Nevada State Office, 1340 Financial Blvd., P.O. Box 12000, Reno, NV 89520, 775–861–6541.

SUPPLEMENTARY INFORMATION:

1. The Plat of Survey of the following described lands was officially filed at the Nevada State Office, Reno, Nevada, on October 30, 2007:

The plat, representing the dependent resurvey of a portion of the subdivisional lines, and the subdivision of section 8 and a metes-and-bounds survey of the centerline of the right-of-way of U.S. Highway No. 93, through section 9 and a portion of section 8, Township 7 South, Range 61 East, Mount Diablo Meridian, Nevada, executed under Group No. 851, was accepted October 29, 2007.

This survey was executed to meet certain administrative needs of the Bureau of Land Management.

2. The Plat of Survey of the following described lands was officially filed at the Nevada State Office, Reno, Nevada, on December 13, 2007.

The plat, representing the dependent resurvey of a portion of the south boundary, a portion of the subdivisional lines and a portion of the subdivision-of-section lines of section 32, the subdivision of section 30, and the metes-and-bounds surveys of Parcels D and E in section 32, Township 15 North, Range 20 East, Mount Diablo Meridian, Nevada, executed under Group No. 817, was accepted December 11, 2007.

This survey was executed to meet certain administrative needs of the Bureau of Indian Affairs.

3. The above-listed surveys are now the basic record for describing the lands for all authorized purposes. These surveys have been placed in the open files in the BLM Nevada State Office and are available to the public as a matter of information. Copies of the surveys and related field notes may be furnished to the public upon payment of the appropriate fees.

Dated: January 9, 2008.

David D. Morlan,

Chief Cadastral Surveyor, Nevada.

[FR Doc. E8–735 Filed 1–16–08; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[MT–926–08–1910–BJ–5REJ]

Montana: Filing of Plat of Survey

AGENCY: Bureau of Land Management, Montana State Office, Interior.

ACTION: Notice of Filing of Plat of Survey.

SUMMARY: The Bureau of Land Management (BLM) will file the plat of survey of the lands described below in

the BLM Montana State Office, Billings, Montana, (30) days from the date of publication in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Marvin Montoya, Cadastral Surveyor, Branch of Cadastral Survey, Bureau of Land Management, 5001 Southgate Drive, Billings, Montana 59101–4669, telephone (406) 896–5124 or (406) 896–5009.

SUPPLEMENTARY INFORMATION: This survey was executed at the request of the Fort Peck Agency, through the Rocky Mountain Regional Director, Bureau of Indian Affairs, and was necessary to determine Trust and Tribal land.

The lands we surveyed are:

Principal Meridian, Montana

T. 26 N., R. 44 E.

The plat, in one sheet, representing the dependent resurvey of a portion of the subdivisional lines, the adjusted original meanders of the left bank of the Missouri River, downstream, through sections 10, 15, and 16, and a portion of the subdivision of sections 15 and 16, and subdivision of section 15, and the survey of portions of the meanders of the present left and right banks of the Missouri River, downstream, through sections 10, 15, and 16, the meanders of the former left bank of a relicted channel of the Missouri River, downstream, through sections 10 and 15, the medial line of a relicted channel of the Missouri River, certain division of accretion lines, and Tract 37, Township 26 North, Range 44 East, Principal Meridian, Montana, was accepted December 7, 2007.

We will place a copy of the plat, in one sheet, and related field notes we described in the open files. They will be available to the public as a matter of information.

If BLM receives a protest against this survey, as shown on this plat, in one sheet, prior to the date of the official filing, we will stay the filing pending our consideration of the protest.

We will not officially file this plat, in one sheet, until the day after we have accepted or dismissed all protests and they have become final, including decisions or appeals.

Dated: January 10, 2008.

Michael T. Birtles,

Chief Cadastral Surveyor, Division of Resources.

[FR Doc. E8–757 Filed 1–16–08; 8:45 am]

BILLING CODE 4310–$$–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–060–5870–EU; N–79242; 8–08807; TAS: 14X5260]

Notice of Realty Action: Proposed Modified Competitive Sale of Public Land in Lander County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: A parcel of public land of approximately 409.34 acres in Lander County, Nevada is being considered for sale under the provisions of section 203 of the Federal Land Policy Management Act of 1976 (FLPMA), at no less than the appraised fair market value.

DATES: Interested parties may submit written comments regarding the proposed sale of the lands until March 3, 2008.

ADDRESSES: Mail written comments to the BLM Field Manager, Battle Mountain Field Office, 50 Bastian Road, Battle Mountain, NV 89820.

FOR FURTHER INFORMATION CONTACT: Chuck Lahr, (775) 635–4000.

SUPPLEMENTARY INFORMATION: The following described public land in Lander County, Nevada, is being considered for sale under the authority of section 203 of the Federal Land Policy and Management Act of 1976, (43 U.S.C. 1713):

Mount Diablo Meridian

T. 25 N., R. 42 E.,
sec. 1, lots 7 and 8, SW¼,
sec. 12, NW¼.

Containing 409.34 acres, more or less.

The 1986 BLM Shoshone-Eureka Resource Management Plan identifies this parcel of public land as suitable for disposal. The sale will be subject to the provisions of FLPMA and applicable regulations of the Secretary of the Interior, and will contain the reservation to the United States of a right-of-way thereon for ditches or canals constructed by the authority of the United States, Act of August 30, 1890 (43 U.S.C. 945). Conveyance of the identified public land will be subject to valid existing rights and encumbrances of record, including but not limited to, rights-of-way for roads and public utilities. Conveyance of any mineral interests pursuant to section 209 of the Act of October 21, 1976 (43 U.S.C. 1719) will be analyzed during processing of the proposed sale.

On January 17, 2008, the above-described land will be segregated from appropriation under the public land laws, including the mining laws, except the sale provisions of the FLPMA. Upon publication of this Notice of Realty Action and until completion of the sale, the BLM is no longer accepting land use applications affecting the identified public land, except applications for the amendment of previously filed right-of-way applications or existing authorizations to increase the term of the grants in accordance with 43 CFR 2807.15 and 2886.15. The segregative effect will terminate upon issuance of a patent, publication in the **Federal Register** of a termination of the segregation, or on January 19, 2010 unless extended by the BLM Nevada State Director in accordance with 43 CFR 2711.1–2(d) prior to the termination date.

For a period until March 3, 2008, interested parties and the general public may submit in writing any comments concerning the land being considered for sale, including notification of any encumbrances or other claims relating to the identified land to Field Manager, BLM Battle Mountain Field Office, at the above address. In order to ensure consideration in the environmental analysis of the proposed sale, comments must be in writing and postmarked or delivered within 45 days of the initial date of publication of this Notice. Only written comments submitted by postal service or overnight mail to the Field Manager, BLM Battle Mountain Field Office will be considered properly filed. Facsimiles, telephone calls, and electronic mails are unacceptable means of notification. 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. If you wish to have your name or address withheld from public disclosure under the Freedom of Information Act, you must state this prominently at the beginning of your comments. Any determination by the BLM to release or withhold the names and/or addresses of those who comment will be made on a case-by-case basis. Such requests will be honored to the extent allowed by law. The BLM will make available for public review, in their entirety, all comments submitted by businesses or organizations, including comments by individuals in their capacity as an

official or representative of a business or organization.

Any adverse comments will be reviewed by the BLM Nevada State Director who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, this realty action will become the final determination of the Department of the Interior.

(Authority: 43 CFR 2711.1–2)

Dated: January 10, 2008.

Gerald M. Smith,

BLM Battle Mountain Field Manager.

[FR Doc. E8–817 Filed 1–16–08; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–030–1430–ES; N–80636; 8–08807; TAS:14X1109]

Notice of Realty Action: Recreation and Public Purposes Act Classification of Public Land in Washoe County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: Recreation and Public Purposes (R&PP) Act request for lease and subsequent conveyance of approximately 23 acres of public land in Washoe County, Nevada. Washoe County proposes to use the land for a justice court complex.

DATES: Interested parties may submit written comments regarding the proposed lease/conveyance or classification of the land until March 3, 2008.

ADDRESSES: Mail written comments to the BLM Field Manager, Carson City Field Office, 5665 Morgan Mill Road, Carson City, NV 89701.

FOR FURTHER INFORMATION CONTACT: Jo Ann Hufnagle, (775) 885–6000.

SUPPLEMENTARY INFORMATION: In accordance with section 7 of the Taylor Grazing Act, (43 U.S.C. 315f), and Executive Order No. 6910, the following described public land in Washoe County, Nevada, has been examined and found suitable for classification for lease and subsequent conveyance under the provisions of the R&PP Act, as amended, (43 U.S.C. 869 *et seq.*):

Mount Diablo Meridian, Nevada

T. 20 N., R. 20 E.,
Sec. 21, lot 5;
Sec. 28, lot 32 (northerly portion).

The area described contains 23 acres, more or less.

Note: This description and acreage may be modified prior to lease or conveyance upon final approval of an official plat of survey which will involve amended lotting of a portion of the public land. A map depicting the public land is available for review at the Carson City Field Office.

In accordance with the R&PP Act, Washoe County has filed an R&PP application to develop the above described land as a justice court complex. Additional detailed information pertaining to this application, including a plan of development, is available for review in the BLM Carson City Field Office.

The land is not needed for Federal purposes. The lease or conveyance is consistent with the Carson City Consolidated Resource Management Plan (2001) and would be in the public interest. The land was previously withdrawn from surface entry and mining, but not from sales, exchanges or recreation and public purposes, by Public Land Order No. 7491. Upon publication of this Notice of Realty Action and until completion of the sale, the BLM is no longer accepting land use applications affecting the identified public land, except applications for the amendment of previously filed right-of-way applications or existing authorizations for the amendment to increase the term of the grants in accordance with 43 CFR 2807.15 and 2886.15. The lease/conveyance, when issued, will be subject to the provisions of the R&PP Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act, of August 30, 1890 (43 U.S.C. 945);

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe; and will be subject to:

1. Valid existing rights;

2. Those rights for telephone/communication line purposes granted to Nevada Bell, and its successors or assigns, by Right-of-Way Nev-044106 under the Act of March 4, 1911 (36 Stat. 1253, 43 U.S.C. 961);

3. Those rights for highway purposes granted to Nevada Department of Transportation, and its successors or assigns, by Right-of-Way Nev-047623 under the Act of August 27, 1958 (72 Stat. 916, 23 U.S.C. 317(A));

4. Those rights for electric line purposes granted to Sierra Pacific Power Company, and its successors or assigns, by Right-of-Way Nev-058664, under the Act of March 4, 1911 (36 Stat. 1253, 43 U.S.C. 961);

5. Those rights for gas pipeline purposes granted to Sierra Pacific Power Company, and its successors or assigns, by Right-of-Way N–46826 under the Act of February 25, 1920 (41 Stat. 0437, 30 U.S.C. 185, sec. 28);

6. Those rights for water facilities granted to Truckee Meadows Water Authority, and its successors or assigns, by Right-of-Way N–61317 under the Act of October 21, 1976 (90 Stat. 2776, 43 U.S.C. 1761);

7. Those rights for cable television facilities granted to Falcon Cable Systems, and its successors or assigns, by Right-of-Way N–51490 under the Act of October 21, 1976 (90 Stat. 2776, 43 U.S.C. 1761);

8. Those rights for road and utility purposes granted to the City of Sparks, and its successors or assigns, by Right-of-Way N–77216 under the Act of October 21, 1976 (90 Stat. 2776, 43 U.S.C. 1761).

Interested parties may submit comments involving the suitability of the land for justice court complex purposes. Comments on the classification are restricted to whether the land is physically suited for the proposal, whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision to lease/convey under the R&PP Act, or any other factor not directly related to the suitability of the land for R&PP use.

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. Only written comments submitted by postal service or overnight mail to the Field Manager, BLM Carson City Field Office, will be considered properly filed. Electronic mail, facsimile, or telephone comments will not be considered properly filed.

Any adverse comments will be reviewed by the BLM Nevada State Director, who may sustain, vacate, or

modify this realty action. In the absence of any adverse comments, the classification of the land described in this notice will become effective on March 17, 2008. The land will not be available for lease/conveyance until after the classification becomes effective.

(Authority: 43 CFR 2741.5)

Dated: January 9, 2008.

Don Hicks,

Carson City Field Office Manager.

[FR Doc. E8–754 Filed 1–16–08; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[NV–030–1430–ES; N–57063; 8–08807; TAS:14X1109]

Notice of Realty Action: Recreation and Public Purposes Act Classification of Public Land in Washoe County, NV

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice of Realty Action.

SUMMARY: Recreation and Public Purposes (R&PP) Act request for lease and subsequent conveyance of approximately 265 acres of public land in Washoe County, Nevada. The City of Sparks proposes to use the land for a regional park.

DATES: Interested parties may submit written comments regarding the proposed lease/conveyance or classification of the land until March 3, 2008.

ADDRESSES: Mail written comments to the BLM Field Manager, Carson City Field Office, 5665 Morgan Mill Road, Carson City, NV 89701.

FOR FURTHER INFORMATION CONTACT: Jo Ann Hufnagle, (775) 885–6000.

SUPPLEMENTARY INFORMATION: In accordance with section 7 of the Taylor Grazing Act, (43 U.S.C. 315f), and Executive Order No. 6910, the following described public land in Washoe County, Nevada, has been examined and found suitable for classification for lease and subsequent conveyance under the provisions of the R&PP Act, as amended, (43 U.S.C. 869 *et seq.*):

Mount Diablo Meridian, Nevada

T. 20 N., R. 20 E.,
Sec. 28, lots 15–16, 21–24, 26, 29, 31–32 (southerly portion), 36–37, SW¼NE¼, and SE¼.

The area described contains 265 acres, more or less.

Note: This description and acreage may be modified prior to lease or conveyance upon final approval of an official plat of survey which will involve amended lotting of a portion of the public land. A map depicting the public land is available for review at the Carson City Field Office.

In accordance with the R&PP Act, the City of Sparks has filed an R&PP application to develop the above described land as a regional park. Additional detailed information pertaining to this application, including a plan of development, is available for review in the BLM Carson City Field Office.

The land is not needed for Federal purposes. The lease or conveyance is consistent with the Carson City Consolidated Resource Management Plan (2001) and would be in the public interest. The land was previously withdrawn from surface entry and mining, but not from sales, exchanges or recreation and public purposes, by Public Land Order No. 7491. Upon publication of this Notice of Realty Action and until completion of the sale, the BLM is no longer accepting land use applications affecting the identified public land, except applications for the amendment of previously filed right-of-way applications or existing authorizations for the amendment to increase the term of the grants in accordance with 43 CFR 2807.15 and 2886.15. The lease/conveyance, when issued, will be subject to the provisions of the R&PP Act and applicable regulations of the Secretary of the Interior, and will contain the following reservations to the United States:

1. A right-of-way thereon for ditches or canals constructed by the authority of the United States, Act, of August 30, 1890 (43 U.S.C. 945);

2. All minerals shall be reserved to the United States, together with the right to prospect for, mine and remove such deposits from the same under applicable law and such regulations as the Secretary of the Interior may prescribe; and will be subject to:

1. Valid existing rights;

2. Those rights for telephone/communication line purposes granted to Nevada Bell, and its successors or assigns, by Right-of-Way Nev–044106 under the Act of March 4, 1911 (36 Stat. 1253, 43 U.S.C. 961);

3. Those rights for highway purposes granted to Nevada Department of Transportation, and its successors or assigns, by Right-of-Way Nev–047623 under the Act of August 27, 1958 (72 Stat. 916, 23 U.S.C. 317(A));

4. Those rights for electric line purposes granted to Sierra Pacific Power Company, and its successors or assigns, by Rights-of-Way Nev–058664, Nev–061608, Nev–061913, and Nev–066906 under the Act of March 4, 1911 (36 Stat. 1253, 43 U.S.C. 961);

5. Those rights for gas pipeline purposes granted to Southwest Gas Corporation, and its successors or assigns, by Right-of-Way Nev–058689 under the Act of February 25, 1920 (41 Stat. 0437, 30 U.S.C. 185, sec. 28);

6. Those rights for electric line purposes granted to Sierra Pacific Power Company, and its successors or assigns, by Rights-of-Way CC–025152, N–30813, and N–57069 under the Act of October 21, 1976 (90 Stat. 2776, 43 U.S.C. 1761);

7. Those rights for gas pipeline purposes granted to Paiute Pipeline/Southwest Gas Corporation, and its successors or assigns, by Right-of-Way N–24960 under the Act of February 25, 1920 (41 Stat. 0437, 30 U.S.C. 185, sec. 28);

8. Those rights for gas pipeline purposes granted to Sierra Pacific Power Company, and its successors or assigns, by Rights-of-Way N–46826 and N–48540 under the Act of February 25, 1920 (41 Stat. 0437, 30 U.S.C. 185, sec. 28);

9. Those rights for road and utility purposes granted to Rocky Ridge Homeowners Association, and its successors or assigns, by Right-of-Way N–48126 under the Act of October 21, 1976 (90 Stat. 2776, 43 U.S.C. 1761);

10. Those rights for telephone/communication line purposes granted to Nevada Bell, and its successors or assigns, by Right-of-Way N–49737 under the Act of October 21, 1976 (90 Stat. 2776, 43 U.S.C. 1761);

11. Those rights for water facilities granted to Truckee Meadows Water Authority, and its successors or assigns, by Rights-of-Way N–49752 and N–61317 under the Act of October 21, 1976 (90 Stat. 2776, 43 U.S.C. 1761);

12. Those rights for cable television facilities granted to Falcon Cable Systems, and its successors or assigns, by Right-of-Way N–51490 under the Act of October 21, 1976 (90 Stat. 2776, 43 U.S.C. 1761);

13. Those rights for road and utility purposes granted to the City of Sparks, and its successors or assigns, by Right-of-Way N–77216 under the Act of October 21, 1976 (90 Stat. 2776, 43 U.S.C. 1761);

14. Those rights for access road purposes granted to George G. Boyce, and his successors or assigns, by Right-of-Way N–78415 under the Act of October 21, 1976 (90 Stat. 2776, 43 U.S.C. 1761).

Interested parties may submit comments involving the suitability of the land for regional park purposes. Comments on the classification are restricted to whether the land is physically suited for the proposal,

whether the use will maximize the future use or uses of the land, whether the use is consistent with local planning and zoning, or if the use is consistent with State and Federal programs.

Interested parties may submit comments regarding the specific use proposed in the application and plan of development, whether the BLM followed proper administrative procedures in reaching the decision to lease/convey under the R&PP Act, or any other factor not directly related to the suitability of the land for R&PP use.

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. Only written comments submitted by postal service or overnight mail to the Field Manager, BLM Carson City Field Office, will be considered properly filed. Electronic mail, facsimile, or telephone comments will not be considered properly filed.

Any adverse comments will be reviewed by the BLM Nevada State Director, who may sustain, vacate, or modify this realty action. In the absence of any adverse comments, the classification of the land described in this notice will become effective on March 17, 2008. The land will not be available for lease/conveyance until after the classification becomes effective.

(Authority: 43 CFR 2741.5)

Dated: January 9, 2008.

Don Hicks,

Carson City Field Office Manager.

[FR Doc. E8–756 Filed 1–16–08; 8:45 am]

BILLING CODE 4310–HC–P

DEPARTMENT OF THE INTERIOR

Bureau of Land Management

[OR–027–1020–PI–020H; HAG–08–0041]

Notice of Solicitation of Applications for the Steens Mountain Advisory Council

AGENCY: Bureau of Land Management, Interior.

ACTION: Notice: Solicitation of Applications.

SUMMARY: The Bureau of Land Management is requesting public applications to fill four expired terms on the Steens Mountain Advisory Council. Applications will be accepted for a person who is a local environmental representative, a person who is a grazing permittee in the Steens Mountain Cooperative Management and Protection Area, a person with expertise and interest in wild horse management, and a person who is a member of the dispersed recreation community on the Steens Mountain.

DATES: Send all applications to the address listed below no later than February 19, 2008.

ADDRESSES: Applicants can obtain application forms from Kevin Thissell, Temporary Steens Mountain Advisory Council Coordinator, Burns District Office, 28910 Hwy 20 West, Hines, Oregon 97738, (541) 573–4541, or *Kevin__Thissell@blm. gov.* Send all application materials to this address prior to the closing date listed above.

SUPPLEMENTARY INFORMATION: The Steens Mountain Advisory Council advises the Bureau of Land Management on the management of the Steens Mountain Cooperative Management and Protection Area as described in Public Law 106–399. Each member will be a person who, as a result of training and experience, has knowledge or special expertise that qualifies him or her to provide advice from the categories of interest identified above.

These positions will be for the full term of 3 years, expiring in October of 2011.

The Steens Mountain Advisory Council members serve without monetary compensation, but are reimbursed for travel and per diem expenses at current rates for government employees. The Steens Mountain Advisory Council meets only at the call of the Designated Federal Official, but not less than once per year.

The following must accompany all applications: A completed background information application form; letters of reference from the constituency to be represented; and any other information that details the applicant's qualifications.

The letter of application should specify the category the applicant would like to represent. Application forms and letters of reference will be reviewed by the County Court of Harney County and the Bureau of Land Management. The Bureau of Land Management will then forward recommended nominations to the Secretary of the Interior, who has responsibility for making the appointments.

Dated: January 11, 2008.

Dana R. Shuford,

District Manager.

[FR Doc. 08–174 Filed 1–16–08; 8:45 am]

BILLING CODE 4310–33–M

DEPARTMENT OF THE INTERIOR

Minerals Management Service

List of Programs Eligible for Inclusion in Fiscal Year 2008 Funding Agreements To Be Negotiated With Self-Governance Tribes

AGENCY: Minerals Management Service, Interior.

ACTION: Notice.

SUMMARY: This notice lists programs or portions of programs that are eligible for inclusion in Fiscal Year 2008 funding agreements with self-governance tribes and lists programmatic targets.

DATES: This notice expires on September 30, 2008.

ADDRESSES: Inquiries or comments regarding this notice may be directed to Shirley M. Conway, Regulations Manager, Minerals Revenue Management, Minerals Management Service, 1849 C Street, NW., MS 5557 MIB, Washington, DC 20240.

SUPPLEMENTARY INFORMATION:

I. Background

Title IV of the Indian Self-Determination Act Amendments of 1994 (Pub.L. 103–413, the ''Tribal Self-Governance Act'' or the ''Act'') instituted a permanent self-governance program at the Department of the Interior. Under the self-governance program certain programs, services, functions, and activities, or portions thereof, in the Department's bureaus other than the Bureau of Indian Affairs (BIA) are eligible to be planned, conducted, consolidated, and administered by a self-governance tribal government.

Under section 405(c) of the Act, the Secretary of the Interior is required to publish annually: (1) A list of non-BIA programs, services, functions, and activities, or portions thereof, that are eligible for inclusion in agreements negotiated under the self-governance program; and (2) programmatic targets for these bureaus.

Under the Act, two categories of non-BIA programs are eligible for self-governance funding agreements: (1) Under section 403(b)(2) of the Act, any non-BIA program, service, function or activity that is administered by the Department that is ''otherwise available to Indian tribes or Indians,'' can be

administered by a tribal government through a self-governance funding agreement. The Department interprets this provision to authorize the inclusion of programs eligible for self-determination contracts under Title I of the Indian Self-Determination and Education Assistance Act (Pub. L. 93–638, as amended). Section 403(b)(2) also specifies ''nothing in this subsection may be construed to provide any tribe with a preference with respect to the opportunity of the tribe to administer programs, services, functions and activities, or portions thereof, unless such preference is otherwise provided by law.'' (2) Under section 403(c) of the Act, the Secretary may include other programs, services, functions, and activities or portions thereof that are of ''special geographic, historical, or cultural significance'' to a self-governance tribe.

Under section 403(k) of the Act, funding agreements cannot include programs, services, functions, or activities that are inherently Federal or where the statute establishing the existing program does not authorize the type of participation sought by the tribe. However, a tribe (or tribes) need not be identified in the authorizing statutes in order for a program or element to be included in a self-governance funding agreement. While general legal and policy guidance regarding what constitutes an inherently Federal function exists, we will determine whether a specific function is inherently Federal on a case-by-case basis considering the totality of circumstances.

The Office of Self-Governance requested comments on the proposed list on June 14, 2006. A number of editorial and technical changes were provided by Interior's bureaus and incorporated into this Notice. While the Notice of June 14, 2006, illustrated all eligible non-BIA programs for the Department, this Notice is particular to Minerals Management Service (MMS).

II. Eligible Non-BIA Programs of the Minerals Management Service

Below is a listing of the types of non-BIA programs, or portions thereof, that may be eligible for self-governance funding agreements because they are either ''otherwise available to Indians'' under Title I and not precluded by any other law, or may have ''special geographic, historical, or cultural significance'' to a participating tribe. The list represents the most current information on programs potentially available to tribes under a self-governance funding agreement.

The MMS will also consider for inclusion in funding agreements other programs or activities not included below, but which, upon request of a self-governance tribe, MMS determines to be eligible under either sections 403(b)(2) or 403(c) of the Act. Tribes with an interest in such potential agreements are encouraged to begin such discussions.

The MMS provides stewardship of America's offshore resources and collects revenues generated from mineral leases on Federal and Indian lands. The MMS is responsible for the management of the Federal Outer Continental Shelf, which are submerged lands off the coasts that have significant energy and mineral resources. Within the Offshore Minerals Management program, environmental impact assessments and statements, and environmental studies may be available if a self-governance tribe demonstrates a special geographic, cultural or historical connection.

The MMS also offers mineral-owning tribes other opportunities to become involved in its Minerals Revenue Management (MRM) functions. These programs address the intent of tribal self-governance but are available regardless of self-governance intentions or status and are a good prerequisite for assuming other technical functions. Generally, MRM functions are available to tribes because of the Federal Oil and Gas Royalty Management Act of 1982 (FOGRMA) at 30 U.S.C. 1701. The MRM functions that may be available to self-governance tribes includes:

1. *Audit of Tribal Royalty Payments.* Audit activities for tribal leases, except for the issuance of orders, final valuation decisions, and other enforcement activities. (For tribes already participating in MMS cooperative audits, this program is offered as an option.)

2. *Verification of Tribal Royalty Payments.* Financial compliance verification and monitoring activities, and production verification.

3. *Tribal Royalty Reporting, Accounting, and Data Management.* Establishment and management of royalty reporting and accounting systems including document processing, production reporting, reference data (lease, payor, agreement) management, billing and general ledger.

4. *Tribal Royalty Valuation.* Preliminary analysis and recommendations for valuation and allowance determinations and approvals.

5. *Royalty Management of Allotted Leases.* Mineral revenue collections of allotted leases, provided that MMS consults with and obtains written approval from affected individual Indian mineral owners to delegate this responsibility to the tribe.

6. *On-line Monitoring of Royalties and Accounts.* On-line computer access to reports, payments, and royalty information contained in MMS accounts. The MMS will install equipment at tribal locations, train tribal staff, and assist tribes in researching and monitoring all payments, reports, accounts, and historical information regarding their leases.

7. *Royalty Internship Program.* An orientation and training program for auditors and accountants from mineral producing tribes to acquaint tribal staff with royalty laws, procedures, and techniques. This program is recommended for tribes that are considering a self-governance funding agreement, but have not yet acquired mineral revenue expertise via a FOGRMA section 202 cooperative agreement, as this is the term contained in FOGRMA and implementing regulations at 30 CFR 228.4.

For questions regarding self-governance contact Shirley M. Conway, Regulations Manager, Minerals Revenue Management, Minerals Management Service, MS 5557 MIB,1849 C Street, NW., Washington, DC 20240, telephone 202–208–3512, fax 202–501–0247.

III. Programmatic Targets

During Fiscal Year 2008, upon request of a self-governance tribe, MMS will negotiate funding agreements for its eligible programs beyond those already negotiated.

Dated: December 27, 2007.

Randall B. Luthi,

Director, Minerals Management Service.

[FR Doc. E8–766 Filed 1–16–08; 8:45 am]

BILLING CODE 4310–MR–P

JUDICIAL CONFERENCE OF THE UNITED STATES

Hearing of the Judicial Conference Advisory Committees on Rules of: Appellate, Bankruptcy, Civil, and Criminal Procedure

AGENCY: Judicial Conference of the United States, Advisory Committees on Rules of Appellate, Bankruptcy, Civil, and Criminal Procedure.

ACTION: Notice of cancellation of open hearings.

SUMMARY: The public hearings on proposed amendments to the Federal Rules of Appellate, Bankruptcy, Civil, and Criminal Rules, scheduled for January 16, 2008, in Pasadena,

California; Criminal Rules, scheduled for January 18, 2008, in Washington, DC; Bankruptcy Rules, scheduled for January 25, 2008, in Washington, DC; Civil Rules, scheduled for January 28, 2008, in Washington, DC; and Appellate Rules, scheduled for February 1, 2008, in New Orleans, Louisiana, have been canceled. [Original notice of hearings appeared in the **Federal Register** of November 1, 2007.]

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United State Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: January 10, 2008.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 08–143 Filed 1–16–08; 8:45 am]

BILLING CODE 2210–55–M

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Rules of Evidence

AGENCY: Judicial Conference of the United States Advisory Committee on Rules of Evidence.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Evidence will hold a two-day meeting. The meeting will be open to public observation but not participation.

DATES: May 1–2, 2008.

TIME: 8:30 a.m. to 5 p.m.

ADDRESSES: Millennium Bostonian Hotel, 26 North Street-Faneuil Hall Marketplace, Boston, MA 02109.

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: January 11, 2008.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 08–144 Filed 1–16–08; 8:45 am]

BILLING CODE 2210–55–M

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Rules of Appellate Procedure

AGENCY: Judicial Conference of the United States Advisory Committee on Rules of Appellate Procedure.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Appellate Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation.

DATES: April 10–11, 2008.

TIME: 8:30 a.m. to 5 p.m.

ADDRESSES: Monterey Plaza Hotel, 400 Cannery Row, Monterey, CA 93940.

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502-1820.

Dated: January 11, 2008.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 08–145 Filed 1–16–08; 8:45 am]

BILLING CODE 2210–55–M

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Rules of Civil Procedure

AGENCY: Judicial Conference of the United States Advisory Committee on Rules of Civil Procedure.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Civil Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation.

DATES: April 7–8, 2008.

TIME: 8:30 a.m. to 5 p.m.

ADDRESSES: The Ritz-Carlton Half Moon Bay, One Miramontes Point Road, Half Moon Bay, CA 94019.

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: January 11, 2008.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 08–146 Filed 1–16–08; 8:45 am]

BILLING CODE 2210–55–M

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Rules of Criminal Procedure

AGENCY: Judicial Conference of the United States Advisory Committee on Rules of Criminal Procedure.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Criminal Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation.

DATES: April 28–29, 2008.

TIME: 8:30 a.m. to 5 p.m.

ADDRESSES: Thurgood Marshall Federal Judiciary Building, One Columbus Circle, NE., Washington, DC 20054.

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: January 11, 2008.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 08–147 Filed 1–16–08; 8:45 am]

BILLING CODE 2210–55–M

JUDICIAL CONFERENCE OF THE UNITED STATES

Meeting of the Judicial Conference Advisory Committee on Rules of Bankruptcy Procedure

AGENCY: Judicial Conference of the United States Advisory Committee on Rules of Bankruptcy Procedure.

ACTION: Notice of open meeting.

SUMMARY: The Advisory Committee on Rules of Bankruptcy Procedure will hold a two-day meeting. The meeting will be open to public observation but not participation.

DATES: March 27–28, 2008.

TIME: 8:30 a.m. to 5 p.m.

ADDRESSES: The Inn at Perry Cabin, 308 Warkins Lane, St. Michaels, MD 21663.

FOR FURTHER INFORMATION CONTACT: John K. Rabiej, Chief, Rules Committee Support Office, Administrative Office of the United States Courts, Washington, DC 20544, telephone (202) 502–1820.

Dated: January 11, 2008.

John K. Rabiej,

Chief, Rules Committee Support Office.

[FR Doc. 08–148 Filed 1–16–08; 8:45 am]

BILLING CODE 2210–55–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree, Under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980

Notice is hereby given that on January 7, 2008, a proposed Settlement Agreement in In Re: Bush Industries, Inc., No. 09–12295 was lodged with the

United States Bankruptcy Court for the Western District of New York.

In this action the United States sought reimbursement of response costs incurred by EPA for response actions at the Little Valley Superfund Site (''Site'') in Cattaraugus County, New York, pursuant to sections 106 and 107 of the Comprehensive Environmental, Response, Compensation, and Liability Act, 42 U.S.C. 9606 and 9607 (''CERCLA''). The Settlement Agreement provides that the United States will have general unsecured claim in the amount of $1,533,000.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Settlement Agreement. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *In re: Bush Industries, Inc.,* D.J. Ref. 90–11–2–06763/2.

The Settlement Agreement may be examined at the Office of the United States Attorney, 138 Delaware Avenue, Buffalo, NY, and at U.S. EPA Region 2, 290 Broadway, New York, NY 10078. During the public comment period, the Settlement Agreement may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the Settlement Agreement may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax number (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $2.00 (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by e-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

Ronald G. Gluck,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 08–123 Filed 1–16–08; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Settlement Agreement

Notice is hereby given that a proposed Settlement Agreement in *American International Specialty Lines Insurance Company, Inc.* v. *NWI–I, Inc., et al.,* Civil Action No. 05–6386, was lodged on January 9, 2008 with the United States District Court for the Northern District of Illinois.

American International Specialty Lines Insurance Company, Inc. (AISLIC) filed this declaratory judgment action against NWI–I, Inc., LePetomane II, Inc. (as Trustee of the Fruit of the Loom Successor Liquidation Trust), and LePetomane III, Inc. (as Trustee of the Fruit of the Loom Custodial Trust), which are successor entities to bankrupt Fruit of the Loom, Inc. (FTL), seeking to avoid coverage under a Pollution Legal Liability insurance policy issued to FTL in 1998 (the Policy). Under a 2002 settlement agreement in the FTL bankruptcy, the Fruit of the Loom Successor Liquidation and Custodial Trusts were created and those entities agreed to pursue FTL environmental insurance claims under the Policy. Under the 2002 bankruptcy settlement, the Custodial Trust owns and, using funds recovered by the Successor Liquidation Trust, implements site investigation, clean-up, and restoration activities at seven former FTL properties which are the subject of the action: St. Louis Plant Site (St. Louis, Michigan), Breckenridge Site (St. Louis/Breckenridge, Michigan), Residue Hill Site (Chattanooga, Tennessee), Hardeman County Landfill Site (Toone, Tennessee), Hollywood Dump Site (Memphis, Tennessee), Marshall Plant Site (Marshall, Illinois), and Ventron/Velsicol/Berry's Creek Site (New Jersey). The United States and the States of Illinois, Michigan, New Jersey, and Tennessee are beneficiaries of the Trusts. The United States intervened in AISLIC's action to protect its interests.

Pursuant to the Settlement Agreement, in return for a buyback of the Policy, AISLIC will make an initial $30 million payment and ten annual payments of $1.250 million, with interest running from May 15, 2007, to the Successor Liquidation Trust. The nature of the response and/or restoration activities to be performed at each site is not an issue addressed in this settlement and will, instead, be determined in the usual course in a manner not inconsistent with the relevant statutes. In addition, the Successor Liquidation Trust will separately pay the three non-governmental intervenors, who allege that they are insured under the Policy, $287,000 to resolve their claims against AISLIC for coverage under the Policy.

The Department of Justice will receive, for a period of thirty (30) days from the date of this publication, comments relating to the proposed consent decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to *American International Specialty Lines Insurance Company, Inc.* v. *NWI–I, Inc., et al.,* DOJ Ref. #90–11–2–0709/1. Commenters may request an opportunity for a public meeting in the affected area, in accordance with section 7003(d) of RCRA, 42 U.S.C. 6973(d).

The proposed consent decree may be examined at the office of the United States Attorney, United States Attorney's Office, Northern District of Illinois, Eastern Division, 219 S. Dearborn St., 5th Floor, Chicago, IL 60604, and at the Region V Office of the Environmental Protection Agency, 77 W. Jackson Blvd., Chicago, IL 60604. During the public comment period, the proposed consent decree may also be examined on the Department of Justice Web site, at *http://www.usdoj.gov/enrd/Consent_Decrees.html.* A copy of the proposed consent decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood (*tonia.fleetwood@usdoj.gov*), fax number (202) 514–0097, phone confirmation number (202) 514–1547. In requesting a copy from the Consent Decree Library, please enclose a check in the amount of $33.00 (or $6.00, for a copy that omits the exhibits and signature pages) (25 cents per page reproduction cost) payable to the U.S. Treasury or, if by E-mail or fax, forward a check in that amount to the Consent Decree Library at the stated address.

W. Benjamin Fisherow,

Deputy Section Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 08–122 Filed 1–16–08; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Notice of Lodging of Consent Decree Under the Comprehensive Environmental Response, Compensation, and Liability Act

Notice is hereby given that on January 7, 2008, a proposed Consent Decree in *United States* v. *Summit Equipment & Supplies, Inc., and Benjamin J. Hirsch,* related Civil Action Nos. 5:90CV1704 and 5:05CV2031, was lodged with the United States District Court for the Northern District of Ohio, Eastern Division.

In Civil Action No. 5:90CV1704, the United States, on behalf of the United States Defense Logistics Agency, sought to recover response costs that it had incurred at or in connection with the Summit Equipment & Supplies, Inc. Superfund Site (the ''Site'') in Akron, Ohio pursuant to section 107(a) of the Comprehensive Environmental Response, Compensation, and Liability Act (''CERCLA''), 42 U.S.C. 9607(a), against Summit Equipment & Supplies, Inc., (''SES'') and Benjamin J. Hirsch, the former operators of the Site and current owner of the Site. In Civil Action No. 5:05CV2031, the United States, on behalf of the United States Environmental Protection Agency (''EPA''), sought to recover civil penalties under section 104(e) of CERCLA, 42 U.S.C. 9604(e), against SES and Mr. Hirsch for their failure to respond to requests for information issued by EPA in connection with the Site.

The Consent Decree would resolve the United States' cost recovery claims with regard to the Site against SES and Mr. Hirsch under section 107(a) of CERCLA, 42 U.S.C. 9607(a), through a sum-certain reimbursement of $236,624.27 into the United States Defense Environmental Restoration Account. In addition, Mr. Hirsch would reimburse the United States Defense Environmental Restoration Account forty percent (40%) of the assets of SES upon his death or upon any transfer of SES assets outside the normal course of business, whichever is earlier. The Consent Decree would resolve the United States' claims against SES and Mr. Hirsch under section 104(e), 42 U.S.C. 9604(e), through payment of a civil penalty of $15,000. The reimbursements and penalties to be paid to the United States under the settlement are based upon a documented limited ability to pay.

As a condition of settlement, Mr. Hirsch, as owner of the Site, would implement institutional controls at the Site through the recording of restrictive covenants, which are required under the Record of Decision to complete the remedy at the Site. Additionally, SES and Mr. Hirsch would relinquish all claims or causes of action with respect to the Site against the United States. In return, SES and Mr. Hirsch would receive contribution protection and a covenant not to sue from the United States under sections 106 and 107(a) of CERCLA, 42 U.S.C. 9606 and 9607(a), with regard to the Site, subject to certain reservations of rights.

The Department of Justice will receive for a period of thirty (30) days from the date of this publication comments relating to the Consent Decree. Comments should be addressed to the Assistant Attorney General, Environment and Natural Resources Division, and either e-mailed to *pubcomment-ees.enrd@usdoj.gov* or mailed to P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611, and should refer to: *United States* v. *Summit Equipment & Supplies, Inc., and Benjamin J. Hirsch,* Civil Action Nos. 5:90CV1704 and 5:05CV2031, D.J. Refs. 90–11–3–633 and 633/3.

The Consent Decree may be examined at the Office of the United States Attorney for Northern District of Ohio, Carl B. Stokes United States Court House, 801 West Superior Avenue, Suite 400, Cleveland, Ohio, and at U.S. EPA Region 5, 77 West Jackson Boulevard, 14th Floor, Chicago, Illinois. During the public comment period, the Consent Decree may also be examined on the following Department of Justice Web site, *http://www.usdoj.gov/enrd/Consent_Decrees.html.* Copies of the Consent Decree may also be obtained by mail from the Consent Decree Library, P.O. Box 7611, U.S. Department of Justice, Washington, DC 20044–7611 or by faxing or e-mailing a request to Tonia Fleetwood *(tonia.fleetwood@usdoj.gov),* fax number (202) 514–0097, phone confirmation number (202) 514–1547. In requesting copies from the Consent Decree Library, please enclose a check, payable to the U.S. Treasury, in the amount of $16.50 (25 cents per page reproduction cost), or, if by e-mail or fax, forward a check in the amount of $16.50 to the Consent Decree Library at the stated address.

William D. Brighton,

Assistant Chief, Environmental Enforcement Section, Environment and Natural Resources Division.

[FR Doc. 08–124 Filed 1–16–08; 8:45 am]

BILLING CODE 4410–15–M

DEPARTMENT OF JUSTICE

Drug Enforcement Administration

Importer of Controlled Substances; Notice of Registration

By Notice dated October 19, 2007 and published in the **Federal Register** on October 25, 2007, (72 FR 60693–60695), Research Triangle Institute, Kenneth H. Davis Jr., Hermann Building East Institute Drive, P.O. Box 12194, Research Triangle Park, North Carolina 27709, made application by renewal to the Drug Enforcement Administration (DEA) to be registered as an importer of the basic classes of controlled substances listed in schedules I and II:

Drug	Schedule
1–(1–Phenylcyclohexyl)pyrrolidine (7458)	I
1–[1–(2–Thienyl)cyclohexy]piperidine (7470)	I
1–[1–(2–Thienyl)cyclohexyl]pyrrolidine (7473)	I
1–Methyl-4-phenyl-4-propionoxypiperidine (9661)	I
1–(2–Phenylethyl)-4-phenyl-4-acetoxypiperidine (9663)	I
2,5–Dimethoxy-4-(n)-propylthiophenethylamine (7348)	I
2,5–Dimethoxy-4-ethylamphetamine (7399)	I
2,5–Dimethoxyamphetamine (7396)	I
3,4,5–Trimethoxyamphetamine (7390)	I
3,4–Methylenedioxyamphetamine (7400)	I
3,4–Methylenedioxymethamphetamine (7405)	I
3,4–Methylenedioxy-N-ethylamphetamine (7404)	I
3–Methylfentanyl (9813)	I
3–Methylthiofentanyl (9833)	I
4–Bromo-2,5-dimethoxyamphetamine (7391)	I
4–Bromo-2,5-dimethoxyphenethylamine (7392)	I
4–Methyl-2,5-dimethoxyamphetamine (7395)	I
4–Methylaminorex (cis isomer) (1590)	I
4–Methoxyamphetamine (7411)	I
5–Methoxy-3,4-methylenedioxyamphetamine (7401)	I
5–Methoxy-N,N-diisopropyltryptamine (7439)	I
Acetorphine (9319)	I
Acetyl-alpha-methylfentanyl (9815)	I
Acetyldihydrocodeine (9051)	I
Acetylmethadol (9601)	I
Allylprodine (9602)	I
Alphacetylmethadol except levo-alphacetylmethadol (9603)	I
Alpha-ethyltryptamine (7249)	I
Alphameprodine (9604)	I
Alphamethadol (9605)	I
Alpha-methylfentanyl (9814)	I

Drug	Schedule
Alpha-methylthiofentanyl (9832)	I
Alpha-methyltryptamine (7432)	I
Aminorex (1585)	I
Benzethidine (9606)	I
Benzylmorphine (9052)	I
Betacetylmethadol (9607)	I
Beta-hydroxy-3-methylfentanyl (9831)	I
Beta-hydroxyfentanyl (9830)	I
Betameprodine (9608)	I
Betamethadol (9609)	I
Betaprodine (9611)	I
Bufotenine (7433)	I
Cathinone (1235)	I
Clonitazene (9612)	I
Codeine methylbromide (9070)	I
Codeine-N–Oxide (9053)	I
Cyprenorphine (9054)	I
Desomorphine (9055)	I
Dextromoramide (9613)	I
Diampromide (9615)	I
Diethylthiambutene (9616)	I
Diethyltryptamine (7434)	I
Difenoxin (9168)	I
Dihydromorphine (9145)	I
Dimenoxadol (9617)	I
Dimepheptanol (9618)	I
Dimethylthiambutene (9619)	I
Dimethyltryptamine (7435)	I
Dioxaphetyl butyrate (9621)	I
Dipipanone (9622)	I
Drotebanol (9335)	I
Ethylmethylthiambutene (9623)	I
Etonitazene (9624)	I
Etorphine except HCl (9056)	I
Etoxeridine (9625)	I
Fenethylline (1503)	I
Furethidine (9626)	I
Gamma Hydroxybutyric Acid (2010)	I
Heroin (9200)	I
Hydromorphinol (9301)	I
Hydroxypethidine (9627)	I
Ibogaine (7260)	I
Ketobemidone (9628)	I
Levomoramide (9629)	I
Levophenacylmorphan (9631)	I
Lysergic acid diethylamide (7315)	I
Marihuana (7360)	I
Mecloqualone (2572)	I
Mescaline (7381)	I
Methaqualone (2565)	I
Methcathinone (1237)	I
Methyldesorphine (9302)	I
Methyldihydromorphine (9304)	I
Morpheridine (9632)	I
Morphine methylbromide (9305)	I
Morphine methylsulfonate (9306)	I
Morphine-N-Oxide (9307)	I
Myrophine (9308)	I
N,N–Dimethylamphetamine (1480)	I
N–[1–(2-thienyl)methyl-4-piperidyl]-N-phenylpropanamide (9834)	I
N–[1-benzyl-4-piperidyl]-N-phenylpropanamide (9818)	I
N–Benzylpiperazine (7493)	I
N–Ethyl-3-piperidyl benzilate (7482)	I
N–Ethylamphetamine (1475)	I
N–Ethyl-1-phencylcyclohexylamine (7455)	I
N–Hydroxy-3,4-methylenedioxyamphetamine (7402)	I
Nicocodeine (9309)	I
Nicomorphine (9312)	I
N–Methyl-3-piperidyl benzilate (7484)	I
Noracymethadol (9633)	I
Norlevorphanol (9634)	I
Normethadone (9635)	I
Normorphine (9313)	I
Norpipanone (9636)	I
Para-Fluorofentanyl (9812)	I
Parahexyl (7374)	I
Peyote (7415)	I
Phenadoxone (9637)	I
Phenampromide (9638)	I
Phenomorphan (9647)	I
Phenoperidine (9641)	I
Pholcodine (9314)	I
Piritramide (9642)	I
Proheptazine (9643)	I
Properidine (9644)	I
Propiram (9649)	I
Psilocybin (7437)	I
Psilocyn (7438)	I
Racemoramide (9645)	I
Tetrahydrocannabinols (7370)	I
Thebacon (9315)	I
Thiofentanyl (9835)	I
Thiophene analog of phencyclidine (7470)	I
Tilidine (9750)	I
Trimeperidine (9646)	I
1–Phenylcyclohexylamine (7460)	II
1–Piperidinocyclohexanecarbonitrile (8603)	II
Alfentanil (9737)	II
Alphaprodine (9010)	II
Amobarbital (2125)	II
Amphetamine (1100)	II
Anileridine (9020)	II
Bezitramide (9800)	II
Carfentanil (9743)	II
Codeine (9050)	II
Dextropropoxyphene, bulk (non-dosage forms) (9273)	II
Dihydrocodeine (9120)	II
Dihydroetorphine (9334)	II
Diphenoxylate (9170)	II
Ethylmorphine (9190)	II
Etorphine Hcl (9059)	II
Fentanyl (9801)	II
Glutethimide (2550)	II
Hydrocodone (9193)	II
Hydromorphone (9150)	II
Isomethadone (9226)	II
Levo-alphacetylmethadol (9648)	II
Levomethorphan (9210)	II
Levorphanol (9220)	II
Lisdexamfetamine (1205)	II
Meperidine (9230)	II
Meperidine intermediate—A (9232)	II
Meperidine intermediate—B (9233)	II
Meperidine intermediate—C (9234)	II
Metazocine (9240)	II
Methadone (9250)	II
Methadone intermediate (9254)	II
Methamphetamine (1105)	II
Methylphenidate (1724)	II
Metopon (9260)	II
Moramide intermediate (9802)	II
Morphine (9300)	II
Nabilone (7379)	II
Opium, raw (9600)	II
Opium extracts (9610)	II
Opium fluid extract (9620)	II
Opium tincture (9630)	II
Opium, granulated (9640)	II
Oxycodone (9143)	II
Oxymorphone (9652)	II
Pentobarbital (2270)	II
Phenazocine (9715)	II
Phencyclidine (7471)	II
Phenmetrazine (1631)	II
Phenylacetone (8501)	II
Piminodine (9730)	II
Powdered opium (9639)	II
Racemethorphan (9732)	II
Racemorphan (9733)	II
Remifentanil (9739)	II
Secobarbital (2315)	II
Sufentanil (9740)	II
Thebaine (9333)	II

The company plans to import small quantities of the listed controlled substances for the National Institute of Drug Abuse (NIDA) for research activities.

No comments or objections have been received. DEA has considered the factors in 21 U.S.C. 823(a) and 952(a) and determined that the registration of Research Triangle Institute to import the basic classes of controlled substances is consistent with the public interest and with United States obligations under international treaties, conventions, or protocols in effect on May 1, 1971, at this time. DEA has investigated Research Triangle Institute to ensure that the company's registration is consistent with the public interest. The investigation has included inspection and testing of the company's physical security systems, verification of the company's compliance with state and local laws, and a review of the company's background and history. Therefore, pursuant to 21 U.S.C. 952(a) and 958(a), and in accordance with 21 CFR 1301.34, the above named company is granted registration as an importer of the basic classes of controlled substances listed.

Dated: January 10, 2008.

Joseph T. Rannazzisi,

Deputy Assistant Administrator, Office of Diversion Control, Drug Enforcement Administration.

[FR Doc. E8–771 Filed 1–16–08; 8:45 am]

BILLING CODE 4410–09–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OMB Number 1121–0260]

Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 30-Day Notice of Information Collection Under Review: Extension of a currently approved collection: Police Public Contact Survey.

The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Statistics 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 208, pages 61184–61185 on October 29, 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 February 19, 2008. 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) 395–5806. Written comments and suggestions from the public and affected agencies concerning the proposed collection of information are encouraged. Your comments should address one or more of the following four points:

—Evaluate whether the proposed collection of information is necessary for the proper performance of the functions of the agency, including whether the information will have practical utility;

—Evaluate the accuracy of the agency's estimate of the burden of the proposed collection of information, including the validity of the methodology and assumptions used;

—Enhance the quality, utility, and clarity of the information to be collected; and

—Minimize the burden of the collection of information on those who are to respond, including through the use of appropriate automated, electronic, mechanical, or other technological collection techniques or other forms of information technology, e.g., permitting electronic submission of responses.

Overview of This Information Collection

(1) Type of Information Collection: Extension of a currently approved collection.

(2) Title of the Form/Collection: Police Public Contact Survey.

(3) Agency form number, if any, and the applicable component of the Department sponsoring the collection: Not applicable. Survey will be conducted in computer-assisted personal interviewing (CAPI) environment. Bureau of Justice Statistics, Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract: Primary: Eligible respondents to the survey must be age 16 or older. The Police Public Contact Survey fulfills the mandate set forth by the Violent Crime Control and Law Enforcement Act of 1994 to collect, evaluate, and publish data on the use of excessive force by law enforcement personnel. The survey will be conducted as a supplement to the National Crime Victimization Survey in all sample households for a six (6) month period. Other: None.

(5) An estimate of the total number of respondents and the amount of time estimated for an average respondent to respond/reply: A total of approximately 74,317 persons will be eligible for the PPCS questions during July through December 2008. Of the 74,317 persons, we expect approximately 80 percent or 59,231 persons will complete a PPCS interview. Of those persons interviewed for the PPCS, we estimate approximately 81.5 percent or 48,272 persons will complete only the first two (contact screener questions) survey questions. The estimated time to read the introductory statement and administer the first two contact screener questions to the respondents is approximately .025 hours (1.5 minutes) per person. Furthermore, we estimate that the remaining 18.5 percent of the interviewed persons or 10,958 persons will report contact with the police. The estimated time required to ask the detailed questions regarding the nature of the contact is estimated to take an average of .167 hours (10 minutes). Respondents will be asked to respond to this survey only once during the six month period.

(6) An estimate of the total public burden (in hours) associated with the collection: The total respondent burden is approximately 3,037 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: January 11, 2008.

Lynn Bryant,

Department Clearance Officer, PRA, Department of Justice.

[FR Doc. E8–750 Filed 1–16–08; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF JUSTICE

Office of Justice Programs

[OMB Number 1121–0197]

Bureau of Justice Assistance; Agency Information Collection Activities: Proposed Collection; Comments Requested

ACTION: 60-Day Notice of Information Collection Under Review—Extension of currently approved collection.

Bureau of Justice Assistance Application Form: *State Criminal Alien Assistance Program.*

The Department of Justice (DOJ), Office of Justice Programs, Bureau of Justice Assistance, has submitted the following information collection request for review and clearance in accordance with the Paperwork Reduction Act of 1995. This proposed information collection is published to obtain comments from the public and affected agencies. Comments are encouraged and will be accepted for ''sixty days'' until March 17, 2008. If you have additional comments, suggestions, or need a copy of the proposed information collection instrument with instructions or additional information, please contact M. Berry at 202–353–8643 or 1–866–859–2687, Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice, 810 7th Street, NW., Washington, DC 20531.

Written comments and suggestions from the public and affected agencies concerning the proposed collection of information 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 function 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:

(1) Type of information collection: Extension of currently approved collection.

(2) The title of the form/collection: *State Criminal Alien Assistance Program.*

(3) The agency form number, if any, and the applicable component of the Department sponsoring the collection: Bureau of Justice Assistance, Office of Justice Programs, United States Department of Justice.

(4) Affected public who will be asked or required to respond, as well as a brief abstract.

Primary: States and local units of general government including the 50 state governments, the District of Columbia, Guam, Puerto Rico, the U.S. Virgin Islands, and the more than 3,000 counties and cities with correctional facilities.

Other: None.

Abstract: In response to the Violent Crime Control and Law Enforcement Act of 1994 Section 130002(b), as amended in 1996, BJA administers the State Criminal Alien Assistance Program (SCAAP) with the Bureau of Immigration and Customs Enforcement (ICE), and the Department of Homeland Security (DHS). SCAAP provides federal payments to States and localities that incurred correctional officer salary costs for incarcerating undocumented criminal aliens with at least one felony or two misdemeanor convictions for violations of state or local law, and who are incarcerated for at least 4 consecutive days during the designated reporting period and for the following correctional purposes:

Salaries for corrections officers
Overtime costs
Performance based bonuses
Corrections work force recruitment and retention
Construction of corrections facilities
Training/education for offenders
Training for corrections officers related to offender population management
Consultants involved with offender population
Medical and mental health services
Vehicle rental/purchase for transport of offenders
Prison Industries
Pre-release/reentry programs
Technology involving offender management/inter-agency information sharing
Disaster preparedness continuity of operations for corrections 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 no more than 748 respondents will apply. Each application takes approximately 90 minutes to complete and is submitted once per year (annually).

(6) An estimate of the total public burden (in hours) associated with the collection: The total hour burden to complete the applications is 1122 hours.

748 × 90 minutes = 67,320/60minutes per hour = 1122 burden hours

If additional information is required, contact the Clearance Officer, U.S. Department of Justice, Policy and Planning Staff, Justice Management Division, 601 D Street, NW., Suite 1600, Washington, DC 20530.

Dated: January 11, 2008.

Lynn Bryant,

Department Clearance Officer, PRA, United States Department of Justice.

[FR Doc. E8–752 Filed 1–16–08; 8:45 am]

BILLING CODE 4410–18–P

DEPARTMENT OF LABOR

Employee Benefits Security Administration

[Exemption Application Nos. and Grant of Individual Exemptions involving; D–11318, Barclays Global Investors, N.A., (BGI) and its Investment Advisory Affiliates, including Barclays Global Fund Advisors (BGFA; together, the Applicants); and D–11417, Citigroup, Inc. (Citigroup)]

Prohibited Transaction Exemption 2008–01

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Grant of Individual Exemptions.

SUMMARY: This document contains exemptions issued by the Department of Labor (the Department) from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and/or the Internal Revenue Code of 1986 (the Code).

A notice was published in the **Federal Register** of the pendency before the Department of a proposal to grant such exemption. The notice set forth a summary of facts and representations contained in the application for exemption and referred interested persons to the application for a complete statement of the facts and representations. The application has been available for public inspection at the Department in Washington, DC. The notice also invited interested persons to submit comments on the requested exemption to the Department. In addition the notice stated that any interested person might submit a written request that a public hearing be held (where appropriate). The applicant has represented that it has complied with the requirements of the notification to interested persons. No requests for a hearing were received by the Department. Public comments were received by the Department as described in the granted exemption.

The notice of proposed exemption was issued and the exemption is being granted solely by the Department because, effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type proposed to the Secretary of Labor.

Statutory Findings

In accordance with section 408(a) of the Act and/or section 4975(c)(2) of the Code and the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990) and based upon the entire record, the Department makes the following findings:

(a) The exemption is administratively feasible;

(b) The exemption is in the interests of the plan and its participants and beneficiaries; and

(c) The exemption is protective of the rights of the participants and beneficiaries of the plan.

Barclays Global Investors, N.A., (BGI) and its Investment Advisory Affiliates, including Barclays Global Fund Advisors (BGFA; together, the Applicants)

Located in San Francisco, California

[Prohibited Transaction Exemption 2008–01; Exemption Application No. D–11318]

Exemption

Section I. Transactions Involving Open-End Management Investment Companies Other Than Exchange-Traded Funds

Effective as of September 10, 2007, the restrictions of sections 406(a) and (b)

of the Act, section 8477(c)(1) and (c)(2) of FERSA, and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (F) of the Code, shall not apply to the acquisition, sale or exchange by an Account of shares, including through in-kind redemptions of shares or acquisitions of shares in exchange for Account assets transferred in-kind from an Account, of an open-end investment company (''the Fund'') registered under the Investment Company Act of 1940 (the 1940 Act), other than an exchange-traded fund (an ''ETF''), the Investment Adviser for which is also a fiduciary with respect to the Account (or an affiliate of such fiduciary) (hereinafter, BGI and all its affiliates will be referred to as ''Investment Adviser''), and the receipt of fees for acting as an investment adviser for such Funds, as well as fees for providing other services to the Funds which are ''Secondary Services,'' as defined herein, in connection with the investment by the Accounts in shares of the Funds, provided that the conditions set forth in Section II are met.

Section II. Conditions

(a) The Account does not pay a sales commission or other similar fees to the Investment Adviser or its affiliates in connection with such acquisition, sale, or exchange.

(b) The Account does not pay a redemption or similar fee to the Investment Adviser in connection with the sale by the Account to the Fund of such shares, and the existence of any other redemption fee is disclosed in the Fund's prospectus in effect at all times.

(c) The Account does not pay an investment management, investment advisory or similar fee with respect to Account assets invested in Fund shares for the entire period of such investment. This condition does not preclude the payment of investment advisory fees by the Fund under the terms of its investment advisory agreement adopted in accordance with section 15 of the Investment Company Act of 1940 (the 1940 Act). This condition also does not preclude payment of an investment advisory fee by the Account under the following circumstances:

(1) For Accounts billed in arrears, an investment advisory fee may be paid based on total Account assets from which a credit has been subtracted representing the Account's pro rata share of investment advisory fees paid by the Fund;

(2) For Accounts billed in advance, the Investment Adviser must employ a reasonably designed method to ensure that the amount of the prepaid fee that constitutes the fee with respect to the Account assets invested in the Fund shares:

(A) Is anticipated and subtracted from the prepaid fee at the time of payment of such fee,

(B) Is returned to the Account no later than during the immediately following fee period or

(C) Is offset against the prepaid fee for the immediately following fee period or for the fee period immediately following thereafter. For purposes of this paragraph, a fee shall be deemed to be prepaid for any fee period if the amount of such fee is calculated as of a date not later than the first day of such period; or

(3) An investment advisory fee may be paid based on total plan assets if the Account will receive a cash rebate of such Account's proportionate share of all fees charged to the Fund by the Investment Adviser for investment management, investment advisory or similar services no later than one business day after the receipt of such fees by the Investment Adviser.

(d) The rebating, crediting, or offsetting of any fees in paragraph (c) is audited at least annually by the Investment Adviser through a system of internal controls to verify the accuracy of the fee mechanism adopted by the Investment Adviser under paragraph (c).

(e) The combined total of all fees received by the Investment Adviser for the provision of services to an Account, and for the provision of any services to a Fund in which an Account may invest, is not in excess of ''reasonable compensation'' within the meaning of section 408(b)(2) of the Act;

(f) The Investment Adviser and its affiliates do not receive any fees payable pursuant to Rule 12b–1 under the 1940 Act in connection with the transactions covered by this exemption;

(g) In advance of any initial investment in a Fund by a Separately Managed Account or by a new Plan investor in a Pooled Fund, a Second Fiduciary with respect to that Plan, who is independent of and unrelated to the Investment Adviser or any affiliate thereof, receives in written or in electronic form, full and detailed written disclosure of information concerning such Fund(s). The disclosure described in this paragraph (g) includes, but is not limited to:

(1) A current prospectus issued by each of the Fund(s);

(2) A statement describing the fees for investment advisory or similar services, any Secondary Services, and all other fees to be charged to or paid by the Account and by the Fund(s), including the nature and extent of any differential between the rates of such fees;

(3) The reasons why the Investment Adviser may consider such investment to be appropriate for the Account;

(4) A statement describing whether there are any limitations applicable to the Investment Adviser with respect to which Account assets may be invested in shares of the Fund(s) and, if so, the nature of such limitations, and

(5) A copy of the proposed exemption and this final exemption, and any other reasonably available information regarding the transaction described herein that the Second Fiduciary requests.

(h) After receipt and consideration of the information referenced in paragraph (g), the Second Fiduciary of the Separately Managed Account or the new Plan investing in a Pooled Fund approves in writing the investment of Plan assets in each particular Fund and the fees to be paid by a Fund to the Investment Adviser.

(i)(1) In the case of existing Plan investors in a Pooled Fund, such Pooled Fund may not engage in any covered transactions pursuant to this exemption, unless the Second Fiduciary receives in written or in electronic form, the information described in paragraph (2) of this paragraph (i) not less than 30 days prior to the Investment Adviser's engaging in the covered transactions on behalf of the Pooled Fund pursuant to this exemption.

(2) The information required by paragraph (1) of this section includes:

(A) A notice of the Pooled Fund's intent to engage in the covered transactions described herein, a copy of the notice of proposed exemption, and a copy of this final exemption;

(B) Any other reasonably available information regarding the covered transactions that a Second Fiduciary requests; and

(C) A Termination Form, within the meaning of paragraph (j).

Approval to engage in any covered transactions pursuant to this exemption may be presumed notwithstanding that the Investment Adviser does not receive any response from a Second Fiduciary.

(j) All authorizations made by a Second Fiduciary regarding investments in a Fund and the fees paid to the Investment Adviser will be subject to an annual reauthorization wherein any such prior authorization shall be terminable at will by an Account, without penalty to the Account, upon receipt by the Investment Adviser of written notice of termination. A form expressly providing an election to terminate the authorization (''Termination Form'') with instructions

on the use of the form will be supplied to the Second Fiduciary no less than annually, in written or in electronic form. The instructions for the Termination Form will include the following information:

(1) The authorization is terminable at will by the Account, without penalty to the Account, upon receipt by the Investment Adviser of written notice from the Second Fiduciary. Such termination will be effected by the Investment Adviser by selling the shares of the Fund held by the affected Account within one business day following receipt by the Investment Adviser of the Termination Form or any other written notice of termination; provided that if, due to circumstances beyond the control of the Investment Adviser, the sale cannot be executed within one business day, the Investment Adviser shall have one additional business day to complete such sale; and provided further that, where a Plan's interest in a Pooled Fund cannot be sold within this timeframe, the Plan's interest will be sold as soon as administratively practicable;

(2) Failure of the Second Fiduciary to return the Termination Form will result in continued authorization of the Investment Adviser to engage in the covered transactions on behalf of an Account; and

(3) The identity of BGI, the asset management affiliate of BGI, and the affiliated investment advisers, and the address of the asset management affiliate of BGI. The instructions will state that this exemption is not available, unless the fiduciary of each Plan participating in the covered transactions as an investor in a Pooled Fund is, in fact, independent of the Investment Adviser. The instructions will also state that the fiduciary of each such Plan must advise the asset management affiliate of BGI, in writing, if it is not a ''Second Fiduciary,'' as that term is defined, below, in Section V(l).

However, if the Termination Form has been provided to the Second Fiduciary pursuant to this paragraph or paragraphs (i), (k), or (l), the Termination Form need not be provided again for an annual reauthorization pursuant to this paragraph unless at least six months has elapsed since the form was previously provided.

(k) In situations where the Fund-level fee is neither rebated nor credited against the Account-level fee, the Second Fiduciary of each Account invested in a particular Fund will receive full disclosure, in written or in electronic form, in a statement, which is separate from the Fund prospectus, of any proposed increases in the rates of fees for investment advisory or similar services, and any Secondary Services, at least 30 days prior to the implementation of such increase in fees, accompanied by a Termination Form. In situations where the Fund-level fee is rebated or credited against the Account-level fee, the Second Fiduciary will receive full disclosure, in a Fund prospectus or otherwise, in the same time and manner set forth above, of any increases in the rates of fees to be charged by the Investment Adviser to the Fund for investment advisory services. Failure to return the Termination Form will be deemed an approval of the increase and will result in the continued authorization of the Investment Adviser to engage in the covered transactions on behalf of an Account.

(l) In the event that the Investment Adviser provides an additional Secondary Service to a Fund for which a fee is charged or there is an increase in the rate of any fees paid by the Funds to the Investment Adviser for any Secondary Services resulting from either an increase in the rate of such fee or from a decrease in the number or kind of services provided by the Investment Adviser for such fees over an existing rate for such Secondary Service in connection with a previously authorized Secondary Service, the Second Fiduciary will receive notice, at least 30 days in advance of the implementation of such additional service or fee increase, in written or in electronic form, explaining the nature and the amount of such services or of the effective increase in fees of the affected Fund. Such notice shall be accompanied by a Termination Form. Failure to return the Termination Form will be deemed an approval of the Secondary Service and will result in continued authorization of the Investment Adviser to engage in the covered transactions on behalf of the Account.

(m) On an annual basis, the Second Fiduciary of an Account investing in a Fund, will receive, in written or in electronic form:

(1) A copy of the current prospectus for the Fund and, upon such fiduciary's request, a copy of the Statement of Additional Information for such Fund, which contains a description of all fees paid by the Fund to the Investment Adviser;

(2) A copy of the annual financial disclosure report of the Fund in which such Account is invested, which includes information about the Fund portfolios as well as audit findings of an independent auditor of the Fund, within 60 days of the preparation of the report; and

(3) With respect to each of the Funds in which an Account invests, in the event such Fund places brokerage transactions with the Investment Adviser, the Investment Adviser will provide the Second Fiduciary of such Account, in the same manner described above, at least annually with a statement specifying the following (and responses to oral or written inquiries of the Second Fiduciary as they arise):

(A) The total, expressed in dollars, brokerage commissions of each Fund's investment portfolio that are paid to the Investment Adviser by such Fund;

(B) The total, expressed in dollars, of brokerage commissions of each Fund's investment portfolio that are paid by such Fund to brokerage firms unrelated to the Investment Adviser;

(C) The average brokerage commissions per share, expressed as cents per share, paid to the Investment Adviser by each portfolio of a Fund; and

(D) The average brokerage commissions per share, expressed as cents per share, paid by each portfolio of a Fund to brokerage firms unrelated to the Investment Adviser.

(n) In all instances in which the Investment Adviser provides electronic distribution of information to Second Fiduciaries who have provided electronic mail addresses, such electronic disclosure will be provided in a manner similar to the procedures described in 29 CFR section 2520.104b–1(c).

(o) Any Separately Managed Account does not hold assets of a Plan sponsored by the Investment Adviser or an affiliate. If a Pooled Fund holds assets of a Plan or Plans sponsored by the Investment Adviser or an affiliate, the total assets of all such Plans shall not exceed 15% of the total assets of such Pooled Fund.

(p) In-kind transactions with an Account shall only involve publicly-traded securities for which market quotations are readily available, as determined pursuant to procedures established by the Funds under Rule 2a–4 of the 1940 Act, and cash in the event that the aforementioned securities are odd lot securities, fractional shares, or accruals on such securities. Such securities will not include:

(1) Securities that, if publicly offered or sold, would require registration under the Securities Act of 1933;

(2) Securities issued by entities in countries that (i) restrict or prohibit the holding of securities by non-nationals other than through qualified investment vehicles, such as the Funds, or (ii) permit transfers of ownership of securities to be effected only by

transactions conducted on a local stock exchange;

(3) Certain portfolio positions (such as forward foreign currency contracts, futures and options contracts, swap transactions, certificates of deposit and repurchase agreements), that, although liquid and marketable, involve the assumption of contractual obligations, require special trading facilities, or can be traded only with the counter-party to the transaction to effect a change in beneficial ownership;

(4) Cash equivalents (such as certificates of deposit, commercial paper, and repurchase agreements);

(5) Other assets that are not readily distributable (including receivables and prepaid expenses), net of all liabilities (including accounts payable); and

(6) Securities subject to ''stop transfer'' instructions or similar contractual restrictions on transfer.

(q) Subject to the exceptions described in section (p) above, in the case of an in-kind exchange of assets [in-kind redemptions and in-kind transfers of Plan assets] between an Account and a Fund (other than an ETF), the Account will receive its pro rata portion of the securities of the Fund equal in value to that of the number of shares redeemed, or the Fund shares having a total net asset value (NAV) equal to the value of the assets transferred on the date of the transfer, as determined in a single valuation, using sources independent of the Investment Adviser, performed in the same manner as it would for any other person or entity at the close of the same business day in accordance with the procedures established by the Fund pursuant to Rule 2a–4 under the 1940 Act, and the then-existing valuation procedures established by its Board of Directors or Trustees, as applicable for the valuation of such assets, that are in compliance with the rules administered by the Securities and Exchange Commission (the SEC). In the case of a redemption, the value of the securities and any cash received by the Account for each redeemed Fund share equals the NAV of such share at the time of the transaction. In the case of any other in-kind exchange, the value of the Fund shares received by the Account equals the NAV of the transferred securities and any cash on the date of the transfer.

(r) The Investment Adviser shall provide the Second Fiduciary with a written confirmation containing information necessary to perform a post-transaction review of any in-kind transaction so that the material aspects of such transaction, including pricing, can be reviewed. Such information must be furnished no later than thirty (30) business days after the completion of the in-kind transaction. In the case of a Pooled Fund, the Investment Adviser can satisfy the requirement with a single aggregate report furnished to the Second Fiduciary containing the required information for each in-kind transaction taking place during a month. This aggregate report must be furnished to the Second Fiduciary no later than thirty (30) business days after the end of that month. The information to be provided pursuant to this Section II(r) shall include:

(1) With respect to securities either transferred by, or received, by an Account in-kind in exchange for Fund shares,

(i) the identity of each security either received by the Account pursuant to the redemption, or transferred to the Fund by the Account, (and the related aggregate dollar value of all securities) determined in accordance with Rule 2a–4 under the 1940 Act and the then-existing procedures established by the Board of Trustees of the Fund (using sources independent of the Investment Adviser); and

(ii) the current market price of each security transferred or received in-kind by the Account as of the date of the in-kind transfer.

(2) With respect to Fund shares either transferred by, or received by, an Account in-kind in exchange for securities,

(i) the number of Fund shares held by the Account immediately before the redemption (and the related per share net asset value and the total dollar value of Fund shares, determined in accordance with Rule 2a–4 under the 1940 Act, using sources independent of the Investment Adviser); or

(ii) the number of Fund shares held by the Account immediately after the in-kind transfer (and the related per share net asset value of the Fund shares received and the total dollar value of Fund shares, determined in accordance with Rule 2a–4 under the 1940 Act using sources independent of the Investment Adviser).

(3) The identity of each pricing service or market-maker consulted in determining the value of the securities.

(s) Prior to the consummation of an in-kind transaction, the Investment Adviser must document in writing and determine that such transaction is fair to the Account and comparable to, and no less favorable than, terms obtainable at arm's-length between unaffiliated parties, and that the in-kind transaction is in the best interests of the Account and the participants and beneficiaries of the participating Plans.

(t) All of the Accounts' other dealings with the Funds, the Investment Adviser, or any affiliated person thereof, are on terms that are no less favorable to the Account than such dealings are with other shareholders of the Funds.

(u) BGI and its affiliates, as applicable, maintain, or cause to be maintained, for a period of six (6) years from the date of any covered transaction such records as are necessary to enable the persons, described, below, in Section II(v), to determine whether the conditions of this exemption have been met, except that—

(1) No party in interest with respect to a Plan which engages in the covered transactions, other than BGI, and its affiliates, as applicable, shall be subject to a civil penalty under section 502(i) of the Act or the taxes imposed by section 4975(a) and (b) of the Code, if such records are not maintained, or not available for examination, as required, below, by Section II(v); and

(2) A separate prohibited transaction shall not be considered to have occurred solely because due to circumstances beyond the control of BGI or its affiliate, as applicable, such records are lost or destroyed prior to the end of the six-year period.

(v)(1) Except as provided, below, in Section II(v)(2), and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to, above, in Section II(t) are unconditionally available at their customary location for examination during normal business hours by—

(i) Any duly authorized employee or representative of the Department, the Internal Revenue Service, or the SEC; or

(ii) Any fiduciary of any Plan that engages in the covered transactions, or any duly authorized employee or representative of such fiduciary; or

(iii) Any employer of participants and beneficiaries and any employee organization whose members are covered by a Plan that engages in the covered transactions, or any authorized employee or representative of these entities; or

(iv) Any participant or beneficiary of a Plan that engages in the covered transactions, or duly authorized employee or representative of such participant or beneficiary;

(2) None of the persons described, above, in Section II(v)(1)(ii)—(iv) shall be authorized to examine trade secrets of the Investment Adviser, or commercial or financial information which is privileged or confidential; and

(3) Should the Investment Adviser refuse to disclose information on the basis that such information is exempt from disclosure, the Investment Adviser

shall, by the close of the thirtieth (30th) day following the request, provide a written notice advising that person of the reasons for the refusal and that the Department may request such information.

Section III. Transactions Involving Exchange-Traded Funds

Effective as of September 10, 2007, the restrictions of sections 406(a) and (b) of the Act, section 8477(c)(1) and (c)(2) of FERSA, and the taxes imposed by section 4975(a) and (b) of the Code, by reason of section 4975(c)(1)(A) through (F) of the Code, shall not apply to the following transactions involving an Account and an ETF, the Investment Adviser for which is also a fiduciary with respect to the Account (or an affiliate of such fiduciary) (i.e., ''Investment Adviser''), and the receipt of fees for acting as an investment adviser for such ETF, as well as fees for providing other services to the ETF which are ''Secondary Services,'' as defined herein, in connection with the investment by the Account in shares of the ETF, provided that the conditions set forth in Section IV are met:

(a) The acquisition, sale or exchange by an Account of ETF shares, including through in-kind exchanges, in a principal transaction with a broker-dealer not an affiliate of the Investment Adviser, registered under the Securities Exchange Act of 1934, including an Authorized Participant.

(b) The acquisition or sale by an Account of ETF shares on a national securities exchange when a broker-dealer not an affiliate of the Investment Adviser, registered under the Securities Exchange Act of 1934, including an Authorized Participant, acts as agent for the Account.

(c) The acquisition, sale or exchange by an Account of ETF shares, including through in-kind exchanges, through an Authorized Participant, acting as an agent dealing directly with the ETF, and the Account is exchanging securities and/or cash for the ETF shares during a Creation process, or exchanging ETF shares for securities and/or cash during a Redemption process.

Section IV. Conditions

(a)(1) In the case of a principal transaction described in Section III(a), the specific terms of the transaction are fixed at the time the Account agrees to exchange the in-kind assets with the broker-dealer.

(2) In the case of a transaction described in Section III(c), the value of the securities transferred to the ETF, in exchange for ETF shares issued at the closing ETF NAV at the end of the business day, and the value of the securities received from the ETF, in exchange for ETF shares redeemed at the closing ETF NAV at the end of the business day is: (A) Determined pursuant to a single valuation using sources independent of the Investment Adviser; and (B) Performed in the same manner as it would for any other person or entity at the end of the same business day. Such valuation is made in accordance with procedures established by the ETF pursuant to Rule 2a–4 under the 1940 Act, and the then existing valuation procedures established by its Board of Directors or Trustees, as applicable, that are in compliance with the rules administered by the SEC.

In the case of a redemption, the value of the securities and any cash received by the Account for each redeemed ETF share equals the NAV of such share at the time of the transaction. In the case of any other in-kind exchange, the value of the ETF shares received by the Account equals the NAV of the transferred securities and any cash on the date of the transfer.

(b) All ETFs are either Index Funds or Model-Driven Funds.

(c) The Authorized Participant is not an affiliate of the Investment Adviser.

(d) Conditions (a) through (p), and (r) through (v) of Section II have been met. For purposes of this Section IV(d), the term ''Fund'' in Section II includes an ETF.

Section V. Definitions

(a) The term ''Account'' means either a Separately Managed Account or a Pooled Fund in which investments are made by plans described in section 3(3) of the Act and/or section 4975(e)(1) of the Code and a plan covered by The Federal Employees' Retirement System Act of 1986 (FERSA).

(b) An ''affiliate'' of a person includes any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with the person; any officer of, director of, highly compensated employee (within the meaning of Code section 4975(e)(2)(H)) of, or partner in any such person; and any corporation or partnership of which such person is an officer, director, partner or owner, or highly compensated employee (within the meaning of Code section 4975(e)(2)(H)).

(c) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(d) The term ''Authorized Participant'' means a broker-dealer registered under the Securities Exchange Act of 1934 which may acquire or redeem ETF Shares directly from ETFs. Such Authorized Participant is not an affiliate of the Investment Adviser.

(e) The term ''Fund'' means any open end investment company registered under the Investment Company Act of 1940, including exchange-traded funds.

(f) The term ''Index'' means a securities index that represents the investment performance of a specific segment of the public market for equity or debt securities in the United States and/or foreign countries, but only if—

(1) The organization creating and maintaining the index is—

(A) Engaged in the business of providing financial information, evaluation, advice or securities brokerage services to institutional clients;

(B) A publisher of financial news or information;

(C) A public securities exchange or association of securities dealers; and,

(2) The index is created and maintained by an organization independent of the Applicants and their affiliates; and,

(3) The index is a generally accepted standardized index of securities which is not specifically tailored for the use of the Applicants.

(g) The term ''Index Fund'' means any investment fund, sponsored, maintained, trusteed or managed by the Applicants, in which one or more investors invest, and—

(1) Which is designed to track the rate of return, risk profile, and other characteristics of an independently maintained securities index by either (i) replicating the same combination of securities that compose such index, or (ii) sampling the securities that compose such index based on objective criteria and data;

(2) For which the Applicants do not use their discretion, or data within their control, to affect the identity or amount of securities to be purchased or sold; and

(3) That involves no agreement, arrangement or understanding regarding the design or operation of the Fund which is intended to benefit the Applicants, their affiliates, or any party in which the Applicants or their affiliates have an interest.

(h) The term ''Investment Adviser'' means Barclays Global Investors, N.A. or any of its current or future affiliates.

(i) The term ''Model-Driven Fund'' means any investment fund, sponsored, maintained, trusteed or managed by the Applicants, in which one or more investors invest, and—

(1) Which is composed of securities the identity of which and the amount of

which are selected by a computer model that is based on prescribed objective criteria using independent third party data not within the control of the Applicants, to transform an index (as defined in (f), above); and

(2) That involves no agreement, arrangement or understanding regarding the design or operation of the fund or the utilization of any specific objective criteria which is intended to benefit the Applicants, their affiliates, or any party in which the Applicants or their affiliates may have an interest.

(j) The term ''Plan'' means a plan described in section 3(3) of the Act, a plan described in section 4975(e)(1) of the Code, and a plan covered by FERSA.

(k) The term ''Pooled Fund'' means any commingled fund sponsored, maintained, advised or trusteed by the Investment Adviser, which fund holds Plan assets.

(l) The term ''Second Fiduciary'' means a fiduciary of a Plan who is independent of and unrelated to the Investment Adviser. For purposes of this exemption, the Second Fiduciary will not be deemed to be independent of and unrelated to the Investment Adviser if:

(1) Such fiduciary directly or indirectly controls, is controlled by, or is under common control with the Investment Adviser;

(2) Such fiduciary, or any officer, director, partner, or employee of the fiduciary is an officer, director, partner, employee or affiliate of the Investment Adviser; or

(3) Such fiduciary directly or indirect receives any compensation or other consideration for his or her own personal account in connection with any transaction described in this exemption. If an officer, director, partner, affiliate or employee of the Investment Adviser is a director of such Second Fiduciary, and if he or she abstains from participation in (A) the choice of the Plan's investment adviser, (B) the approval for the acquisition, sale, holding, and/or exchange of Fund shares by such Plan, and (C) the approval of any change in fees charged to or paid by the Plan in connection with any of the transactions described herein, then subparagraph (2) above shall not apply.

(m) The term ''Secondary Service'' means a service other than an investment management, investment advisory or similar service which is provided by the Investment Adviser to the Funds, including but not limited to custodial, accounting, brokerage, administrative or any other similar service.

(n) The term ''Separately Managed Account'' means any Account other than a Pooled Fund, and includes single-employer Plans.

(o) The term ''Creation'' or ''Redemption'' refers to a transaction where the ETF is the buyer or seller of large-blocks of ETF shares.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption, refer to the notice of proposed exemption (the Notice) published on September 10, 2007 at 72 FR 51668.

Effective Date: This exemption is effective as of September 10, 2007.

Written Comments: The Department received one comment with respect to the Notice, which was filed by the Applicants. The Applicants addressed three points in the Notice in their comment letter. The Applicants' commentary, a discussion of the Department's views in response thereto and the modifications to the proposed exemption are discussed below.

The Applicants noted that Section II(r) of the Notice requires the delivery of certain information to all investors in a Pooled Fund. The provision is also required for transactions described in Section III of the Notice relating to ETF shares. Section II(r) of the Notice requires that such information be furnished to the Second Fiduciary no later than thirty (30) business days after the completion of the in-kind transaction. While the Applicants do not object to the requirement for Separately Managed Accounts, they stated in their comment letter that they considered the requirement to be unduly burdensome for investors in Pooled Funds.

The Department has considered this comment and has amended Section II(r) to clarify that the Applicants, with respect to Pooled Funds, can satisfy the requirement with a single aggregate report furnished to the Second Fiduciary containing the required information for each in-kind transaction taking place during a month. This aggregate report must be furnished to the Second Fiduciary no later than thirty (30) business days after the end of that month.

The Applicants also noted that several conditions of the Notice, including Sections II(g), II(i), II(j), II(l), II(m) and II(n) provide for written or electronic disclosure. The Applicants sought clarification from the Department that the electronic disclosure may encompass a combination of written or e-mail communication coupled with Web site links, with paper copies to be supplied upon request. The Applicants stated that the required communications would consist of large documents, and that e-mails with large attachments are often stopped at firewalls and cannot be readily accessed in a cost efficient manner. In addition, the Applicants stated that paper copies of all these reports are expensive, cumbersome and unwelcome from a client's perspective because it is more difficult to share the information with others in the organization.

The Department understands the concerns about electronically transmitting a voluminous document as an attachment to an e-mail. Accordingly, in such circumstances, the electronic communication of the information required by the Notice may otherwise be provided by means of an e-mail with an embedded link to the required disclosure, provided: (1) The e-mail clearly describes both the information required to be disclosed and its significance; (2) The activation of the embedded link in the e-mail takes the reader directly to the relevant document that is stored on the applicable Web site without any further required action by the reader; and (3) The document remains on the Web site for a reasonable period of time after appropriate and necessary measures are taken to ensure the Second Fiduciary's actual receipt of the e-mail. It is the Department's view that no changes to the operative language of the Notice, with respect to this issue, are necessary in view of the guidance provided herein.

The Applicants' final comment with respect to the Notice related to Section II(o), which provided, in part, that if a Pooled Fund holds assets of a Plan or Plans sponsored by the Investment Adviser or an affiliate, the total assets of all such Plans shall not exceed 10% of the total assets of such Pooled Fund. The Applicants commented that they believed that this condition was unduly restrictive. The Department has considered the comment and determined that the appropriate limitation is 15% of the total assets of such Pooled Fund.

FOR FURTHER INFORMATION CONTACT: Mr. Gary H. Lefkowitz of the Department, telephone (202) 693–8546. (This is not a toll-free number.)

Citigroup, Inc. (Citigroup)

Located in New York, New York

[Prohibited Transaction Exemption No. 2008–02; Exemption Application No. D–11417]

Exemption

Section I. Covered Transactions

The restrictions of sections 406(a)(1)(D) and 406(b) of ERISA and the sanctions resulting from the application of section 4975 of the Code, including the loss of exemption of an IRA pursuant to section 408(e)(2)(A) of the Code, by reason of section 4975(c)(1)(D), (E) and (F) of the Code, shall not apply to the receipt of services at reduced or no cost by an individual for whose benefit an IRA or, if self-employed, a Keogh Plan, is established or maintained, or by members of his or her family, from Citigroup pursuant to an arrangement in which the account value of, or the fees incurred for services provided to, the IRA or Keogh Plan is taken into account for purposes of determining eligibility to receive such services, provided that each condition of Section II of this exemption is satisfied.

Section II. Conditions

(a) The IRA or Keogh Plan whose account value, or whose fees paid, are taken into account for purposes of determining eligibility to receive services under the arrangement must be established and maintained for the exclusive benefit of the participant covered under the IRA or Keogh Plan, his or her spouse or their beneficiaries.

(b) The services offered under the arrangement must be of a type that a qualified affiliate could offer consistent with all applicable federal and state banking laws and all applicable federal and state laws regulating broker-dealers.

(c) The services offered under the arrangement must be provided by a qualified affiliate in the ordinary course of its business as a bank or a broker-dealer to customers who qualify for reduced or no cost services, but do not maintain IRAs or Keogh Plans with a qualified affiliate.

(d) For the purpose of determining eligibility to receive services, the arrangement satisfies:

(i) Eligibility requirements based on the account value of the IRA or Keogh Plan are as favorable as any such requirement based on the value of any other type of account which the qualified affiliate includes to determine eligibility; and/or

(ii) Eligibility requirements based on the amount of fees incurred by the IRA or Keogh Plan, are as favorable as any requirements based on the amount of fees incurred by any other type of account which the qualified affiliate includes to determine eligibility.

(e) The combined total of all fees for the provision of services to the IRA or Keogh Plan is not in excess of reasonable compensation within the meaning of section 408(b)(2) of ERISA and section 4975(d)(2) of the Code.

(f) The investment performance of the investments made by the IRAs and/or Keogh Plans is no less favorable than the investment performance of identical investments that could have been made at the same time by a customer of Citigroup who is not eligible for (or who does not receive) reduced or no cost services.

(g) The services offered under the arrangement to the IRA or Keogh Plan customer must be the same as are offered to non-IRA or non-Keogh Plan customers of qualified affiliates with account values of the same amount or the same amount of fees generated.

Section III. Definitions

The following definitions apply to this exemption:

(a) The term ''bank'' means a bank described in section 408(n) of the Code.

(b) The term ''broker-dealer'' means a broker-dealer registered under the Securities Exchange Act of 1934, as amended.

(c) The term ''IRA'' means an individual retirement account described in Code section 408(a), an individual retirement annuity described in Code section 408(b) or a Coverdell education savings account described in section 530 of the Code. For purposes of this exemption, the term IRA shall not include an IRA which is an employee benefit plan covered by Title I of ERISA, except for a Simplified Employee Pension (SEP) described in section 408(k) of the Code or a Simple Retirement Account described in section 408(p) of the Code which provides participants with the unrestricted authority to transfer their balances to IRAs or Simple Retirement Accounts sponsored by different financial institutions.

(d) The term ''Keogh Plan'' means a pension, profit-sharing, or stock bonus plan qualified under Code section 401(a) and exempt from taxation under Code section 501(a) under which some or all of the participants are employees described in section 401(c) of the Code. For purposes of this exemption, the term Keogh Plan shall not include a Keogh Plan which is an employee benefit plan covered by Title I of ERISA.

(e) The term ''account value'' means investments in cash or securities held in the account for which market quotations are readily available. For purposes of this exemption, the term cash shall include savings accounts that are insured by a federal deposit insurance agency and constitute deposits as that term is defined in 29 CFR 2550.408b–4(c)(3). The term account value shall not include investments that are offered by Citigroup (or a qualified affiliate) exclusively to IRAs and Keogh Plans.

(f) The term ''qualified affiliate'' means any person directly or indirectly controlling, controlled by, or under common control with Citigroup Inc. that is a bank or broker-dealer.

(g) The term ''members of his or her family'' refers to beneficiaries of the individual for whose benefit the IRA or Keogh Plan is established or maintained, who would be members of the family as that term is defined in Code section 4975(e)(6), or a brother, a sister, or a spouse of a brother or sister.

(h) The term ''service'' includes incidental products of a de minimis value which are directly related to the provision of services covered by the exemption.

(i) The term ''fees'' means commissions and other fees received by a broker-dealer from the IRA or Keogh Plan for the provision of services, including, but not limited to, brokerage commissions, investments management fees, investments advisory fees, custodial fees and administrative fees.

(j) The term ''Citigroup'' means Citigroup Inc. and any person directly or indirectly controlling, controlled by, or under common control with Citigroup Inc.

(k) The term ''control'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

Effective Date: The exemption is effective as of March 1, 2007.

For a more complete statement of the facts and representations supporting the Department's decision to grant this exemption refer to the Notice of Proposed Exemption published on October 26, 2007, at 72 FR 60905.

FOR FURTHER INFORMATION CONTACT: Allison Padams-Lavigne, U.S. Department of Labor, telephone (202) 693–8564. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or

disqualified person from certain other provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which among other things require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(B) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) This exemption is supplemental to and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transactional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(3) The availability of this exemption is subject to the express condition that the material facts and representations contained in the application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 14th day of January, 2008.

Ivan Strasfeld,

Director of Exemption Determinations, Employee Benefits Security Administration, U.S. Department of Labor.

[FR Doc. E8–800 Filed 1–16–08; 8:45 am]

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DEPARTMENT OF LABOR

Employee Benefits Security Administration

Application Nos. and Proposed Exemptions; D–11421, Toeruna Widge IRA (the IRA); and D–11434, Credit Suisse (CS) and Its Current and Future Affiliates (Collectively the Applicant)

AGENCY: Employee Benefits Security Administration, Labor.

ACTION: Notice of Proposed Exemptions.

SUMMARY: This document contains notices of pendency before the Department of Labor (the Department) of proposed exemptions from certain of the prohibited transaction restrictions of the Employee Retirement Income Security Act of 1974 (ERISA or the Act) and/or the Internal Revenue Code of 1986 (the Code).

Written Comments and Hearing Requests

All interested persons are invited to submit written comments or requests for a hearing on the pending exemptions, unless otherwise stated in the Notice of Proposed Exemption, within 45 days from the date of publication of this **Federal Register** Notice. Comments and requests for a hearing should state: (1) The name, address, and telephone number of the person making the comment or request, and (2) the nature of the person's interest in the exemption and the manner in which the person would be adversely affected by the exemption. A request for a hearing must also state the issues to be addressed and include a general description of the evidence to be presented at the hearing.

ADDRESSES: All written comments and requests for a hearing (at least three copies) should be sent to the Employee Benefits Security Administration (EBSA), Office of Exemption Determinations, Room N–5700, U.S. Department of Labor, 200 Constitution Avenue, NW., Washington, DC 20210. Attention: Application No. _____, stated in each Notice of Proposed Exemption. Interested persons are also invited to submit comments and/or hearing requests to EBSA via e-mail or FAX. Any such comments or requests should be sent either by e-mail to: *moffitt.betty@dol.gov*, or by FAX to (202) 219–0204 by the end of the scheduled comment period. The applications for exemption and the comments received will be available for public inspection in the Public Documents Room of the Employee Benefits Security Administration, U.S. Department of Labor, Room N–1513, 200 Constitution Avenue, NW., Washington, DC 20210.

Notice to Interested Persons

Notice of the proposed exemptions will be provided to all interested persons in the manner agreed upon by the applicant and the Department within 15 days of the date of publication in the **Federal Register**. Such notice shall include a copy of the notice of proposed exemption as published in the **Federal Register** and shall inform interested persons of their right to comment and to request a hearing (where appropriate).

SUPPLEMENTARY INFORMATION: The proposed exemptions were requested in applications filed pursuant to section 408(a) of the Act and/or section 4975(c)(2) of the Code, and in accordance with procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990). Effective December 31, 1978, section 102 of Reorganization Plan No. 4 of 1978, 5 U.S.C. App. 1 (1996), transferred the authority of the Secretary of the Treasury to issue exemptions of the type requested to the Secretary of Labor. Therefore, these notices of proposed exemption are issued solely by the Department.

The applications contain representations with regard to the proposed exemptions which are summarized below. Interested persons are referred to the applications on file with the Department for a complete statement of the facts and representations.

Toeruna Widge IRA (the IRA)

Located in Mertztown, Pennsylvania

[Application No. D–11421]

Proposed Exemption

The Department is considering granting an exemption under the authority of section 4975(c)(2) of the Code and in accordance with the procedures set forth in 29 CFR Part 2570, subpart B (55 FR 32836, August 10, 1990). If the exemption is granted, the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (E) of the Code, shall not apply to the sale (the Sale) of approximately 59.99 acres of unimproved real property located at Fredericksville Road and Sweitzer Road, Rockland Township, Berks County, Pennsylvania (the Property) by the IRA to Dr. Toeruna Widge (the Applicant), a disqualified person with respect to the IRA,[1] provided that the following conditions are satisfied:

(A) All terms and conditions of the Sale are at least as favorable to the IRA as those which the IRA could obtain in an arm's-length transaction with an unrelated party;

(B) The Sales price will be the greater of $390,000 or the fair market value of the Property as of the date of the Sale;

(C) The fair market value of the Property has been determined by a qualified, independent appraiser;

(D) The Sale is a one-time transaction for cash; and

(E) The IRA will not pay any commissions, costs or other expenses in connection with the Sale.

Summary of Facts and Representations

1. The IRA is an individual retirement account established under section

[1] Pursuant to 29 CFR 2510.3–2(d), the IRA is not within the jurisdiction of Title I of the Employee Retirement Income Security Act of 1974 (the Act). However, there is jurisdiction under Title II of the Act pursuant to section 4975 of the Code.

408(a) of the Code. The Applicant is the sole participant of the IRA. The assets of the IRA consist of the Property as well as cash in the amount of $2,654.89 (as of December 2006). Thus, the total amount of assets in the IRA, including the fair market value of the property, is $392,654.89. The Property represents approximately 99.32% of the total IRA assets. The Applicant is a physician. The Applicant and her agent, Thomas M. Riddle of Valley National Investments, Inc. are the only persons who have investment discretion over the assets in the IRA.

The Property was originally held in the Allentown Anesthesia Associates, Inc. Restated Defined Contribution Pension Plan and Trust (the Plan), in which the Applicant was a participant. There were six participants in the Plan, each having their own separate account. The Property was originally purchased for $137,000 in 1997 for Dr. Widge's individually directed account. The IRA has paid $16,076.47 in real estate taxes from 1997 through the present date. The Plan was terminated because of a merger affecting the Plan sponsor. When the Plan was terminated in 1997, the Property was rolled over into the IRA.

2. The Applicant requests an exemption for the Sale. The Applicant represents that the proposed transaction would be feasible because it would be a one-time transaction for cash and will enable the IRA to diversify its investment portfolio. Furthermore, the Applicant states that the transaction would be in the best interest of the IRA because the Sale would enable the IRA to invest the proceeds from the Sale in assets with a high rate of return without incurring costs such as real estate taxes. Finally, the Applicant represents that the transaction will be protective of the rights of the IRA's participant because the IRA will receive the greater of $390,000 or the fair market value of the Property, as determined by an independent, qualified appraiser on the date of the Sale, and will incur no commissions, costs, or other expenses as a result of the Sale.

3. Robert R. DeTurck (Mr. DeTurck), a qualified, independent appraiser certified by the state of Pennsylvania who is associated with Deturck Realtors Inc., located in Reading, Pennsylvania, appraised the Property on August 31, 2006. Mr. DeTurck determined the Property to have a $390,000 fair market value. The valuation was based on the sales comparison approach.

The comparison approach determines the most probable price which a property should bring in a competitive and open market under all conditions requisite to a fair sale with the buyer and seller acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus.

4. In summary, the Applicant represents that the proposed transaction satisfies the statutory criteria of section 4975(c)(2) of the Code because: (A) All terms and conditions of the Sale are at least as favorable to the IRA as those which the IRA could obtain in an arm's-length transaction with an unrelated party; (B) The Sales price will be the greater of $390,000 or the fair market value of the Property as of the date of the Sale; (C) The fair market value of the Property has been determined by an independent, qualified appraiser; (D) The Sale is a one-time transaction for cash; and (E) The IRA will not pay any commissions, costs or other expenses in connection with the Sale.

Notice to Interested Parties: Because the Applicant is the only participant in the IRA, it has been determined that there is no need to distribute the notice of proposed exemption (the Notice) to interested persons. Comments and requests for a hearing are due thirty (30) days after publication of the Notice in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Khalif Ford of the Department, telephone (202) 693–8562 (this is not a toll-free number).

Credit Suisse (CS) and Its Current and Future Affiliates (Collectively, the Applicant)

Located in Zurich, Switzerland, With Offices Around the World

[Application No. D–11434]

Proposed Exemption

The Department of Labor (the Department) is considering granting an exemption under the authority of section 408(a) of the Employee Retirement Income Security Act of 1974 (the Act) and section 4975(c)(2) of the Internal Revenue Code of 1986 (the Code) and in accordance with the procedures set forth in 29 CFR Part 2570, Subpart B (55 FR 32836, 32847, August 10, 1990).

Section I. Transactions

If the proposed exemption is granted, the restrictions of section 406 of the Act and the sanctions resulting from the application of section 4975 of the Code, by reason of section 4975(c)(1)(A) through (F) of the Code, shall not apply to the purchase of certain securities (the Securities), as defined, below in Section III(h), by an asset management affiliate of CS, as ''affiliate'' is defined, below, in Section III(c), from any person other than such asset management affiliate of CS or any affiliate thereof, during the existence of an underwriting or selling syndicate with respect to such Securities, where a broker-dealer affiliated with CS (the Affiliated Broker-Dealer), as defined, below, in Section III(b), is a manager or member of such syndicate and the asset management affiliate of CS purchases such Securities, as a fiduciary:

(a) On behalf of an employee benefit plan or employee benefit plans (Client Plan(s)), as defined, below, in Section III(e); or

(b) On behalf of Client Plans, and/or In-House Plans, as defined, below, in Section III(l), which are invested in a pooled fund or in pooled funds (Pooled Fund(s)), as defined, below, in Section III(f); provided that the conditions as set forth, below, in Section II, are satisfied (An affiliated underwriter transaction (AUT)).[2]

Section II. Conditions

The proposed exemption is conditioned upon adherence to the material facts and representations described herein and upon satisfaction of the following requirements:

(a)(1) The Securities to be purchased are either—

(i) Part of an issue registered under the Securities Act of 1933 (the 1933 Act) (15 U.S.C. 77a et seq.). If the Securities to be purchased are part of an issue that is exempt from such registration requirement, such Securities:

(A) Are issued or guaranteed by the United States or by any person controlled or supervised by and acting as an instrumentality of the United States pursuant to authority granted by the Congress of the United States,

(B) Are issued by a bank,

(C) Are exempt from such registration requirement pursuant to a federal statute other than the 1933 Act, or

(D) Are the subject of a distribution and are of a class which is required to be registered under section 12 of the Securities Exchange Act of 1934 (the 1934 Act) (15 U.S.C. 781), and are issued by an issuer that has been subject to the reporting requirements of section 13 of the 1934 Act (15 U.S.C. 78m) for a period of at least ninety (90) days immediately preceding the sale of such Securities and that has filed all reports required to be filed thereunder with the Securities and Exchange Commission (SEC) during the preceding twelve (12) months; or

(ii) Part of an issue that is an Eligible Rule 144A Offering, as defined in SEC

[2] For purposes of this proposed exemption an In-House Plan may engage in AUT's only through investment in a Pooled Fund.

Rule 10f–3 (17 CFR 270.10f–3(a)(4)). Where the Eligible Rule 144A Offering of the Securities is of equity securities, the offering syndicate shall obtain a legal opinion regarding the adequacy of the disclosure in the offering memorandum;

(2) The Securities to be purchased are purchased prior to the end of the first day on which any sales are made, pursuant to that offering, at a price that is not more than the price paid by each other purchaser of the Securities in that offering or in any concurrent offering of the Securities, except that—

(i) If such Securities are offered for subscription upon exercise of rights, they may be purchased on or before the fourth day preceding the day on which the rights offering terminates; or

(ii) If such Securities are debt securities, they may be purchased at a price that is not more than the price paid by each other purchaser of the Securities in that offering or in any concurrent offering of the Securities and may be purchased on a day subsequent to the end of the first day on which any sales are made, pursuant to that offering, provided that the interest rates, as of the date of such purchase, on comparable debt securities offered to the public subsequent to the end of the first day on which any sales are made and prior to the purchase date are less than the interest rate of the debt Securities being purchased; and

(3) The Securities to be purchased are offered pursuant to an underwriting or selling agreement under which the members of the syndicate are committed to purchase all of the Securities being offered, except if—

(i) Such Securities are purchased by others pursuant to a rights offering; or

(ii) Such Securities are offered pursuant to an over-allotment option.

(b) The issuer of the Securities to be purchased pursuant to this proposed exemption must have been in continuous operation for not less than three years, including the operation of any predecessors, unless the Securities to be purchased are—

(1) Non-convertible debt securities rated in one of the four highest rating categories by Standard & Poor's Rating Services, Moody's Investors Service, Inc., FitchRatings, Inc., Dominion Bond Rating Service Limited, Dominion Bond Rating Service, Inc., or any successors thereto (collectively, the Rating Organizations), provided that none of the Rating Organizations rates such Securities in a category lower than the fourth highest rating category; or

(2) Debt securities issued or fully guaranteed by the United States or by any person controlled or supervised by and acting as an instrumentality of the United States pursuant to authority granted by the Congress of the United States; or

(3) Debt securities which are fully guaranteed by a person (the Guarantor) that has been in continuous operation for not less than three years, including the operation of any predecessors, provided that such Guarantor has issued other securities registered under the 1933 Act; or if such Guarantor has issued other securities which are exempt from such registration requirement, such Guarantor has been in continuous operation for not less than three years, including the operation of any predecessors, and such Guarantor is:

(a) A bank; or

(b) An issuer of securities which are exempt from such registration requirement, pursuant to a Federal statute other than the 1933 Act; or

(c) An issuer of securities that are the subject of a distribution and are of a class which is required to be registered under section 12 of the 1934 Act (15 U.S.C. 781), and are issued by an issuer that has been subject to the reporting requirements of section 13 of the 1934 Act (15 U.S.C. 78m) for a period of at least ninety (90) days immediately preceding the sale of such securities and that has filed all reports required to be filed thereunder with the SEC during the preceding twelve (12) months.

(d) The aggregate amount of Securities of an issue purchased, pursuant to this proposed exemption, by the asset management affiliate of CS with: (i) The assets of all Client Plans; and (ii) The assets, calculated on a pro-rata basis, of all Client Plans and In-House Plans investing in Pooled Funds managed by the asset management affiliate of CS; and (iii) The assets of plans to which the asset management affiliate of CS renders investment advice within the meaning of 29 CFR 2510.3–21(c) does not exceed:

(1) Ten percent (10%) of the total amount of the Securities being offered in an issue, if such Securities are equity securities;

(2) Thirty-five percent (35%) of the total amount of the Securities being offered in an issue, if such Securities are debt securities rated in one of the four highest rating categories by at least one of the Rating Organizations, provided that none of the Rating Organizations rates such Securities in a category lower than the fourth highest rating category; or

(3) Twenty-five percent (25%) of the total amount of the Securities being offered in an issue, if such Securities are debt securities rated in the fifth or sixth highest rating categories by at least one of the Rating Organizations; provided that none of the Rating Organizations rates such Securities in a category lower than the sixth highest rating category; and

(4) The assets of any single Client Plan (and the assets of any Client Plans and any In-House Plans investing in Pooled Funds) may not be used to purchase any Securities being offered, if such Securities are debt securities rated lower than the sixth highest rating category by any of the Rating Organizations;

(5) Notwithstanding the percentage of Securities of an issue permitted to be acquired, as set forth in Section II(c)(1), (2), and (3), above, of this proposed exemption, the amount of Securities in any issue (whether equity or debt securities) purchased, pursuant to this proposed exemption, by the asset management affiliate of CS on behalf of any single Client Plan, either individually or through investment, calculated on a pro-rata basis, in a Pooled Fund may not exceed three percent (3%) of the total amount of such Securities being offered in such issue, and;

(6) If purchased in an Eligible Rule 144A Offering, the total amount of the Securities being offered for purposes of determining the percentages, described, above, in Section II(c)(1)–(3) and (5), is the total of:

(i) The principal amount of the offering of such class of Securities sold by underwriters or members of the selling syndicate to ''qualified institutional buyers'' (QIBs), as defined in SEC Rule 144A (17 CFR 230.144A(a)(1)); plus

(ii) The principal amount of the offering of such class of Securities in any concurrent public offering.

(d) The aggregate amount to be paid by any single Client Plan in purchasing any Securities which are the subject of this proposed exemption, including any amounts paid by any Client Plan or In-House Plan in purchasing such Securities through a Pooled Fund, calculated on a pro-rata basis, does not exceed three percent (3%) of the fair market value of the net assets of such Client Plan or In-House Plan, as of the last day of the most recent fiscal quarter of such Client Plan or In-House Plan prior to such transaction.

(e) The covered transactions are not part of an agreement, arrangement, or understanding designed to benefit the asset management affiliate of CS or an affiliate.

(f) The Affiliated Broker-Dealer does not receive, either directly, indirectly, or through designation, any selling concession, or other compensation or

consideration that is based upon the amount of Securities purchased by any single Client Plan, or that is based on the amount of Securities purchased by Client Plans or In-House Plans through Pooled Funds, pursuant to this proposed exemption. In this regard, the Affiliated Broker-Dealer may not receive, either directly or indirectly, any compensation or consideration that is attributable to the fixed designations generated by purchases of the Securities by the asset management affiliate of CS on behalf of any single Client Plan or any Client Plan or In-House Plan in Pooled Funds.

(g)(1) The amount the Affiliated Broker-Dealer receives in management, underwriting, or other compensation or consideration is not increased through an agreement, arrangement, or understanding for the purpose of compensating the Affiliated Broker-Dealer for foregoing any selling concessions for those Securities sold pursuant to this proposed exemption. Except as described above, nothing in this Section II(g)(1) shall be construed as precluding the Affiliated Broker-Dealer from receiving management fees for serving as manager of the underwriting or selling syndicate, underwriting fees for assuming the responsibilities of an underwriter in the underwriting or selling syndicate, or other compensation or consideration that is not based upon the amount of Securities purchased by the asset management affiliate of CS on behalf of any single Client Plan, or on behalf of any Client Plan or In-House Plan participating in Pooled Funds, pursuant to this proposed exemption; and

(2) The Affiliated Broker-Dealer shall provide to the asset management affiliate of CS a written certification, dated and signed by an officer of the Affiliated Broker-Dealer, stating the amount that the Affiliated Broker-Dealer received in compensation or consideration during the past quarter, in connection with any offerings covered by this proposed exemption, was not adjusted in a manner inconsistent with Section II(e), (f), or (g) of this proposed exemption.

(h) The covered transactions are performed under a written authorization executed in advance by an independent fiduciary of each single Client Plan (the Independent Fiduciary), as defined, below, in Section III(g).

(i) Prior to the execution by an Independent Fiduciary of a single Client Plan of the written authorization described, above, in Section II(h), the following information and materials (which may be provided electronically) must be provided by the asset management affiliate of CS to such Independent Fiduciary:

(1) A copy of the Notice of Proposed Exemption (the Notice) and a copy of the final exemption (the Grant) as published in the **Federal Register**, provided that the Notice and the Grant are supplied simultaneously; and

(2) Any other reasonably available information regarding the covered transactions that such Independent Fiduciary requests the asset management affiliate of CS to provide.

(j) Subsequent to the initial authorization by an Independent Fiduciary of a single Client Plan permitting the asset management affiliate of CS to engage in the covered transactions on behalf of such single Client Plan, the asset management affiliate of CS will continue to be subject to the requirement to provide within a reasonable period of time any reasonably available information regarding the covered transactions that the Independent Fiduciary requests the asset management affiliate of CS to provide.

(k)(1) In the case of an existing employee benefit plan investor (or existing In-House Plan investor, as the case may be) in a Pooled Fund, such Pooled Fund may not engage in any covered transactions pursuant to this proposed exemption, unless the asset management affiliate of CS provides the written information, as described, below, and within the time period described, below, in this Section II(k)(2), to the Independent Fiduciary of each such plan participating in such Pooled Fund (and to the fiduciary of each such In-House Plan participating in such Pooled Fund).

(2) The following information and materials (which may be provided electronically) shall be provided by the asset management affiliate of CS not less than 45 days prior to such asset management affiliate of CS engaging in the covered transactions on behalf of a Pooled Fund, pursuant to this proposed exemption, and provided further that the information described below, in this Section II(k)(2)(i) and (iii) is supplied simultaneously:

(i) A notice of the intent of such Pooled Fund to purchase Securities pursuant to this proposed exemption, a copy of this Notice, and a copy of the Grant, as published in the **Federal Register**;

(ii) Any other reasonably available information regarding the covered transactions that the Independent Fiduciary of a plan (or fiduciary of an In-House Plan) participating in a Pooled Fund requests the asset management affiliate of CS to provide; and

(iii) A termination form expressly providing an election for the Independent Fiduciary of a plan (or fiduciary of an In-House Plan) participating in a Pooled Fund to terminate such plan's (or In-House Plan's) investment in such Pooled Fund without penalty to such plan (or In-House Plan). Such form shall include instructions specifying how to use the form. Specifically, the instructions will explain that such plan (or such In-House Plan) has an opportunity to withdraw its assets from a Pooled Fund for a period of no more than 30 days after such plan's (or such In-House Plan's) receipt of the initial notice of intent, described, above, in Section II(k)(2)(i), and that the failure of the Independent Fiduciary of such plan (or fiduciary of such In-House Plan) to return the termination form to the asset management affiliate of CS in the case of a plan (or In-House Plan) participating in a Pooled Fund by the specified date shall be deemed to be an approval by such plan (or such In-House Plan) of its participation in the covered transactions as an investor in such Pooled Fund.

Further, the instructions will identify CS, the asset management affiliate of CS, and the Affiliated Broker-Dealer and will provide the address of the asset management affiliate of CS. The instructions will state that this proposed exemption may be unavailable, unless the fiduciary of each plan participating in the covered transactions as an investor in a Pooled Fund is, in fact, independent of CS, the asset management affiliate of CS, and the Affiliated Broker-Dealer. The instructions will also state that the fiduciary of each such plan must advise the asset management affiliate of CS, in writing, if it is not an ''Independent Fiduciary,'' as that term is defined, below, in Section III(g).

For purposes of this Section II(k), the requirement that the fiduciary responsible for the decision to authorize the transactions described, above, in Section I of this proposed exemption for each plan be independent of the asset management affiliate of CS shall not apply in the case of an In-House Plan.

(l)(1) In the case of each plan (and in the case of each In-House Plan) whose assets are proposed to be invested in a Pooled Fund after such Pooled Fund has satisfied the conditions set forth in this proposed exemption to engage in the covered transactions, the investment by such plan (or by such In-House Plan) in the Pooled Fund is subject to the prior written authorization of an Independent Fiduciary representing such plan (or the prior written authorization by the

fiduciary of such In-House Plan, as the case may be), following the receipt by such Independent Fiduciary of such plan (or by the fiduciary of such In-House Plan, as the case may be) of the written information described, above, in Section II(k)(2)(i) and (ii); provided that the Notice and the Grant, described above in Section II(k)(2)(i), are provided simultaneously.

(2) For purposes of this Section II(l), the requirement that the fiduciary responsible for the decision to authorize the transactions described, above, in Section I of this proposed exemption for each plan proposing to invest in a Pooled Fund be independent of CS and its affiliates shall not apply in the case of an In-House Plan.

(m) Subsequent to the initial authorization by an Independent Fiduciary of a plan (or by a fiduciary of an In-House Plan) to invest in a Pooled Fund that engages in the covered transactions, the asset management affiliate of CS will continue to be subject to the requirement to provide within a reasonable period of time any reasonably available information regarding the covered transactions that the Independent Fiduciary of such plan (or the fiduciary of such In-House Plan, as the case may be) requests the asset management affiliate of CS to provide.

(n) At least once every three months, and not later than 45 days following the period to which such information relates, the asset management affiliate of CS shall furnish:

(1) In the case of each single Client Plan that engages in the covered transactions, the information described, below, in this Section II(n)(3)–(7), to the Independent Fiduciary of each such single Client Plan.

(2) In the case of each Pooled Fund in which a Client Plan (or in which an In-House Plan) invests, the information described, below, in this Section II(n)(3)–(6) and (8), to the Independent Fiduciary of each such Client Plan (and to the fiduciary of each such In-House Plan) invested in such Pooled Fund.

(3) A quarterly report (the Quarterly Report) (which may be provided electronically) which discloses all the Securities purchased pursuant to this proposed exemption during the period to which such report relates on behalf of the Client Plan, In-House Plan, or Pooled Fund to which such report relates, and which discloses the terms of each of the transactions described in such report, including:

(i) The type of Securities (including the rating of any Securities which are debt securities) involved in each transaction;

(ii) The price at which the Securities were purchased in each transaction;

(iii) The first day on which any sale was made during the offering of the Securities;

(iv) The size of the issue of the Securities involved in each transaction;

(v) The number of Securities purchased by the asset management affiliate of CS for the Client Plan, In-House Plan, or Pooled Fund to which the transaction relates;

(vi) The identity of the underwriter from whom the Securities were purchased for each transaction;

(vii) The underwriting spread in each transaction (*i.e.*, the difference, between the price at which the underwriter purchases the Securities from the issuer and the price at which the Securities are sold to the public);

(viii) The price at which any of the Securities purchased during the period to which such report relates were sold; and

(ix) The market value at the end of the period to which such report relates of the Securities purchased during such period and not sold;

(4) The Quarterly Report contains:

(i) A representation that the asset management affiliate of CS has received a written certification signed by an officer of the Affiliated Broker-Dealer, as described, above, in Section II(g)(2), affirming that, as to each AUT covered by this proposed exemption during the past quarter, the Affiliated Broker-Dealer acted in compliance with Section II(e), (f), and (g) of this proposed exemption, and

(ii) A representation that copies of such certifications will be provided upon request;

(5) A disclosure in the Quarterly Report that states that any other reasonably available information regarding a covered transaction that an Independent Fiduciary (or fiduciary of an In-House Plan) requests will be provided, including, but not limited to:

(i) The date on which the Securities were purchased on behalf of the Client Plan (or the In-House Plan) to which the disclosure relates (including Securities purchased by Pooled Funds in which such Client Plan (or such In-House Plan) invests);

(ii) The percentage of the offering purchased on behalf of all Client Plans (and the pro-rata percentage purchased on behalf of Client Plans and In-House Plans investing in Pooled Funds); and

(iii) The identity of all members of the underwriting syndicate;

(6) The Quarterly Report discloses any instance during the past quarter where the asset management affiliate of CS was precluded for any period of time from selling Securities purchased under this proposed exemption in that quarter because of its status as an affiliate of an Affiliated Broker-Dealer and the reason for this restriction;

(7) Explicit notification, prominently displayed in each Quarterly Report sent to the Independent Fiduciary of each single Client Plan that engages in the covered transactions that the authorization to engage in such covered transactions may be terminated, without penalty to such single Client Plan, within five (5) days after the date that the Independent Fiduciary of such single Client Plan informs the person identified in such notification that the authorization to engage in the covered transactions is terminated; and

(8) Explicit notification, prominently displayed in each Quarterly Report sent to the Independent Fiduciary of each Client Plan (and to the fiduciary of each In-House Plan) that engages in the covered transactions through a Pooled Fund that the investment in such Pooled Fund may be terminated, without penalty to such Client Plan (or such In-House Plan), within such time as may be necessary to effect the withdrawal in an orderly manner that is equitable to all withdrawing plans and to the non-withdrawing plans, after the date that that the Independent Fiduciary of such Client Plan (or the fiduciary of such In-House Plan, as the case may be) informs the person identified in such notification that the investment in such Pooled Fund is terminated.

(o) For purposes of engaging in covered transactions, each Client Plan (and each In-House Plan) shall have total net assets with a value of at least $50 million (the $50 Million Net Asset Requirement). For purposes of engaging in covered transactions involving an Eligible Rule 144A Offering,[3] each Client Plan (and each In-House Plan) shall have total net assets of at least $100 million in securities of issuers that are not affiliated with such Client Plan (or such In-House Plan, as the case may

[3] SEC Rule 10f–3(a)(4), 17 *CFR* § 270.10f–3(a)(4), states that the term ''Eligible Rule 144A Offering'' means an offering of securities that meets the following conditions:

(i) The securities are offered or sold in transactions exempt from registration under section 4(a) of the Securities Act of 1933 [15 U.S.C. 77d(d)], rule 144A thereunder [§ 230.144A of this chapter], or rules 501–508 thereunder [§§ 230.501–230–508 of this chapter];

(ii) The securities are sold to persons that the seller and any person acting on behalf of the seller reasonably believe to include qualified institutional buyers, as defined in § 230.144A(a)(1) of this chapter; and

(iii) The seller and any person acting on behalf of the seller reasonably believe that the securities are eligible for resale to other qualified institutional buyers pursuant to § 230.144A of this chapter.

be) (the $100 Million Net Asset Requirement).

For purposes of a Pooled Fund engaging in covered transactions, each Client Plan (and each In-House Plan) in such Pooled Fund shall have total net assets with a value of at least $50 million. Notwithstanding the foregoing, if each such Client Plan (and each such In-House Plan) in such Pooled Fund does not have total net assets with a value of at least $50 million, the $50 Million Net Asset Requirement will be met if 50 percent (50%) or more of the units of beneficial interest in such Pooled Fund are held by Client Plans (or by In-House Plans) each of which has total net assets with a value of at least $50 million. For purposes of a Pooled Fund engaging in covered transactions involving an Eligible Rule 144A Offering, each Client Plan (and each In-House Plan) in such Pooled Fund shall have total net assets of at least $100 million in securities of issuers that are not affiliated with such Client Plan (or such In-House Plan, as the case may be). Notwithstanding the foregoing, if each such Client Plan (and each such In-House Plan) in such Pooled Fund does not have total net assets of at least $100 million in securities of issuers that are not affiliated with such Client Plan (or In-House Plan, as the case may be), the $100 Million Net Asset Requirement will be met if 50 percent (50%) or more of the units of beneficial interest in such Pooled Fund are held by Client Plans (or by In-House Plans) each of which have total net assets of at least $100 million in securities of issuers that are not affiliated with such Client Plan (or such In-House Plan, as the case may be), and the Pooled Fund itself qualifies as a QIB, as determined pursuant to SEC Rule 144A (17 CFR 230.144A(a)(F)).

For purposes of the net asset requirements described above, in this Section II(o), where a group of Client Plans is maintained by a single employer or controlled group of employers, as defined in section 407(d)(7) of the Act, the $50 Million Net Asset Requirement (or in the case of an Eligible Rule 144A Offering, the $100 Million Net Asset Requirement) may be met by aggregating the assets of such Client Plans, if the assets of such Client Plans are pooled for investment purposes in a single master trust.

(p) The asset management affiliate of CS qualifies as a ''qualified professional asset manager'' (QPAM), as that term is defined under Section V(a) of PTE 84–14. In addition to satisfying the requirements for a QPAM under Section V(a) of PTE 84–14, the asset management affiliate of CS must also have total client assets under its management and control in excess of $5 billion, as of the last day of its most recent fiscal year and shareholders' or partners' equity in excess of $1 million.

(q) No more than 20 percent of the assets of a Pooled Fund at the time of a covered transaction, are comprised of assets of In-House Plans for which CS, the asset management affiliate of CS, the Affiliated Broker-Dealer, or an affiliate exercises investment discretion.

(r) The asset management affiliate of CS, and the Affiliated Broker-Dealer, as applicable, maintain, or cause to be maintained, for a period of six (6) years from the date of any covered transaction such records as are necessary to enable the persons, described, below, in Section II(s), to determine whether the conditions of this proposed exemption have been met, except that—

(1) No party in interest with respect to a plan which engages in the covered transactions, other than CS, the asset management affiliate of CS, and the Affiliated Broker-Dealer, as applicable, shall be subject to a civil penalty under section 502(i) of the Act or the taxes imposed by section 4975(a) and (b) of the Code, if such records are not maintained, or not available for examination, as required, below, by Section II(s); and

(2) A separate prohibited transaction shall not be considered to have occurred solely because, due to circumstances beyond the control of the asset management affiliate of CS, or the Affiliated Broker-Dealer, as applicable, such records are lost or destroyed prior to the end of the six-year period.

(s)(1) Except as provided, below, in Section II(s)(2), and notwithstanding any provisions of subsections (a)(2) and (b) of section 504 of the Act, the records referred to above, in Section II(r), are unconditionally available at their customary location for examination during normal business hours by—

(i) Any duly authorized employee or representative of the Department, the Internal Revenue Service, or the SEC; or

(ii) Any fiduciary of any plan that engages in the covered transactions, or any duly authorized employee or representative of such fiduciary; or

(iii) Any employer of participants and beneficiaries and any employee organization whose members are covered by a plan that engages in the covered transactions, or any authorized employee or representative of these entities; or

(iv) Any participant or beneficiary of a plan that engages in the covered transactions, or duly authorized employee or representative of such participant or beneficiary;

(2) None of the persons described above, in Section II(s)(1)(ii)–(iv), shall be authorized to examine trade secrets of the asset management affiliate of CS, or the Affiliated Broker-Dealer, or commercial or financial information which is privileged or confidential; and

(3) Should the asset management affiliate of CS, or the Affiliated Broker-Dealer refuse to disclose information on the basis that such information is exempt from disclosure, pursuant to Section II(s)(2) above, the asset management affiliate of CS shall, by the close of the thirtieth (30th) day following the request, provide a written notice advising that person of the reasons for the refusal and that the Department may request such information.

Section III. Definitions

(a) The term, ''the Applicant,'' means CS and its current and future affiliates.

(b) The term, ''Affiliated Broker-Dealer,'' means any broker-dealer affiliate, as ''affiliate'' is defined, below, in Section III(c), of the Applicant, as ''Applicant'' is defined, above, in Section III(a), that meets the requirements of this proposed exemption. Such Affiliated Broker-Dealer may participate in an underwriting or selling syndicate as a manager or member. The term, ''manager,'' means any member of an underwriting or selling syndicate who, either alone or together with other members of the syndicate, is authorized to act on behalf of the members of the syndicate in connection with the sale and distribution of the Securities, as defined below, in Section III(h), being offered or who receives compensation from the members of the syndicate for its services as a manager of the syndicate.

(c) The term ''affiliate'' of a person includes:

(1) Any person directly or indirectly through one or more intermediaries, controlling, controlled by, or under common control with such person;

(2) Any officer, director, partner, employee, or relative, as defined in section 3(15) of the Act, of such person; and

(3) Any corporation or partnership of which such person is an officer, director, partner, or employee.

(d) The term, ''control,'' means the power to exercise a controlling influence over the management or policies of a person other than an individual.

(e) The term, ''Client Plan(s),'' means an employee benefit plan(s) that is subject to the Act and/or the Code, and for which plan(s) an asset management

affiliate of CS exercises discretionary authority or discretionary control respecting management or disposition of some or all of the assets of such plan(s), but excludes In-House Plans, as defined, below, in Section III(l).

(f) The term, ''Pooled Fund(s),'' means a common or collective trust fund(s) or a pooled investment fund(s):

(1) In which employee benefit plan(s) subject to the Act and/or Code invest,

(2) Which is maintained by an asset management affiliate of CS, (as the term, ''affiliate'' is defined, above, in Section III(c)), and

(3) For which such asset management affiliate of CS exercises discretionary authority or discretionary control respecting the management or disposition of the assets of such fund(s).

(g)(1) The term, ''Independent Fiduciary,'' means a fiduciary of a plan who is unrelated to, and independent of CS, the asset management affiliate of CS, and the Affiliated Broker-Dealer. For purposes of this proposed exemption, a fiduciary of a plan will be deemed to be unrelated to, and independent of CS, the asset management affiliate of CS, and the Affiliated Broker-Dealer, if such fiduciary represents in writing that neither such fiduciary, nor any individual responsible for the decision to authorize or terminate authorization for the transactions described above, in Section I of this proposed exemption, is an officer, director, or highly compensated employee (within the meaning of section 4975(e)(2)(H) of the Code) of CS, the asset management affiliate of CS, or the Affiliated Broker-Dealer, and represents that such fiduciary shall advise the asset management affiliate of CS within a reasonable period of time after any change in such facts occur.

(2) Notwithstanding anything to the contrary in this Section III(g), a fiduciary of a plan is not independent:

(i) If such fiduciary directly or indirectly controls, is controlled by, or is under common control with CS, the asset management affiliate of CS, or the Affiliated Broker-Dealer;

(ii) If such fiduciary directly or indirectly receives any compensation or other consideration from CS, the asset management affiliate of CS, or the Affiliated Broker-Dealer for his or her own personal account in connection with any transaction described in this proposed exemption;

(iii) If any officer, director, or highly compensated employee (within the meaning of section 4975(e)(2)(H) of the Code) of the asset management affiliate of CS responsible for the transactions described above, in Section I of this proposed exemption, is an officer, director, or highly compensated employee (within the meaning of section 4975(e)(2)(H) of the Code) of the sponsor of the plan or of the fiduciary responsible for the decision to authorize or terminate authorization for the transactions described above, in Section I.

However, if such individual is a director of the sponsor of the plan or of the responsible fiduciary, and if he or she abstains from participation in: (A) the choice of the plan's investment manager/adviser; and (B) the decision to authorize or terminate authorization for transactions described above, in Section I, then this Section III(g)(2)(iii) shall not apply.

(3) The term, ''officer,'' means a president, any vice president in charge of a principal business unit, division, or function (such as sales, administration, or finance), or any other officer who performs a policy-making function for CS or any affiliate thereof.

(h) The term, ''Securities,'' shall have the same meaning as defined in section 2(36) of the Investment Company Act of 1940 (the 1940 Act), as amended (15 U.S.C. 80a–2(36)(2001)). For purposes of this proposed exemption, mortgage-backed or other asset-backed securities rated by one of the Rating Organizations, as defined, below, in Section III(k), will be treated as debt securities.

(i) The term, ''Eligible Rule 144A Offering,'' shall have the same meaning as defined in SEC Rule 10f–3(a)(4) (17 CFR 270.10f–3(a)(4)) under the 1940 Act).

(j) The term, ''qualified institutional buyer,'' or the term, ''QIB,'' shall have the same meaning as defined in SEC Rule 144A (17 CFR 230.144A(a)(1)) under the 1933 Act.

(k) The term, ''Rating Organizations,'' means Standard & Poor's Rating Services, Moody's Investors Service, Inc., FitchRatings, Inc., Dominion Bond Rating Service Limited, and Dominion Bond Rating Service, Inc., or any successors thereto.

(l) The term, ''In-House Plan(s),'' means an employee benefit plan(s) that is subject to the Act and/or the Code, and that is sponsored by the Applicant, as defined, above, in Section III(a) for its own employees.

Summary of Facts and Representations

The Applicant

1. The Applicant consists of CS and its current and future affiliates. CS, a business unit of Zurich-based Credit Suisse Group, is a leading global investment bank with numerous institutional and other clients. CS's business lines include securities underwriting, sales and trading, private equity, financial advisory services, investment research and asset management. Credit Suisse Asset Management Securities, Inc. and Credit Suisse Securities (USA) LLC are registered broker-dealers (hereinafter, collectively with any other current and future broker-dealer affiliates, ''the Affiliated Broker-Dealer'') and are regulated by the SEC under Section 15 of the 1934 Act. Credit Suisse Asset Management, LLC (CSAM) focuses on institutional, mutual fund and private client investors, in the Americas, Asia Pacific, and Europe. CSAM is an investment adviser registered under the 1940 Act. As of December 31, 2006, CS had assets under management of approximately $1.2 trillion and shareholder equity of approximately $34.7 billion.

2. The Applicant is regulated by federal government agencies, such as the SEC, as well as by state government agencies, and industry self-regulatory organizations (*e.g.*, the New York Stock Exchange and the National Association of Securities Dealers).

Requested Exemption

3. The Applicant requests a prohibited transaction exemption that would permit the purchase of certain Securities by an asset management affiliate of CS (the Asset Manager), acting on behalf of Client Plans subject to the Act or Code, and acting on behalf of Client Plans and In-House Plans which are invested in certain Pooled Funds for which an Asset Manager acts as a fiduciary, from any person other than such Asset Manager or any affiliate thereof, during the existence of an underwriting or selling syndicate with respect to such Securities, where an Affiliated Broker-Dealer is a manager or member of such syndicate. Further, the Affiliated Broker-Dealer will receive no selling concessions in connection with the Securities sold to such plans.

4. The Applicant represents that if the Affiliated Broker-Dealer is a member of an underwriting or selling syndicate, the Asset Manager may purchase underwritten securities for Client Plans in accordance with Part III of Prohibited Transaction Exemption (PTE) 75–1, (40 FR 50845, October 31, 1975). Part III provides limited relief from the Act's prohibited transaction provisions for plan fiduciaries that purchase securities from an underwriting or selling syndicate of which the fiduciary or an affiliate is a member. However, such relief is not available if the Affiliated Broker-Dealer manages the underwriting or selling syndicate.

5. In addition, regardless of whether a fiduciary or its affiliate is a manager or merely a member of an underwriting or selling syndicate, PTE 75–1 does not provide relief for the purchase of unregistered securities. This includes securities purchased by an underwriter for resale to a ''qualified institutional buyer'' (QIB) pursuant to the SEC's Rule 144A under the 1933 Act. Rule 144A is commonly utilized in connection with sales of securities issued by foreign corporations to U.S. investors that are QIBs. Notwithstanding the unregistered nature of such shares, it is represented that syndicates selling securities under Rule 144A (Rule 144A Securities) are the functional equivalent of those selling registered securities.

6. The Applicant represents that the Affiliated Broker-Dealer regularly serves as manager of underwriting or selling syndicates for registered securities, and as a manager or a member of underwriting or selling syndicates for Rule 144A Securities. Accordingly, the Asset Manager is currently unable to purchase on behalf of the Client Plans both registered securities and Rule 144A Securities sold in such offerings, resulting in such Client Plans being unable to participate in significant investment opportunities.

7. It is represented that since 1975, there has been a significant amount of consolidation in the financial services industry in the United States. As a result, there are more situations in which a plan fiduciary may be affiliated with the manager of an underwriting syndicate. Further, many plans have expanded investment portfolios in recent years to include securities issued by foreign corporations. As a result, the exemption provided in PTE 75–1, Part III, is often unavailable for purchase of domestic and foreign securities that may otherwise constitute appropriate plan investments.

Client Plan Investments in Offered Securities

8. The Applicant represents that the Asset Manager makes its investment decisions on behalf of, or renders investment advice to, Client Plans pursuant to the governing document of the particular Client Plan or Pooled Fund and the investment guidelines and objectives set forth in the management or advisory agreement. Because the Client Plans are covered by Title I of the Act, such investment decisions are subject to the fiduciary responsibility provisions of the Act.

9. The Applicant states, therefore, that the decision to invest in a particular offering is made on the basis of price, value and a Client Plan's investment criteria, not on whether the securities are currently being sold through an underwriting or selling syndicate. The Applicant further states that, because the Asset Manager's compensation for its services is generally based upon assets under management, the Asset Manager has little incentive to purchase securities in an offering in which the Affiliated Broker Dealer is an underwriter unless such a purchase is in the interests of Client Plans. If the assets under management do not perform well, the Asset Manager will receive less compensation and could lose clients, costs which far outweigh any gains from the purchase of underwritten securities.[4]

10. The Applicant states that the Asset Manager generally purchases securities in large blocks because the same investments will be made across several accounts. If there is a new offering of an equity or fixed income security that the Asset Manager wishes to purchase, it may be able to purchase the security through the offering syndicate at a lower price than it would pay in the open market, without transaction costs and with reduced market impact if it is buying a relatively large quantity. This is because a large purchase in the open market can cause an increase in the market price and, consequently, in the cost of the securities. Purchasing from an offering syndicate can thus reduce the costs to the Client Plans.

11. However, absent this proposed exemption, if the Affiliated Broker-Dealer is a manager of a syndicate that is underwriting a securities offering, the Asset Manager will be foreclosed from purchasing any securities on behalf of its Client Plans from that underwriting syndicate. This will force the Asset Manager to purchase the same securities in the secondary market. In such a circumstance, the Client Plans may incur greater costs both because the market price is often higher than the offering price, and because of transaction and market impact costs. In turn, this may cause the Asset Manager to forego other investment opportunities because the purchase price of the underwritten security in the secondary market exceeds the price that the Asset Manager would have paid to the selling syndicate.

[4] In fact, under the terms of the proposed exemption set forth herein, the Affiliated Broker-Dealer may receive no compensation or other consideration, direct or indirect, in connection with any transaction that would be permitted under the proposed exemption.

Underwriting of Securities Offerings

12. The Applicant represents that the Affiliated Broker-Dealer currently manages and participates in firm commitment underwriting syndicates for registered offerings of both equity and debt securities. While equity and debt underwritings may operate differently with regard to the actual sales process, the basic structures are the same. In a firm commitment underwriting, the underwriting syndicate acquires the securities from the issuer and then sells the securities to investors.

13. The Applicant represents that while, as a legal matter, a selling syndicate assumes the risk that the underwritten securities might not be fully sold, as a practical matter, this risk is reduced, in marketed deals, through ''building a book'' (i.e., taking indications of interest from potential purchasers) prior to pricing the securities. Accordingly, there is no incentive for the underwriters to use their discretionary accounts (or the discretionary accounts of their affiliates) to buy up the securities as a way to avoid underwriting liabilities.

14. Each selling syndicate has a lead manager, who is the principal contact between the syndicate and the issuer and who is responsible for organizing and coordinating the syndicate. The syndicate may also have co-managers, who generally assist the lead manager in working with the issuer to prepare the registration statement to be filed with the SEC and in distributing the underwritten securities. While equity syndicates typically include additional members that are not managers, more recently, membership in many debt underwriting syndicates has been limited to lead and co-managers.

15. If more than one underwriter is involved in a selling syndicate, the lead manager, who has been selected by the issuer of the underwritten securities, contacts other underwriters, and the underwriters enter into an ''Agreement Among Underwriters.'' Most lead managers have a standing form of agreement. This document is then supplemented for the particular deal by sending an ''invitation telex'' or ''terms telex'' that sets forth particular terms to the other underwriters.

16. The arrangement between the syndicate and the issuer of the underwritten securities is embodied in an underwriting agreement, which is signed on behalf of the underwriters by one or more of the managers. In a firm commitment underwriting, the underwriting agreement provides, subject to certain closing conditions,

that the underwriters are obligated to purchase the underwritten securities from the issuer in accordance with their respective commitments. This obligation is met by using the proceeds received from the buyers of the securities in the offering, although there is a risk that the underwriters will have to pay for a portion of the securities in the event that not all of the securities are sold.

17. The Applicant represents that, generally, the risk that the securities will not be sold is small because the underwriting agreement is not executed until after the underwriters have obtained sufficient indications of interest to purchase the securities from a sufficient number of investors to assure that all the securities being offered will be acquired by investors. Once the underwriting agreement is executed, the underwriters immediately begin contacting the investors to confirm the sales, at first by oral communication and then by written confirmation. Sales are finalized within hours and sometimes minutes. In registered transactions, the underwriters are particularly anxious to complete the sales as soon as possible because until they ''break syndicate,'' they cannot enter the market. In many cases, the underwriters will act as market-makers for the security. A market-maker holds itself out as willing to buy or sell the security for its own account on a regular basis.

18. The Applicant represents that the process of ''building a book'' or soliciting indications of interest occurs as follows: In a registered equity offering, after a registration statement is filed with the SEC and, while it is under review by the SEC staff, representatives of the issuer of the securities and the selling syndicate managers conduct meetings with potential investors, who learn about the company and the underwritten securities. Potential investors also receive a preliminary prospectus. The underwriters cannot make any firm sales until the registration statement is declared effective by the SEC. Prior to the effective date, while the investors cannot become legally obligated to make a purchase, they indicate whether they have an interest in buying, and the managers compile a ''book'' of investors who are willing to ''circle'' a particular portion of the issue. These indications of interest are sometimes referred to as a ''soft circle'' because investors cannot be legally bound to buy the securities until the registration statement is effective. However, the Applicant represents that investors generally follow through on their indications of interest, and would be expected to do so, barring any sudden adverse developments (in which case it is likely that the offering would be withdrawn or the price range modified and the process restarted), because, if the investors that gave an indication of interest do not follow through, the underwriters may be reluctant to include them in future offerings.

19. Assuming that the marketing efforts have produced sufficient indications of interest, the Applicant represents that the issuer of the securities and the selling syndicate managers together will set the price of the securities and ask the SEC to declare the registration effective. After the registration statement becomes effective and the underwriting agreement is executed, the underwriters contact those investors that have indicated an interest in purchasing securities in the offering to execute the sales. The Applicant represents that offerings are often oversubscribed, and many have an over-allotment option that the underwriters can exercise to acquire additional shares from the issuer. Where an offering is oversubscribed, the underwriters decide how to allocate the securities among the potential purchasers. However, if an issue is a ''hot issue,'' (i.e., it is selling in the market at a premium above its offering price) the underwriters may not hold this hot issue in their own accounts, nor sell it to their employees, officers and directors. Subject to certain exceptions, a hot issue may also not be sold to the personal accounts of those responsible for investing for others, such as officers of banks, insurance companies, mutual funds and investment advisers.

20. The Applicant represents that debt offerings may be ''negotiated'' offerings, ''competitive bid'' offerings, or ''bought deals.'' ''Negotiated'' offerings, which often involve non-investment grade securities, are conducted in the same manner as an equity offering with regard to when the underwriting agreement is executed and how the securities are offered. ''Competitive bid'' offerings, in which the issuer determines the price for the securities through competitive bidding rather than negotiating the price with the underwriting syndicate, are performed under ''shelf'' registration statements pursuant to the SEC's Rule 415 under the 1933 Act (17 CFR 230.415).[5]

21. In a competitive bid offering, prospective lead underwriters will bid against one another to purchase debt securities, based upon their determinations of the degree of investor interest in the securities. Depending on the level of investor interest and the size of the offering, a bidding lead underwriter may bring in co-managers to assist in the sales process. Most of the securities are frequently sold within hours, or sometimes even less than an hour, after the securities are made available for purchase.

22. The Applicant represents that, because of market forces and the requirements of Rule 415, the competitive bid process is generally available only to issuers of investment-grade securities who have been subject to the reporting requirements of the 1934 Act for at least one (1) year.

23. Occasionally, in highly-rated debt issues, underwriters ''buy'' the entire deal off of a ''shelf registration'' before obtaining indications of interest. These ''bought'' deals involve issuers whose securities enjoy a deep and liquid secondary market, such that an underwriter has confidence without pre-marketing that it can identify purchasers for the bonds.

Structure of Diversified Financial Services Firms

24. The Applicant represents that there are internal policies in place that restrict contact and the flow of information between investment management personnel and non-investment management personnel in the same or affiliated financial service firms. These policies are designed to protect against ''insider trading,'' i.e., trading on information not available to the general public that may affect the market price of the securities. Diversified financial services firms must be concerned about insider trading problems because one part of the firm—e.g., the mergers and acquisitions group—could come into possession of non-public information regarding an upcoming transaction involving a particular issuer, while another part of the firm—e.g., the investment management group—could be trading in the securities of that issuer for its clients.

25. The Applicant represents that the business separation policies and procedures of CS and its affiliates are also structured to restrict the flow of any information to or from the Asset Manager that could limit its flexibility in managing client assets, and of information obtained or developed by the Asset Manager that could be used by other parts of the organization, to the detriment of the Asset Manager's clients.

[5] Rule 415 permits an issuer to sell debt as well as equity securities under an effective registration statement previously filed with the SEC by filing a post-effective amendment or supplemental prospectus.

26. The Applicant represents that major clients of the Affiliated Broker-Dealer include investment management firms that are competitors of the Asset Manager. Similarly, the Asset Manager deals on a regular basis with broker-dealers that compete with the Affiliated Broker-Dealer. If special consideration were shown to an affiliate, such conduct would likely have an adverse effect on the relationships of the Affiliated Broker-Dealer and of the Asset Manager with firms that compete with such affiliate. Therefore, a goal of the Applicant's business separation policies is to avoid any possible perception of improper flows of information between the Affiliated Broker-Dealer and the Asset Manager, in order to prevent any adverse impact on client and business relationships.

Underwriting Compensation

27. The Applicant represents that the underwriters are compensated through the ''spread,'' or difference, between the price at which the underwriters purchase the securities from the issuer and the price at which the securities are sold to the public. The spread is divided into three components.

28. The first component includes the management fee, which generally represents an agreed upon percentage of the overall spread and is allocated among the lead manager and co-managers. Where there is more than one managing underwriter, the way the management fee will be allocated among the managers is generally agreed upon between the managers and the issuer prior to soliciting indications of interest. Thus, the allocation of the management fee is not reflective of the amount of securities that a particular manager sells in an offering.

29. The second component is the underwriting fee, which represents compensation to the underwriters (including the non-managers, if any) for the risks they assume in connection with the offering and for the use of their capital. This component of the spread is also used to cover the expenses of the underwriting that are not otherwise reimbursed by the issuer of the securities.

30. The first and second components of the ''spread'' are received without regard to how the underwritten securities are allocated for sales purposes or to whom the securities are sold. The third component of the spread is the selling concession, which generally constitutes 60 percent or more of the spread. The selling concession compensates the underwriters for their actual selling efforts. The allocation of selling concessions among the underwriters generally follows the allocation of the securities for sales purposes. However, a buyer of the underwritten securities may designate other broker-dealers (who may be other underwriters, as well as broker-dealers outside the syndicate) to receive the selling concessions arising from the securities they purchase.

31. Securities are allocated for sales purposes into two categories. The first and larger category is the ''institutional pot,'' which is the pot of securities from which sales are made to institutional investors. Selling concessions for securities sold from the institutional pot are generally designated by the purchaser to go to particular underwriters or other broker-dealers. If securities are sold from the institutional pot, the selling syndicate managers sometimes receive a portion of the selling concessions, referred to as a ''fixed designation,'' [6] attributable to securities sold in this category, without regard to who sold the securities or to whom they were sold. For securities covered by this proposed exemption, however, the Affiliated Broker-Dealer may not receive, either directly or indirectly, any compensation or consideration that is attributable to the fixed designation generated by purchases of securities by the Asset Manager on behalf of its Client Plans.

32. The second category of allocated securities is ''retail,'' which are the securities retained by the underwriters for sale to their retail customers. The underwriters receive the selling concessions from their respective retail retention allocations. Securities may be shifted between the two categories based upon whether either category is oversold or undersold during the course of the offering.

33. The Applicant represents that the Affiliated Broker-Dealer's inability to receive any selling concessions, or any compensation attributable to the fixed designations generated by purchases of securities by the Asset Manager's Client Plans, removes the primary economic incentive for the Asset Manager to make purchases that are not in the interests of its Client Plans from offerings for which the Affiliated Broker-Dealer is an underwriter. The reason is that the Affiliated Broker-Dealer will not receive any additional fees as a result of such purchases by the Asset Manager.

Rule 144A Securities

34. The Applicant represents that a number of the offerings of Rule 144A Securities in which the Affiliated Broker-Dealer participates represent good investment opportunities for the Asset Manager's Client Plans. Particularly with respect to foreign securities, a Rule 144A offering may provide the least expensive and most accessible means for obtaining these securities. However, as discussed above, PTE 75–1, Part III, does not cover Rule 144A Securities. Therefore, absent an exemption, the Asset Manager is foreclosed from purchasing such securities for its Client Plans in offerings in which the Affiliated Broker-Dealer participates.

35. The Applicant states that Rule 144A acts as a ''safe harbor'' exemption from the registration provisions of the 1933 Act for sales of certain types of securities to QIBs. QIBs include several types of institutional entities, such as employee benefit plans and commingled trust funds holding assets of such plans, which own and invest on a discretionary basis at least $100 million in securities of unaffiliated issuers.

36. Any securities may be sold pursuant to Rule 144A except for those of the same class or similar to a class that is publicly traded in the United States, or certain types of investment company securities. This limitation is designed to prevent side-by-side public and private markets developing for the same class of securities and is the reason that Rule 144A transactions are generally limited to debt securities.

37. Buyers of Rule 144A Securities must be able to obtain, upon request, basic information concerning the business of the issuer and the issuer's financial statements, much of the same information as would be furnished if the offering were registered. This condition does not apply, however, to an issuer filing reports with the SEC under the 1934 Act, for which reports are publicly available. The condition also does not apply to a ''foreign private issuer'' for whom reports are furnished to the SEC under Rule 12g3–2(b) of the 1934 Act (17 CFR 240.12g3–2(b)), or to issuers who are foreign governments or political subdivisions thereof and are eligible to use Schedule B under the 1933 Act (which describes the information and documents required to be contained in a registration statement filed by such issuers).

38. Sales under Rule 144A, like sales in a registered offering, remain subject to the protections of the anti-fraud rules of federal and state securities laws. These rules include Section 10(b) of the 1934 Act and Rule 10b–5 thereunder (17 CFR 240.10b–5) and Section 17(a) of the 1933 Act (15 U.S.C. 77a). Through these and other provisions, the SEC may use its full range of enforcement powers to

[6] A fixed designation is sometimes referred to as an ''auto pot split.''

exercise its regulatory authority over the market for Rule 144A Securities, in the event that it detects improper practices or fraud.

39. The Applicant represents that this regulatory structure provides a considerable incentive to the issuer of the securities and the members of the selling syndicate to insure that the information contained in a Rule 144A offering memorandum is complete and accurate in all material respects. Among other things, the lead manager typically obtains an opinion from a law firm, commonly referred to as a ''l0b–5'' opinion, stating that the law firm has no reason to believe that the offering memorandum contains any untrue statement of material fact or omits to state a material fact necessary in order to make sure the statements made, in light of the circumstances under which they were made, are not misleading.

40. The Applicant represents that Rule 144A offerings generally are structured in the same manner as underwritten registered offerings. The major difference is that a Rule l44A offering uses an offering memorandum rather than a prospectus that is filed with the SEC. The marketing process is the same in most respects, except that the selling efforts are limited to contacting QIBs and there are no general solicitations for buyers (e.g., no general advertising). In addition, the Affiliated Broker-Dealer's role in these offerings is typically that of a lead or co-manager. Generally, there are no non-manager members in a Rule 144A selling syndicate. However, the Applicant requests that the proposed exemption extend to authorization for situations where the Affiliated Broker-Dealer acts only as a syndicate member, not as a manager.

Summary

41. The proposed exemption is administratively feasible. In this regard, compliance with the terms and conditions of the proposed exemption will be verifiable and subject to audit.

42. The proposed exemption is in the interest of participants and beneficiaries of Client Plans that engage in the covered transactions. In this regard, it is represented that the proposed exemption will increase investment opportunities and will reduce administrative costs for Client Plans.

43. In summary, the Applicant represents that the proposed transactions will satisfy the statutory criteria for an exemption set forth in section 408(a) of the Act because:

(a) The Client Plans and In-House Plans will gain access to desirable investment opportunities;

(b) In each offering, the Asset Manager will purchase the securities for its Client Plans and In-House Plans from an underwriter or broker-dealer other than the Affiliated Broker-Dealer;

(c) Conditions similar to those of PTE 75–1, Part III, will restrict the types of securities that may be purchased, the types of underwriting or selling syndicates and issuers involved, and the price and timing of the purchases;

(d) The amount of securities that the Asset Manager may purchase on behalf of Client Plans and In-House Plans will be subject to percentage limitations;

(e) The Affiliated Broker-Dealer will not be permitted to receive, either directly, indirectly or through designation, any selling concessions with respect to the securities sold to the Asset Manager for the account of a Client Plan or an In-House Plan;

(f) Prior to any purchase of securities, the Asset Manager will make the required disclosures to an Independent Fiduciary of each Client Plan and obtain the required written authorization to engage in the covered transactions;

(g) The Asset Manager will provide regular reporting to an Independent Fiduciary of each Client Plan with respect to all securities purchased pursuant to the exemption, if granted;

(h) Each Client Plan and each In-House Plan will be subject to net asset requirements, with certain exceptions for Pooled Funds; and

(i) The Asset Manager must have total assets under management in excess of $5 billion and shareholders' or partners' equity in excess of $1 million, in addition to qualifying as a QPAM, pursuant to Part V(a) of PTE 84–14.

Notice To Intersted Persons: The Applicant represents that because those potentially interested Plans proposing to engage in the covered transactions cannot all be identified, the only practical means of notifying Independent Plan Fiduciaries or Plan Participants of such affected Plans is by publication of the proposed exemption in the **Federal Register**. Therefore, any comments from interested persons must be received by the Department no later than 30 days from the publication of this notice of proposed exemption in the **Federal Register**.

FOR FURTHER INFORMATION CONTACT: Mr. Gary H. Lefkowitz of the Department, telephone (202) 693–8546. (This is not a toll-free number.)

General Information

The attention of interested persons is directed to the following:

(1) The fact that a transaction is the subject of an exemption under section 408(a) of the Act and/or section 4975(c)(2) of the Code does not relieve a fiduciary or other party in interest or disqualified person from certain other provisions of the Act and/or the Code, including any prohibited transaction provisions to which the exemption does not apply and the general fiduciary responsibility provisions of section 404 of the Act, which, among other things, require a fiduciary to discharge his duties respecting the plan solely in the interest of the participants and beneficiaries of the plan and in a prudent fashion in accordance with section 404(a)(1)(b) of the Act; nor does it affect the requirement of section 401(a) of the Code that the plan must operate for the exclusive benefit of the employees of the employer maintaining the plan and their beneficiaries;

(2) Before an exemption may be granted under section 408(a) of the Act and/or section 4975(c)(2) of the Code, the Department must find that the exemption is administratively feasible, in the interests of the plan and of its participants and beneficiaries, and protective of the rights of participants and beneficiaries of the plan;

(3) The proposed exemptions, if granted, will be supplemental to, and not in derogation of, any other provisions of the Act and/or the Code, including statutory or administrative exemptions and transitional rules. Furthermore, the fact that a transaction is subject to an administrative or statutory exemption is not dispositive of whether the transaction is in fact a prohibited transaction; and

(4) The proposed exemptions, if granted, will be subject to the express condition that the material facts and representations contained in each application are true and complete, and that each application accurately describes all material terms of the transaction which is the subject of the exemption.

Signed at Washington, DC, this 14th day of January, 2008.

Ivan Strasfeld,

Director of Exemption Determinations, Employee Benefits Security Administration. U.S. Department of Labor.

[FR Doc. E8–799 Filed 1–16–08; 8:45 am]

BILLING CODE 4510–29–P

DEPARTMENT OF VETERANS AFFAIRS

Advisory Committee on Women Veterans; Notice of Meeting

The Department of Veterans Affairs (VA) gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Advisory Committee on Women

Veterans will meet February 19–21, 2008 at 1575 I Street, NW., Washington, DC, from 8:30 a.m.–4:30 p.m., each day. The meeting is open to the public.

The purpose of the Committee is to advise the Secretary of Veterans Affairs regarding the needs of women veterans with respect to health care, rehabilitation, compensation, outreach, and other programs and activities administered by VA designed to meet such needs. The Committee will make recommendations to the Secretary regarding such programs and activities.

On February 19, the agenda will include overviews of the Veterans Health Administration, the Veterans Benefits Administration, the National Cemetery Administration, an update on the 2006 Advisory Committee on Women Veterans report, an update on the activities conducted by the Center for Women Veterans, research, homeless veteran initiatives, and an overview of the Federal Recovery Center. On February 20, the agenda will include discussion of standardized training for health care affiliates and post graduates, discussion of improving outreach to women veterans, and an update on National Center for PTSD Expert Workgroup research—''Best Practice Manual for PTSD Compensation and Pension Examination''. On February 21, the agenda will focus on preparation of the 2008 Advisory Committee on Women Veterans report. The agenda will also include any new issues that the Committee members may introduce.

Any member of the public wishing to attend should contact Ms. Shannon L. Middleton, at the Department of Veterans Affairs, Center for Women Veterans (OOW), 810 Vermont Avenue, NW., Washington, DC 20420. Ms. Middleton may be contacted either by phone at (202) 461–6193, fax at (202) 273–7092, or e-mail at *OOW@mail.va.gov.* Interested persons may attend, appear before, or file statements with the Committee. Written statements must be filed before the meeting, or within 10 days after the meeting.

Dated: January 11, 2008.

By direction of the Secretary.

E. Philip Riggin

Committee Management Officer.

[FR Doc. 08–126 Filed 1–16–08; 8:45 am]

BILLING CODE 8320–01–M

OFFICE OF PERSONNEL MANAGEMENT

Submission for OMB Emergency Clearance and 60 Day Notice for Comment for a New Information Collection Request; Retirement Systems Modernization Defined Benefits Technology Solution (DBTS) OMB No. 3206–XXXX

AGENCY: Office of Personnel Management (OPM).

ACTION: Notice.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (Pub. L. 104–13, May 22, 1995), this notice announces that the Office of Personnel Management (OPM) submitted a request to the Office of Management and Budget (OMB) for emergency clearance and review for emergency clearance collection for the Defined Benefits Technology Solution (DBTS) in support of the Retirement Systems Modernization (RSM) project at OPM. Approval of the DBTS is necessary to ensure timely administration of retirement benefits to both active and retired federal employees and their dependents. This also serves as the 60 Day Notice for full clearance review.

Approximately 23,000 active federal employees will gain access to the DBTS starting in February 2008 and will have access to the tool; The subset of annuitants and other members of the public from this initial user group that will be using the tool starting in February can not be determined at the time of this submission however the audience will likely be significantly smaller than the active population. We estimate it will take approximately 20 minutes to complete most of the information collections associated with the DBTS. The majority of information collections for the DBTS are done via the internet using the Your Benefits Resources (YBR) Web site. The annual estimated burden is 2,733 hours.

Comments are particularly invited on:

• Whether this information is necessary for the proper performance of functions on the Office of Personnel Management, 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; 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.

For copies of this proposal, contact Mary Beth Smith-Toomey, OPM PRA and Forms Officer, at (202) 606–8358, Fax (202) 418–3251 or via e-mail to *MaryBeth.Smith-Toomey@opm.gov.* Please include your complete mailing address with your request.

DATES: Comments on this proposal for emergency review should be received within 15 calendar days from the date of this publication. We are requesting OMB to take action within 10 calendar days from the close of this **Federal Register** Notice on the request for emergency review. Comments on this proposal for 60 Day review should be received within 60 calendar days from the date of this publication.

ADDRESSES: Send or deliver comments to:

Thomas O'Keefe, Retirement Systems Modernization, U.S. Office of Personnel Management, 1900 E Street, NW., Room 4H30, Washington, DC 20415; and

Brenda Aguilar, OPM Desk Officer, Office of Management and Budget, Office of Information and Regulatory Affairs, New Executive Office Building, NW., Room 10235, Washington, DC 20503.

U.S. Office of Personnel Management,

Howard Weizmann,

Deputy Director.

[FR Doc. E8–808 Filed 1–16–08; 8:45 am]

BILLING CODE 6325–38–P

RAILROAD RETIREMENT BOARD

Agency Forms Submitted for OMB Review, Request for Comments

SUMMARY: In accordance with the Paperwork Reduction Act of 1995 (44 U.S.C. Chapter 35), the Railroad Retirement Board (RRB) is forwarding an Information Collection Request (ICR) to the Office of Information and Regulatory Affairs (OIRA), Office of Management and Budget (OMB) to request a revision to a currently approved collection of information: 3220–0127, Financial Disclosure Statement. Our ICR describes the information we seek to collect from the public. Review and approval by OIRA ensures that we impose appropriate paperwork burdens.

The RRB invites comments on the proposed collection of information to determine (1) the practical utility of the collection; (2) the accuracy of the estimated burden of the collection; (3) ways to enhance the quality, utility and clarity of the information that is the subject of collection; and (4) ways to minimize the burden of collections on respondents, including the use of automated collection techniques or

other forms of information technology. Comments to RRB or OIRA must contain the OMB control number of the ICR. For proper consideration of your comments, it is best if RRB and OIRA receive them within 30 days of publication date.

Under section 10 of the Railroad Retirement Act and section 2(d) of the Railroad Unemployment Insurance Act, the RRB may recover overpayments of annuities, pensions, death benefits, unemployment benefits, and sickness benefits that were made erroneously. An overpayment may be waived if the beneficiary was not at fault in causing the overpayment and recovery would cause financial hardship. The regulations for the recovery and waiver of erroneous payments are contained in 20 CFR 255 and CFR 340.

The RRB utilizes Form DR–423, Financial Disclosure Statement, to obtain information about the overpaid beneficiary's income, debts, and expenses if that person indicates that (s)he cannot make restitution for the overpayment. The information is used to determine if the overpayment should be waived as wholly or partially uncollectible. If waiver is denied, the information is used to determine the size and frequency of installment payments. The beneficiary is made aware of the overpayment by letter and is offered a variety of methods for recovery. One response is requested of each respondent. Completion is voluntary. However, failure to provide the requested information may result in a denial of the waiver request.

Previous Requests for Comments: The RRB has already published the initial 60-day notice (72 FR 61192 on October 29, 2007) required by 44 U.S.C. 3506(c)(2). That request elicited no comments.

Information Collection Request (ICR)

Title: Financial Disclosure Statement.

OMB Control Number: 3220–0127.

Form(s) submitted: DR–423.

Type of request: Revision of a currently approved collection.

Affected public: Individuals or Households.

Abstract: Under the Railroad Retirement and the Railroad Unemployment Insurance Acts, the Railroad Retirement Board has authority to secure from an overpaid beneficiary a statement of the individual's assets and liabilities if waiver of the overpayment is requested.

Changes Proposed: The RRB proposes the deletion of items requesting the railroad employee's Social Security Number and their spouse's Social Security Number from Form DR–423. Non-burden impacting formatting and editorial changes are also proposed.

The burden estimate for the ICR is as follows:

Estimated Completion Time for Form(s): Completion time for Form DR–423 is estimated at 85 minutes.

Estimated annual number of respondents: 1,200.

Total annual responses: 1,200.

Total annual reporting hours: 1,700.

Additional Information or Comments: Copies of the forms and supporting documents can be obtained from Charles Mierzwa, the agency clearance officer (312–751–3363) or *Charles.Mierzwa@rrb.gov.*

Comments regarding the information collection should be addressed to Ronald J. Hodapp, Railroad Retirement Board, 844 North Rush Street, Chicago, Illinois 60611–2092 or *Ronald.Hodapp@rrb.gov* and to the OMB Desk Officer for the RRB, at the Office of Management and Budget, Room 10230, New Executive Office Building, Washington, DC 20503.

Charles Mierzwa,

Clearance Officer.

[FR Doc. E8–734 Filed 1–16–08; 8:45 am]

BILLING CODE 7905–01–P

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57119; File No. CBOE–2008–01]

Self-Regulatory Organizations; Chicago Board Options Exchange, Incorporated; Notice of Filing and Immediate Effectiveness of Proposed Rule Change Relating to Complex Orders

January 9, 2008.

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 January 4, 2008, the Chicago Board Options Exchange, Incorporated (''CBOE'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') a proposed rule change as described in Items I and II below, which Items have been prepared substantially by CBOE. The Exchange filed the proposal as a ''non-controversial'' proposed rule change pursuant to section 19(b)(3)(A)(iii) of the Act[3] and Rule 19b–4(f)(6) thereunder,[4] which renders the proposal effective upon receipt of this filing by the Commission. The Commission is publishing this notice to solicit comments on the proposed rule change from interested persons.

I. Self-Regulatory Organization's Statement of the Terms of Substance of the Proposed Rule Change

The Exchange proposes to amend CBOE Rule 6.42, *Minimum Increments for Bids and Offers,* in order to clarify which option classes overlying the S&P 500 Index and S&P 100 Index are subject to the requirement that bids and offers on complex orders,[5] except for box/roll spreads, be expressed in decimal increments no smaller than $0.05 and to provide that the appropriate Exchange Committee may determine to modify the applicable increment on a class-by-class basis. CBOE also proposes to amend CBOE Rule 6.53C, *Complex Orders on the Hybrid System,* to make certain clarification changes respecting the applicable minimum increment for complex orders. In addition, CBOE is proposing various non-substantive, typographical changes to the two rules. The text of the proposed rule change is available at CBOE, the Commission's Public Reference Room, and *http://www.cboe.com/legal.*

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. 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

The purpose of this filing is to make various changes to the Exchange's rules pertaining to complex orders. First, the Exchange is proposing to amend CBOE Rule 6.42. Rule 6.42 establishes the minimum trading increments for options traded on the Exchange. Rule

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C 78s(b)(3)(A)(iii).

[4] 17 CFR 240.19b–4(f)(6).

[5] A ''complex order'' means a spread, straddle, combination or ratio order as defined in CBOE Rule 6.53, a stock-option order as defined in CBOE Rule 1.1(ii), a security future-option order as defined in CBOE Rule 1.1(zz), or any other complex order as defined in Rule 6.53C. *See* CBOE Rule 6.42.01.

6.42(1) provides that, subject to Rule 6.42(2), bids and offers shall be expressed in decimal increments no smaller than $.10 unless a different increment is approved by the appropriate Exchange committee for an option contract of a particular series. Rule 6.42(2) provides that bids and offers for all option series quoted below $3.00 a contract shall be expressed in decimal increments no smaller than $.05. Rule 6.42(3) provides that bids and offers for all series of the options classes participating in the Penny Pilot Program[6] will be announced via Regulatory Circular. Rule 6.42(4) provides that bids and offers on complex orders may be expressed in any increment, and the legs of a complex order may be executed in one cent increments, regardless of the minimum increments otherwise appropriate to the individual legs of the order. Thus, for example, a complex order could be entered at a net debit or credit price of $1.03 even though the standard minimum increment for the individual series is generally $0.05 or $0.10. As an exception to this provision, Rule 6.42(4) also provides that bids and offers on complex orders in options on the S&P 500 Index or the S&P 100 Index, except for box/roll spreads, shall be expressed in decimal increments no smaller than $0.05. The Exchange is proposing the following changes:

• As currently worded, the text of Rule 6.42(4) simply refers to the underlying S&P 500 Index and S&P 100 Index, but not to the particular overlying option classes. Although there may be various options classes overlying these indexes, the Exchange only intends for the special increment to apply to certain option classes. Therefore, the Exchange is proposing to amend the text of the rule to clarify that the special increments apply only to the European-Style Exercise S&P 500 Index options class (option symbol ''SPX''), the American-Style S&P 100 Index options class (option symbol ''OEX''), and the European-Style Exercise S&P 100 Index options class (option symbol ''XEO'').[7]

• To provide more flexibility, the Exchange is proposing to amend Rule 6.42(4) to provide that the appropriate Exchange committee may determine on a class-by-class basis whether the special increment provisions will apply. Specifically, the proposed rule change would permit the appropriate Exchange committee to designate the applicable minimum increment for bids and offers on complex orders in the SPX, OEX or XEO option class as either (i) the special $0.05 increment or (ii) like other options classes, any increment. The proposed rule change also makes clear that, like other complex orders, the legs of SPX, OEX or XEO complex orders may be executed in $0.01 increments.[8]

Second, the Exchange is proposing to amend CBOE Rule 6.53C. Rule 6.53C contains separate provisions regarding the minimum net price increment applicable to complex orders that are submitted to the Exchange's electronic complex order book (''COB'') and the Exchange's automated complex order RFR auction process (''COA''). The rule currently provides that the appropriate Exchange committee will determine on a class-by-class basis whether the minimum net price increment for complex orders submitted COB or COA, as applicable, will be (i) a multiple of the minimum increment (i.e., $0.05 or $0.10, as applicable) or (ii) a $0.01 increment. The Exchange is proposing to amend these provisions to provide that the minimum net price increment may be either a (i) multiple of the minimum increment or (ii) a smaller increment, provided that the increment may not be less than $0.01. This change is intended to provide additional clarity and flexibility for determining the applicable minimum net price increment for COB and COA. For example, the change accommodates the application of a minimum $0.05 net priced increment for COB and COA in the OEX and XEO option classes, similar to the special $0.05 increment provided under Rule 6.42(4).

Finally, the Exchange is proposing to make various non-substantive changes to CBOE Rule 6.53C to update references to the applicable minimum increment (which now includes $0.01 in series participating in the Penny Pilot Program), delete an outdated reference to interim procedures regarding the N-second group timer (as described in Rule 6.45A(c)), reorganize and make various non-substantive changes to the text for clarity, and combine certain duplicative language regarding the issuance of regulatory circulars.

2. Statutory Basis

The Exchange believes the proposed rule change is consistent with section 6(b) of the Act,[9] in general, and furthers the objectives of section 6(b)(5) of the Act,[10] in particular, in that it is designed to prevent fraudulent and manipulative acts and practices, promote just and equitable principles of trade, remove impediments to and perfect the mechanisms of a free and open market and a national market system, and, in general, 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

No written comments were either solicited or received with respect to the proposed rule change.

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Because the foregoing proposed rule change does not: (1) Significantly affect the protection of investors or the public interest; (2) impose any significant burden on competition; and (3) become operative for thirty days from the date on which it was filed, or such shorter time as the Commission may designate if consistent with the protection of investors and the public interest, it has become effective pursuant to section 19(b)(3)(A) of the Act[11] and Rule 19b–4(f)(6) thereunder.[12]

A proposed rule change filed under Commission Rule 19b–4(f)(6) normally does not become operative prior to thirty days after the date of filing. The CBOE requests that the Commission waive the 5-day pre-filing notice requirement as well as the 30-day operative delay, as specified in Rule 19b–4(f)(6)(iii),[13] and designate the proposed rule change operative

[6] *See* Securities Exchange Act Release 55154 (January 23, 2007), 72 FR 4743 (February 1, 2007)(order approving CBOE rule changes related to the Penny Pilot Program, which permits certain option classes to be quoted in pennies on a pilot basis).

[7] The Exchange notes that, when the provision respecting these special increments was originally adopted, it simply applied to options on the S&P 500 Index and that rule change filing referred to those options as ''SPX'' options. *See* Securities Exchange Act Release No. 45731 (April 11, 2002), 67 FR 19464 (April 19, 2002)(SR–CBOE–2001–62). The rule change filing that extended the application of the special increments to options on the S&P 100 Index referred to those options as ''OEX'' options. *See* Securities Exchange Act Release No. 54135 (July 12, 2006), 71 FR 41287 (July 20, 2006)(SR–CBOE–2005–65). Through the instant rule change, the Exchange is proposing to clarify that the reference to S&P 100 Index options should also include XEO options, which only differ from the OEX options in exercise style. As with OEX options, the Exchange believes that application of the special increment provisions to XEO options is appropriate given the complexity of XEO orders and the size of the underlying S&P 100 Index.

[8] Two other non-substantive formatting changes are also being proposed to the text of Rule 6.42 (specifically, the term ''one cent'' would be replaced with ''$0.01'' and parentheticals (''('') would be added to the numbering contained in Interpretation and Policy .02).

[9] 15 U.S.C. 78f(b).

[10] 15 U.S.C. 78f(b)(5).

[11] 15 U.S.C. 78s(b)(3)(A).

[12] 17 CFR 240.19b–4(f)(6).

[13] 17 CFR 240.19b–4(f)(6)(iii).

immediately. The Commission believes that waiving the 5-day pre-filing notice requirement and the 30-day operative delay is consistent with the protection of investors and the public interest as the proposed rule change presents no novel issues. For this reason, the Commission designates the proposed rule change as operative upon filing.[14]

At any time within 60 days of the filing of such proposed rule change, the Commission may summarily abrogate such rule change if it appears to the Commission that such action is necessary or appropriate in the public interest, for the protection of investors, or otherwise in 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–CBOE–2008–01 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–2008–01. 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of 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 SR–CBOE–2008–01 and should be submitted on or before February 7, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[15]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–708 Filed 1–16–08; 8:45 am]

BILLING CODE 8011–01–P

[14] For the purposes only of waiving the operative date of this proposal, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[15] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57131; File No. SR–MSRB–2007–08]

Self-Regulatory Organizations; Municipal Securities Rulemaking Board; Notice of Filing of Proposed Rule Change to Rule G–8, Books and Records, Rule G–9, Preservation of Records, and Rule G–34, CUSIP Numbers and New Issue Requirements, To Improve Transaction Reporting of New Issues

January 11, 2008.

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 November 27, 2007, the Municipal Securities Rulemaking Board (''MSRB'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC'') the proposed rule change as described in Items I, II, and III below, which Items have been substantially prepared by the MSRB. 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 MSRB is filing with the Commission a proposed rule change consisting of an amendment of its Rule G–8, Books and Records, Rule G–9, Preservation of Records, and Rule G–34, CUSIP Numbers and New Issue Requirements. The proposed rule change is designed to improve transaction reporting of new issues and would accelerate the timing for CUSIP number assignment and, with the exception of new issues of short-term instruments with less than nine months in effective maturity, require underwriters to:

(i) Submit certain information about a new issue of municipal securities to Depository Trust and Clearing Corporation's New Issue Information Dissemination System within set timeframes; and (ii) set and disseminate a ''Time of First Execution'' that allows time for market participants to access necessary information in preparation for trade reporting prior to beginning trade executions in the issue. The MSRB proposes an effective date for the proposed rule change of June 30, 2008. The text of the proposed rule change is available on the MSRB's Web site (*http://www.msrb.org*), at the MSRB's principal office, and at the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the MSRB 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 MSRB 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

MSRB Rule G–14, on transaction reporting, requires all brokers, dealers and municipal securities dealers (''dealers'') to report all transactions in municipal securities to the MSRB Real-Time Transaction Reporting System (''RTRS'') within fifteen minutes of the time of trade execution, with limited exceptions. One exception listed in Rule G–14 RTRS Procedures, paragraph (a)(ii) is a ''three-hour exception'' that allows a dealer three hours to report a transaction in a when, as and if issued (''when-issued'') security if all of the following conditions apply: (i) The CUSIP number and indicative data of the issue traded are not in the securities

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

master file used by the dealer to process trades for confirmations, clearance and settlement; (ii) the dealer has not traded the issue in the previous year; and (iii) the dealer is not a syndicate manager or syndicate member for the issue.[3]

The three-hour exception was designed to give a dealer time to add a security to its ''securities master file'' so that a trade can be reported through the dealer's automated trade processing systems. A securities master file contains the information about a municipal security issue that is necessary for a dealer to be able to process transactions in the issue. It includes such items as the interest rate, dated date, interest payment cycle, and put and call schedules. The dealer's securities master file often contains information only for securities held in custody for customers and for securities that have been recently traded. If a dealer trades a security that is not in its securities master file, the relevant securities information must be obtained by the dealer from an information vendor before the trade can be processed and reported.[4]

For new issue transactions, a dealer's access to necessary securities information depends not only on its link with an information vendor but also on whether that vendor itself has the information on the new issue. Vendors currently obtain much of their new issue information through voluntary cooperation from underwriters. This process does not always result in all the vendors having the necessary securities information by the time trade executions begin. Dealers trading a new issue for the first time need the three-hour exception from the fifteen-minute trade reporting requirement for their first trades in a new issue because the securities information is not always available at the time the trade is executed.[5]

To address inefficiencies in the collection of new information securities data, Securities Industry and Financial Markets Association (''SIFMA''), industry members, securities information vendors, and other service providers in the municipal securities market have worked extensively with The Depository Trust and Clearing Corporation (''DTCC'') to develop a centralized system for collecting and communicating new issue securities information. The system, called the ''New Issue Information Dissemination System'' (''NIIDS''), will be operated by DTCC and will act as a central collection point for standardized electronic files of new issue information provided by underwriters which will be disseminated in real-time to information vendors.

Although the amount of securities information needed for trade reporting under Rule G–14 is limited,[6] many of the automated trade processing systems used to report trades currently need more extensive securities information (essentially the information necessary to produce a trade confirmation) before a trade can be reported. The industry initiative on NIIDS has resulted in a relatively comprehensive list of new issue securities data that will be collected and disseminated by NIIDS, including Time of Formal Award and Time of First Execution, discussed below. DTCC plans to implement NIIDS in early 2008.[7]

The proposed rule change is designed to improve new issue transaction reporting through requiring underwriter participation with NIIDS. The proposed rule change prescribes timetables for submission of data to NIIDS and other underwriter procedures that are intended to ensure that all dealers have timely access to the new issue information that is needed for compliance with trade reporting requirements. The MSRB proposes a June 30, 2008 effective date for the proposed rule change.[8]

Amendments to Rule G–34

Currently, Rule G–34 requires underwriters[9] to apply for CUSIP numbers within specific deadlines and to transmit a limited amount of information about a new issue such as the coupons, maturities and issue closing date to DTCC. The rule also contains a requirement for Time of Formal Award to be disseminated to market participants that may trade the new issue. The proposed rule change would accelerate the timing for CUSIP number assignment and, with the exception of new issues of short-term instruments with less than nine months in effective maturity, require underwriters to: (i) Submit certain information about a new issue of municipal securities to DTCC's NIIDS System within set timeframes; and (ii) set and disseminate a ''Time of First Execution'' that allows time for market participants to access necessary information in preparation for trade reporting prior to beginning trade executions in the issue.

Timing of CUSIP Number Assignment

CUSIP numbers are a required data element for automated trade processing and trade reporting systems and will be a prerequisite for entry of new issue information into NIIDS. Timely processing of new issue transactions requires that CUSIP numbers be assigned as early as possible in the underwriting process. Rule G–34 contains various requirements for underwriters, and for dealers acting as financial advisors on competitive sales, to apply to the CUSIP Service Bureau for CUSIP number assignment. The current deadlines are based on: The time the bond purchase agreement is executed (for underwriters in negotiated sales); the time of the issuer's award (for dealers acting as financial advisors in competitive sales); and the time of the first execution of a trade in the issue (for underwriters in competitive sales). The proposed rule change would set new deadlines designed to ensure CUSIP number assignment occurs as soon as possible in the underwriting process, allowing for the timely submission of new issue information to NIIDS.

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[3] Another exception is an end-of-day deadline for reporting trades in short-term instruments under nine months in effective maturity, including variable rate instruments, auction rate products, and commercial paper.

[4] Many dealers use service bureaus for various trade processing functions, including the maintenance of securities master files. Securities master file update procedures for service bureaus are the same as those described for dealers.

[5] In the new issue market, information vendors seek to collect information on each issue and deliver it to customers in time for trade reporting in the new issue. There are several challenges for vendors and dealers to meet the reporting deadlines. For example, there are approximately 15,000 new municipal issues that must be set up in databases each month. Another problem for the industry is the fact that approximately 85 different information fields for each issue must be successfully gathered, which in large part depends on the timely cooperation of the underwriters.

[6] RTRS only requires dealers to include limited information on trade reports in when-issued securities, such as the CUSIP number of the security traded, the par value of the transaction, and the transaction price expressed as either yield or dollar price.

[7] In addition to providing an improved mechanism for disseminating the new issue information necessary for trade processing, the system also would use the information for purposes of establishing depository eligibility for new issues. DTCC plans to require use of the New Underwriting System (''NUWS''), of which NIIDS is a component, beginning in April 2008.

[8] NIIDS, in conjunction with MSRB rules, should make it possible for dealers to report new issue trades earlier and thus eliminate the need for the three-hour exception for when-issued trade reports. Accordingly, the MSRB has filed with the SEC a proposed rule change to sunset the ''three-hour exception'' on June 30, 2008, to coincide with the effective date of the proposed rule change. *See* Securities Exchange Act Release No. 57002 (December 20, 2007), 72 FR 73939 (December 28, 2007) (SR–MSRB–2007–07).

[9] Rule G–34 defines ''underwriter'' very broadly to include a dealer acting as a placement agent as well as any dealer purchasing new issue securities from the issuer as principal. If there is an underwriting syndicate, the lead manager is considered to be the ''underwriter'' for purposes of Rule G–34.

For negotiated issues, the proposed rule change would require that an application must be made no later than the time that the pricing information for the issue is determined. For a dealer acting as a financial advisor on a competitive deal, the proposed rule change would require an application for CUSIP number assignment to be made within one business day of dissemination of a notice of sale. The proposed rule change also states a general requirement that the underwriter on a negotiated underwriting and a dealer acting as a financial advisor on a competitive deal would be required to ensure that final CUSIP number assignment occurs prior to the formal award of the new issue.[10]

Rule G–34 currently requires the underwriter in a competitive sale to apply for CUSIP numbers if an application has not already been made by the issuer or the issuer's representative. The MSRB understands that CUSIP numbers for competitively sold issues generally are assigned by the date of sale, but that on occasion this is not done.[11] Dealers have noted that, in these situations, automated trade processing and real-time trade reporting for the issue may be delayed because of the time necessary for the underwriter to obtain CUSIP numbers after the formal award. The proposed rule change would clarify the underwriter's existing responsibility in such situations to apply for CUSIP numbers immediately after receiving the award.

Underwriter Requirement To Provide Information to NIIDS Within Certain Deadlines

The proposed rule change would require underwriters to transmit new issue information to NIIDS within deadlines that are intended to ensure that the information reaches information vendors and is further re-disseminated for use in automated trade processing systems by the time that trade executions begin in a new issue. The specific items of information required to be submitted are those generally considered necessary for automated trade processing in an issue and are designated in the NIIDS system as items necessary for ''Trade Eligibility.''

Underwriters would be required to submit this information electronically in accordance with the methods and formats stated for NIIDS system users. The information could be provided through computer-to-computer links or through a web interface allowing manual input of data. Although the underwriter would be ultimately responsible for timely, comprehensive and accurate data submission, the proposed rule change would allow for use of an intermediary to accomplish this function.[12]

NIIDS is designed so that, once CUSIP numbers are assigned to a new issue, information about the issue can be submitted as it becomes available. The proposed rule change would require underwriters to provide information specified by NIIDS as required for Trade Eligibility as soon as it is available, with a final deadline for all such information to be provided no later than two hours after the Time of Formal Award, which would be redefined as discussed below. The proposed rule change also states that only the hours between 9 a.m. and 5 p.m. Eastern on an RTRS Business Day are counted for purposes of the timetables listed in the draft amendments. For example, if the Time of Formal Award occurs at 6 p.m. Eastern, the timetables listed in the proposed rule change would not commence until 9 a.m. Eastern on the next RTRS Business Day.

Revised Definition of ''Time of Formal Award''

The Time of Formal Award represents the earliest time that a dealer can execute transactions in a new issue and is used currently in Rule G–34 and in the proposed rule change to set certain deadlines. The proposed rule change includes a minor change to the current definition of ''Time of Formal Award'' for purposes of Rule G–34 timetables. The MSRB understands that underwriters are not always present at the time the issuer executes a bond purchase agreement or formally confirms an award of a competitive issue. Some time may elapse between this time and the time at which the underwriter becomes aware of the issuer's action and this delay may not be under the control of the underwriter. To address this issue, the proposed rule change states that for purposes of Rule G–34, ''Time of Formal Award'' is defined as:

- For competitive issues, the later of the time the issuer formally awards the issue or the time the issuer notifies the underwriter of the award; and,
- for negotiated issues, the later of the time the contract to purchase the securities from the issuer is executed or the time the issuer notifies the underwriter of its execution of the agreement.

The Time of Formal Award is one of the required information items to be submitted to NIIDS. Therefore, it would be subject to the general requirement to be submitted as soon as it is available as well as the ultimate deadline for submission of all required data, which is two hours after the Time of Formal Award. These requirements should ensure that all information necessary for trade reporting is available through NIIDS no later than two hours after the Time of Formal Award.

''Time of First Execution'' and Advance Notification Requirement

The second major component of the amendments to Rule G–34 is an advance notification requirement that would ensure that all dealers have advance notification of the underwriter's planned time for first trade executions and can be prepared to process trade executions by that time. The MSRB understands that under current industry practices, underwriters do not always disseminate the time that they intend to begin trade executions. Consequently, dealers that are not in the underwriting group sometimes do not know when their own transactions in the issue should begin and this may negatively affect the ability of those dealers to report their initial transactions in a timely and accurate manner or to coordinate their reported time of trade execution on inter-dealer transactions with members of the underwriting group.

To address this concern, the proposed rule change would require the underwriter of a new issue to disseminate the ''Time of First Execution,'' which is the underwriter's anticipated time for beginning trade executions in a new issue. Once an underwriter has completed the submission of all required information to NIIDS, the information then will need to be re-disseminated to other dealers that may have trades in the issue and these dealers (and service bureaus) will need to ''set up'' automated trade processing systems with the new issue information. To allow time for this

[10] Under existing provisions of Rule G–34, dealers frequently apply for CUSIP numbers before interest rates are determined. In these cases, the dealer must provide the final interest rate information as soon as it becomes available. The proposed rule change would clarify that a dealer must update any of the required information that changes after an initial application as soon as the new information becomes available.

[11] As noted above, in competitive sales where a dealer serves as financial advisor, Rule G–34 requires the dealer to apply for CUSIP numbers. However, in competitive sales where there is no dealer financial advisor, there is no other dealer associated with the issue prior to the date of sale that can be charged under MSRB rules with the responsibility to make a pre-sale application for CUSIP numbers.

[12] Several industry vendors that provide ''bookrunning'' services to underwriters on new issues have indicated that they plan to offer a service to transmit information about a new issue to NIIDS on behalf of the underwriter.

process to occur, the underwriter would be required to provide a Time of First Execution that is at least two hours after the time that all required information is provided to NIIDS.

The proposed rule change would accommodate several situations that may occur in the underwriting of new issues of municipal securities. For example, the underwriter would be allowed to submit an anticipated Time of Formal Award rather than wait for the actual Time of Formal Award if the underwriter and issuer have agreed in advance on a Time of Formal Award. This may be the case if the formal award is a scheduled pro forma requirement by an issuer's governing body and all details necessary for the formal award have been finalized and submitted to NIIDS in advance. The underwriter could in this case complete its submission to NIIDS using the anticipated Time of Formal Award. By doing this, the underwriter could schedule its Time of First Execution to occur immediately after the formal award, rather than waiting two hours. Any changes to these times would require correction in NIIDS as soon as known. As long as the two-hour notification period has been met once, however, it would not be necessary to start a new notification period as a result of minor adjustments to the Time of Formal Award or Time of First Execution.

Amendments to Rules G–8 and G–9

The proposed rule change includes amendments to the MSRB's recordkeeping rules that would require an underwriter to retain for three years a record of the Time of Formal Award, a copy of the notification from DTCC indicating that a new issue received Trade Eligibility status in NIIDS and the Time of First Execution. This would provide a record showing whether the underwriter provided information necessary for Trade Eligibility no later than two hours after the Time of Formal Award and whether the underwriter provided at least two hours advance notification of the Time of First Execution.

2. Statutory Basis

The MSRB believes that the proposed rule change is consistent with section 15B(b)(2)(C) of the Act,[13] which provides that the MSRB's rules shall:

> Be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in municipal securities, to remove impediments to and perfect the mechanism of a free and open market in municipal securities, and, in general, to protect investors and the public interest.

The MSRB believes that the proposed rule change is consistent with the Act because it will allow the municipal securities industry to produce more accurate trade reporting and transparency.

B. Self-Regulatory Organization's Statement on Burden on Competition

The MSRB 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 because it would apply equally to all brokers, dealers and municipal securities dealers.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants, or Others

On March 5, 2007, the MSRB published for comment an exposure draft of the proposed rule change [14] (the ''March 2007 draft amendments'').[15] While the MSRB did not request comment on the amendments to Rule G–8 and G–9, these amendments were included in the proposed rule change to provide enforcement agencies with information necessary to gauge compliance with the amendments to Rule G–34.

The MSRB received comments on the March 2007 draft amendments from the following commentators:

—Bear Stearns and Co., Inc.
—Standard and Poor's CUSIP Service Bureau (''CUSIP'').
—First Southwest Company (''First Southwest'').
—J.J.B. Hilliard, W.L. Lyons, Inc. (''Hilliard Lyons'').
—Joe Jolly and Co., Inc.
—Lehman Brothers (''Lehman'').
—Roosevelt and Cross, Inc. (''Roosevelt and Cross'').
—Securities Industry and Financial Markets Association (''SIFMA'').
—Wiley Bros.

While many of the commentators made specific suggestions on details of the March 2007 draft amendments, commentators were generally supportive. SIFMA ''supports * * * efforts by the MSRB to improve the efficiency of new issue information to the market necessary for dealers to comply with price reporting requirements.'' Hilliard Lyons stated ''the centralization of an electronic system for new issue trade processing is a change that the industry has been eager for implementation * * * [and the MSRB's] proposal would alleviate the duplication of information that is sent to numerous vendors and would cut down on the time needed to process new issues.'' Roosevelt and Cross agreed ''with the philosophy of a central issue facility, which would make more information available on a timely basis and would increase transparency in the municipal marketplace.''

Timing of CUSIP Number Assignment

CUSIP numbers are a required data element for automated trade processing and reporting systems and are a prerequisite for entry of new issue information into NIIDS. Rule G–34 currently requires that CUSIP numbers be assigned prior to the Time of Formal Award for underwriters of negotiated issues and for dealer financial advisors on competitive issues. The March 2007 draft amendments included new deadlines designed to ensure that CUSIP number assignment occurs as soon as possible in the underwriting so that information submission to NIIDS could occur as early as possible. The March 2007 draft amendments stated the following requirements:

- Managing underwriter of negotiated issue—apply for CUSIP number assignment within one business day of dissemination of a Preliminary Official Statement (POS); for issues sold without a POS, apply no later than the time pricing information is finalized.
- Dealer financial advisor on competitive issue—apply for CUSIP number assignment within one business day of dissemination of a POS; for issues sold without a POS, apply within one business day of a notice of sale.
- Managing underwriter of competitive issue with no pre-assigned CUSIP numbers—apply immediately after receiving notification of award and ensure that CUSIP numbers are assigned prior to transmitting Time of First Execution to NIIDS.

While CUSIP stated that it ''has always encouraged industry participants to apply for CUSIP numbers as early as possible'' and supports the proposed changes to Rule G–34 that would advance the timing of CUSIP number assignment, several commentators opposed a requirement to apply for

[13] 15 U.S.C. 78o–4(b)(2)(C).

[14] *See* MSRB Notice 2007–10 (March 5, 2007).

[15] The March 2007 draft amendments also included amendments to Rule G–14 that would create a new Conditional Trading Commitment (CTC) special condition indicator. The CTC indicator is not included in the proposed rule change as it is still under consideration by the MSRB.

CUSIP numbers earlier in an underwriting. SIFMA and First Southwest recommended that the existing requirements for CUSIP number assignment remain unchanged because information about a new issue is not always final at the time of the dissemination of a POS. SIFMA stated that ''the maturity schedule in a POS is tentative and very likely to change requiring underwriters to revise the application'' and noted that ''while CUSIP numbers can be revised, the revisions result in numbers being out of sequence, and out of sequence numbers raise questions by investors and traders, as well as complicating operations.'' SIFMA noted that underwriters that want to set an early Time of First Execution would be required to apply for CUSIP numbers earlier than is currently required under Rule G–34; however, while this may occur in some instances, the MSRB believes that many underwriters will continue to postpone making an application for CUSIP number assignment until shortly before the Time of Formal Award.

If a POS is not disseminated on a new issue, the March 2007 draft amendments included an alternative deadline for making a CUSIP number application. For a negotiated issue, the March 2007 draft amendments proposed requiring an underwriter to apply for CUSIP numbers at the time that pricing information is determined. For a dealer financial advisor on a competitive issue, the March 2007 draft amendments proposed requiring the dealer financial advisor to apply for CUSIP numbers within one business day of a notice of sale. The MSRB decided to use these alternative deadlines in the proposed rule change as they occur later in an underwriting than the time that a POS would typically be disseminated, but in advance of the Time of Formal Award, and should have the desired effect of advancing the timing of CUSIP number assignment.

Definition of ''Time of Formal Award''

The March 2007 draft amendments revised the definition of ''Time of Formal Award'' to take into consideration that time may elapse between the time of the issuer's action and the time the underwriter becomes aware of the issuer's action. Although commentators were supportive of the revised definition of Time of Formal Award, SIFMA clarified that for a competitive transaction they ''interpret time of formal award not to occur before there is a set quantity and price,'' a definition with which the MSRB agrees.

New Issue Information Necessary for Trade Reporting

To ensure that all information necessary for transaction reporting is made available to market participants as quickly as possible, the March 2007 draft amendments would require underwriters to transmit to NIIDS all new issue information designated in the NIIDS system as necessary for ''Trade Eligibility'' no later than two hours of the Time of Formal Award and include the Time of Formal Award (or the planned Time of Formal Award) as part of the information transmitted to NIIDS. The MSRB requested comment on whether the two-hour period after the Time of Formal Award for completing the information submission to NIIDS would be sufficient and whether the time period should be different for negotiated and competitive underwritings.

Commentators were supportive of the two-hour timeframe for completing the communication to NIIDS of new issue information designated as necessary for ''Trade Eligibility'' for negotiated issues. However, Lehman proposed a longer period of three hours for competitive issues, citing inefficient communication with issuers who do not retain professional financial services. Wiley Bros. suggested revisiting the issue after the system has been implemented for a six-month period to determine whether the two hour period should be shortened or lengthened. The MSRB notes that it will review the deadlines in the proposed rule change once NIIDS is implemented and dealers gain system experience.

Time of First Execution and Advance Notification Requirements

To ensure that dealers that are not part of the underwriting group for the new issue are apprised of the time that the underwriter will initiate trade executions in the new issue and to ensure that those dealers will be prepared to process and report their own transactions in a timely manner, the March 2007 draft amendments included a requirement for underwriters to disseminate the Time of First Execution through NIIDS and provide a Time of First Execution that is no earlier than two hours after all required new issue information has been provided to NIIDS.

The MSRB noted that, while electronically formatted information can be retransmitted immediately, it believes that the two-hour advance notification period prior to the Time of First Execution would be sufficient for vendors, dealers, and service bureaus to receive and enter information disseminated from NIIDS into their own systems. While all comments received on the two-hour advance notification period prior to the Time of First Execution indicate support, First Southwest noted that this timeframe should ''be reviewed as the industry gains experience with the NIIDS submission process.'' Similarly, SIFMA commented that ''it may be useful for the MSRB to have the flexibility to make adjustments in response to circumstances'' that may arise after continued use of the NIIDS system. The MSRB notes that it will review the two hour advance notification period once NIIDS is implemented and dealers gain system experience.

Timely Trade Reporting and Underwriter Flexibility

For the various requirements for submitting information to NIIDS and setting a Time of First Execution, the March 2007 draft amendments state that only the hours between 9 a.m. and 5 p.m. Eastern Time on an RTRS Business Day are counted. A major implication of this is that an underwriter that does not obtain and transmit all required data elements to NIIDS by 3 p.m. Eastern Time would not be able to set a Time of First Execution on that day.

The MSRB noted that this may present difficulties for West Coast underwriters, and requested suggestions for alternative approaches to help address time zone issues. Lehman and Wiley Bros. agreed that the 9 a.m. to 5 p.m. hours are sufficient, adding only that ''a provision should be included for 'early closes.' ''

Proposed Effective Dates of the Draft Amendments

The MSRB requested comment on how much lead time would be necessary for underwriters to implement the changes required to use the NIIDS system and for dealers to implement the CTC indicator. Most commentators noted that it is difficult to commit to a time frame until NIIDS has been implemented and experience with the system has been gained. Lehman noted that ''as this a major change in the way of doing business, a long lead time would be warranted.'' First Southwest and SIFMA both noted that at least six months should be allowed after NIIDS is implemented for dealers to program the changes required.

Roosevelt and Cross suggested a tiered approach for requiring the submission of NIIDS data requirements, citing potential ''unfair processing burdens on managing underwriters.'' Roosevelt and Cross proposed splitting the required

data elements into two components, requiring only data elements essential to completing the transaction to be inputted at the time of sale and the remaining elements within 24 hours. The MSRB notes that a SIFMA/DTCC task force identified the data elements about a new issue as necessary for automated trade processing of when-issued trades. This information is designated in NIIDS as information necessary for ''Trade Eligibility.'' While the MSRB recognizes that the proposed rule change would represent a significant change for underwriters, one of the objectives is to ensure that all dealers have access to information necessary to process and report trades in new issues in real-time.

Short-Term Instruments with Less than Nine Months in Effective Maturity

The MSRB also requested comment on whether certain types of new issues of municipal securities have special characteristics or use different ''bookrunning'' services that would present difficulties for underwriters to comply with the draft amendments to Rule G–34. SIFMA stated that short-term instruments with less than nine months in effective maturity, such as variable rate instruments, auction rate products and commercial paper, ''each have operational issues that present problems distinct from long-term fixed-rate securities'' that would make complying with the NIIDS data dissemination requirement difficult. SIFMA noted that ''intermediaries may not be available to process the fields for Trade Eligibility with the result that underwriters may themselves be required to populate the fields and have systems in place to enter the data in the two hour period allowed by the proposed rule.''

The MSRB notes that trades in short-term instruments with less than nine months in effective maturity qualify for an end-of-day exception from real-time transaction reporting. Therefore, one of the primary purposes of the March 2007 draft amendments, to improve timely real-time transaction reporting of new issues, does not necessarily apply. While underwriters would be able to manually input information about a new issue to NIIDS through a web interface, the MSRB believes that the burden of complying with the requirement in the March 2007 draft amendments to transmit to NIIDS all new issue information designated as necessary for ''Trade Eligibility'' no later than two hours of the Time of Formal Award for short term instruments with less than nine months in effective maturity would not be warranted given the marginal benefit to price transparency that would be achieved. The MSRB decided that the NIIDS data dissemination requirement for new issues that have an effective maturity of nine months or less should be phased in at a later time once intermediaries or dealer systems are able to submit information about such securities to NIIDS electronically.[16]

III. Date of Effectiveness of the Proposed Rule Change and Timing for Commission Action

Within 35 days of the date of publication of this notice in the **Federal Register** or within such longer period (i) as the Commission may designate up to 90 days of such date if it finds such longer period to be appropriate and publishes its reasons for so finding or (ii) as to which the self-regulatory organization consents, the Commission will:

A. By order approve such proposed rule change, or

B. Institute proceedings to determine whether the proposed rule change should be disapproved.

IV. Solicitation of Comments

Interested persons are invited to submit written data, views, and arguments concerning the foregoing, including whether the proposed rule change is consistent with the Act. Comments may be submitted by any of the following methods:

Electronic Comments

- Use the Commission's Internet comment form (*http://www.sec.gov/rules/sro.shtml*); or
- Send an e-mail to *rule-comments@sec.gov*. Please include File Number SR–MSRB–2007–08 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–MSRB–2007–08. 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the MSRB. 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–MSRB–2007–08 and should be submitted on or before February 7, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[17]

Florence E. Harmon,

Deputy Secretary.

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[16] The MSRB notes that Trade Eligibility information on short term instruments with less than nine months in effective maturity would still be required to be submitted to DTCC in connection with an underwriter's requirement to apply for depository eligibility under Rule G–34(a)(ii)(A), but would not be subject to the requirement to communicate such information not later than two hours after the Time of Formal Award.

[17] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57132; File No. SR–NYSEArca–2007–125]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of a Proposed Rule Change Relating to the Continued Listing Standards for Equity Index-Linked Securities

January 11, 2008.

I. Introduction

On December 5, 2007, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange''), through its wholly owned subsidiary, NYSE Arca Equities, Inc. (''NYSE Arca Equities''), filed with the Securities and Exchange Commission (''Commission''), pursuant to section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and Rule 19b–4 thereunder,[2] a proposal to amend NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(2)(a), which sets forth

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

the Exchange's continued listing criteria for Equity Index-Linked Securities.[3] The proposed rule change was published for comment in the **Federal Register** on December 12, 2007.[4] The Commission received no comments on the proposal. This order approves the proposed rule change.

II. Description of the Proposal

The Exchange proposes to remove from NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(2)(a) the continued listing requirement for Equity Index-Linked Securities that prohibits the number of components comprising the underlying index from increasing or decreasing by 33⅓% from the original number of index components at the time of initial listing of such securities (the ''33⅓% Requirement'').[5] The Exchange states that its listing standards for exchange-traded funds under NYSE Arca Equities Rule 5.2(j)(3) and those of other national securities exchanges do not impose this same limitation regarding the change in the number of components comprising the underlying index. The Exchange believes that, in the case of Equity Index-Linked Securities, investors purchase such securities because they believe that the underlying index methodology is accurately described in the offering documentation, and that the index sponsor will maintain the index methodology appropriately, so that the index will continue to represent the sector, geographic region, or other investment characteristics the index is designed to track. As such, rather than buying Equity Index-Linked Securities on the basis of the current contents of the index, the Exchange states that investors rely on the index sponsor to define and manage the index selection rules so that the index over time is sustainable in response to changing market conditions.

In addition, because Equity Index-Linked Securities may have terms that endure for as long as 30 years, the Exchange states it is likely that the underlying index for such securities will ultimately change in ways that will render them non-compliant with NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(2)(a)(ii), and as a result, the Exchange believes that the 33⅓% Requirement penalizes Equity Index-Linked Securities with such long-term maturities. Specifically, Equity Index-Linked Securities based on total industry/country composite indexes are at risk of being delisted prior to the stated maturity date. In addition, new issues of Equity Index-Linked Securities may not be launched because of issuer concerns regarding the negative impact of the possible delisting of such securities due to index component changes that reflect expanding or retracting industry sectors or changes in the geographical business environment. The Exchange does not believe that it is protective of investors to require the delisting of those Equity Index-Linked Securities in such event.

Under the proposal, the Exchange seeks to maintain the 10-component minimum requirement in NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(2)(a)(ii) as a continued listing standard by moving reference to this requirement to Rule 5.2(j)(6)(B)(I)(2)(a), which would make reference to Rule 5.2(j)(6)(B)(I)(1)(a), as proposed. NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(1)(a) requires that each underlying index have at least 10 component securities of different issuers.

III. Commission's Findings and Order Granting Approval of the Proposed Rule Change

After careful review and based on the Exchange's representations, the Commission finds that the proposed rule change is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[6] In particular, the Commission finds that the proposed rule change is consistent with section 6(b)(5) of the Act[7] in that it is designed to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in regulating, clearing, settling, processing information with respect to, and facilitating transactions in securities, to remove impediments to and perfect the mechanism of a free and open market and a national market system, and, in general, to protect investors and the public interest.

The Commission notes that, pursuant to NYSE Arca Equities Rule 5.2(j)(6)(A)(b), certain issues of Equity Index-Linked Securities may have terms that endure for as long as 30 years and, depending on the degree of focus and investment objectives of the Equity Reference Asset, the number of components comprising the underlying equity index may change during this time period and could put an issue of Equity Index-Linked Securities at risk of being non-compliant with the 33⅓% Requirement. Therefore, Equity Index-Linked Securities could be subject to delisting prior to their stated maturity date. The Commission believes that eliminating the 33⅓% Requirement reasonably balances the removal of impediments to a free and open market with the protection of investors and the public interest, two principles set forth in section 6(b)(5) of the Act.[8] The Commission notes that each issue of Equity Index-Linked Securities must continue to maintain all of the initial listing standards for Equity Index-Linked Securities, including the continued requirement that each underlying index have a minimum of 10 component securities of different issuers under NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(1)(a), and satisfy the continued listing requirements under NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(2)(a), including the enhanced minimum concentration limits under NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(2)(a)(i). Given the variety of certain equity indexes that focus on specific industry sectors and geographic markets, for example, and the extended duration of maturities for certain Equity Index-Linked Securities, the Commission believes that the number of components in an index may increase or decrease by more than 33⅓% from the number of components in the index at the time of initial listing without adversely impacting the interests of investors. At the same time, the Commission believes that the proposal should benefit investors by creating additional alternatives to investing in such products and competition in the market for Equity Index-Linked Securities, while maintaining transparency of the underlying components comprising an index. As such, the Commission believes it is reasonable and consistent with the Act for the Exchange to modify the listing standards for Equity Index-Linked Securities in the manner described in the proposal.

IV. Conclusion

It is therefore ordered, pursuant to section 19(b)(2) of the Act,[9] that the proposed rule change (SR–NYSEArca–2007–125), be, and it hereby is, approved.

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[3] NYSE Arca Equities Rule 5.2(j)(6) defines Equity Index-Linked Securities as securities that provide for the payment at maturity of a cash amount based on the performance of an underlying index or indexes of equity securities, also referred to as the ''Equity Reference Asset.'' *See* NYSE Arca Equities Rule 5.2(j)(6).

[4] *See* Securities Exchange Act Release No. 56918 (December 6, 2007), 72 FR 70635 (''Notice'').

[5] *See* NYSE Arca Equities Rule 5.2(j)(6)(B)(I)(2)(a)(ii).

[6] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[7] 15 U.S.C. 78f(b)(5).

[8] *Id.*

[9] 15 U.S.C. 78s(b)(2).

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–707 Filed 1–16–08; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57130; File No. SR–NYSEArca–2008–04]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of Proposed Rule Change To Expand, and Make Permanent, the $1 Strike Program

January 10, 2008.

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 January 8, 2008, NYSE Arca, Inc. (''NYSE Arca'' 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 been substantially prepared by the Exchange. NYSE Arca filed the proposal pursuant to Section 19(b)(3)(A) of the Act[3] 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 to amend its rules governing the $1 Strike Program (''Program'') to expand, and make permanent, the Program. The text of the proposed rule change is available at the Exchange, the Commission's Public Reference Room, and *http://www.nyse.com*.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of, and basis for, the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. The Exchange has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The purpose of the proposed rule change is to expand the Program and request permanent approval of the Program. The Program currently allows NYSE Arca to select a total of 5 individual stocks[5] on which option series may be listed at $1 strike price intervals. In order to be eligible for selection into the Program, the underlying stock must close below $20 in its primary market on the previous trading day. If selected for the Program, the Exchange may list strike prices at $1 intervals from $3 to $20, but no $1 strike price may be listed that is greater than $5 from the underlying stock's closing price in its primary market on the previous day. The Exchange also may list $1 strikes on any other option class designated by other securities exchanges that employ a similar $1 strikes program under their respective rules. The Exchange may not list long-term option series (''LEAPS'') at $1 strike price intervals for any class selected for the Program. The Exchange also is restricted from listing any series that would result in strike prices being $0.50 apart.

The Exchange proposes to amend Commentary .04 to NYSE Arca Rule 6.4 to expand the Program to allow it to select a total of 10 individual stocks on which option series may be listed at $1 strike price intervals. Additionally, the Exchange proposes to expand the price range on which it may list $1 strikes, presently from $3 to $20, to now include stocks priced from $3 to $50. The existing restrictions on listing $1 strikes will continue, *e.g.*, no $1 strike price may be listed that is greater than $5 from the underlying stock's closing price in its primary market on the previous day, and the Exchange is restricted from listing any series that would result in strike prices being $0.50 apart. In addition, because it believes that the Program has been very successful by allowing investors to establish equity options positions that are better tailored to meet their investment objectives, the Exchange requests that the Program be approved on a permanent basis.

As stated in the Commission order approving NYSE Arca's Program and in the subsequent extensions of the Program,[6] the Exchange believes that $1 strike price intervals provide investors with greater flexibility in the trading of equity options that overlie lower priced stocks by allowing investors to establish equity options positions that are better tailored to meet their investment objectives. The Exchange states that its member firms representing customers have requested that NYSE Arca seek to expand the Program, both in terms of the number of classes which can be selected and the range in which $1 strikes may be listed.

With regard to the impact on systems capacities, the Exchange's analysis of the Program shows that the impact on NYSE Arca's, OPRA's, and market data vendors' respective automated systems has been minimal. In a previously filed proposed rule change,[7] the Exchange included an analysis of quoting activity for all classes selected for the Program as a percentage of all quoting activity for all classes being quoted during a specific number of months. The Exchange concluded that, for the two-month period prior to the implementation of the Program in May 2003, the number of quotes sent to OPRA in the four classes selected for the Program represented approximately 0.29% of all quotes sent by the Exchange. For the two-month period ending March 31, 2007, the quote share in the four classes selected for the Program was 0.26%, slightly below the May 2003 levels. The Exchange notes that these quoting statistics may actually overstate the contribution of $1 strike prices because these figures also include quotes for series listed in intervals higher than $1 (*e.g.*, $2.50 strikes) in the same option classes. Even with the non-$1 strike series quotes included in these

[10] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A).

[4] 17 CFR 240.19b–4(f)(6).

[5] The Exchange listed five issues for inclusion in the original Program. In February 2004, according to the Exchange, Celanese Corp. (CE) was acquired by another company and was removed from the Program, bringing the number of issues to four.

[6] The Commission approved the Program on June 17, 2003. *See* Securities Exchange Act Release No. 48045 (June 17, 2003), 68 FR 37594 (June 24, 2003) (SR–PCX–2003–28). The Program has subsequently been extended and is presently due to expire on June 5, 2008. *See* Securities Exchange Act Release Nos. 49818 (June 4, 2004), 69 FR 33440 (June 15, 2004) (SR–PCX–2004–39) (extending the Program until August 4, 2004); 50152 (August 5, 2004), 69 FR 49931 (August 12, 2004) (SR–PCX–2004–61) (extending the Program until June 5, 2005); 51767 (May 31, 2005), 70 FR 33244 (June 7, 2005) (SR–PCX–2005–69) (extending the Program until June 5, 2006); 53807 (May 15, 2006), 71 FR 29373 (May 22, 2006) (SR–NYSEArca–2006–14) (extending the Program until June 5, 2007); and 55718 (May 7, 2007), 72 FR 27346 (May 15, 2007) (SR–NYSEArca–2007–42) (extending the Program until June 5, 2008).

[7] *See* Securities Exchange Act Release No. 55718 (May 7, 2007), 72 FR 27346 (May 15, 2007) (SR–NYSEArca–2007–42).

figures, NYSE Arca believes that the overall impact on capacity is still minimal. NYSE Arca represents that it has sufficient capacity to handle an expansion of the Program, as proposed.

The Exchange believes that the Program has provided investors with greater trading opportunities and flexibility and the ability to more closely tailor their investment strategies and decisions to the movement of the underlying security. Furthermore, the Exchange has not detected any material proliferation of illiquid options series resulting from the narrower strike price intervals. For these reasons, NYSE Arca requests that the Program be approved on a permanent basis.

2. Statutory Basis

The Exchange believes that $1 strike prices stimulate customer interest in options overlying lower-priced stocks by creating greater trading opportunities and flexibility. The Exchange believes that the proposed rule change is consistent with Section 6(b) of the Act,[8] in general, and furthers the objectives of Section 6(b)(5) of the Act,[9] in particular, because it is designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change 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 states that it 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 foregoing proposed rule change: (1) Does not significantly affect the protection of investors or the public interest; (2) does not impose any significant burden on competition; and (3) by its terms does not become operative for 30 days after the date of this 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[10] and Rule 19b–4(f)(6) thereunder.[11]

A proposed rule change filed under Rule 19b–4(f)(6) normally does not become operative for 30 days after the date of filing. However, Rule 19b–4(f)(6)(iii) permits the Commission to designate a shorter time if such action is consistent with the protection of investors and the public interest. The Exchange requests that the Commission waive the 30-day operative delay so that the Exchange can immediately implement these listing rules, as proposed, that are similar to those of other options exchanges[12] and thereby remain competitive with such exchanges.

The Commission believes that waiving the 30-day operative delay is consistent with the protection of investors and the public interest because the proposed rule change will provide the Exchange's members and customers with added flexibility in the trading of equity options and promote, without undue delay, additional competition in the market for such options.[13] For these reasons, the Commission designates the proposed rule change as operative upon filing. The Commission expects the Exchange to continue to monitor for options with little or no open interest and trading activity and to act promptly to delist such options. In addition, the Commission expects that NYSE Arca will continue to monitor the trading volume associated with the additional options series listed as a result of this proposal and the effect of these additional series on market fragmentation and on the capacity of the Exchange's, OPRA's, and vendors' automated systems.

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–NYSEArca–2008–04 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–NYSEArca–2008–04. 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of the filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make available publicly. All

[8] 15 U.S.C. 78f(b).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(3)(A).

[11] 17 CFR 240.19b–4(f)(6). In addition, Rule 19b–4(f)(6)(iii) requires a self-regulatory organization to provide the Commission with written notice of its intent to file the proposed rule change, along with a brief description and text of the proposed rule change, at least five business days prior to the date of filing of the proposed rule change, or such shorter time as designated by the Commission. The Exchange has fulfilled this requirement.

[12] *See, e.g.,* Securities Exchange Act Release No. 57049 (December 27, 2007), 73 FR 528 (January 3, 2008) (SR–CBOE–2007–125) (approving the Chicago Board Options Exchange, Incorporated's proposal to expand and make permanent its equivalent $1 strike program).

[13] For purposes only of waiving the 30-day operative delay, the Commission has also considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

submissions should refer to File Number SR–NYSEArca–2008–04 and should be submitted on or before February 7, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[14]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–709 Filed 1–16–08; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57135; File No. SR–NYSEArca–2006–83]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of Proposed Rule Changes Relating to Amendments to NYSE Arca Rules 2.17 and 4.5 Relating to Certain OTP Holder and OTP Firm Administrative Procedures

January 11, 2008.

I. Introduction

On November 7, 2006, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange'') filed with the Securities and Exchange Commission (''Commission'' or ''SEC''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] a proposal to amend its Rules 2.17 and 4.5 relating to certain OTP Holder and OTP Firm administrative procedures. The proposed rule change was published for comment in the **Federal Register** on July 18, 2007.[3] The Commission received no comments regarding the proposal. This order approves the proposed rule changes.

II. Description of the Proposal

NYSE Arca Rule 2.17 currently provides that all Options Trading Permit (''OTP'') Firms[4] must file their formation documents with the Exchange. The Exchange proposes to amend NYSE Arca Rule 2.17 in order to provide that only those OTP Firms for which the Exchange is the Designated Examining Authority must submit such formation documents to the Exchange.

NYSE Arca Rule 4.5(c) currently requires OTP Holders[5] and OTP Firms that carry or clear accounts for customers to file two manually signed copies of Part II of SEC Form X–17A–5 with the Exchange on a quarterly basis. The Exchange proposes to amend NYSE Arca Rule 4.5(c) to provide that such reports shall be filed electronically with the Exchange, rather than manually, and that the OTP Holder or OTP Firm, as applicable, shall maintain original copies of such reports with manual signatures in accordance with NYSE Arca Rule 11.16(a).[6]

NYSE Arca Rule 4.5(d) currently requires OTP Holders and OTP Firms that do not carry or clear accounts for customers to file two manually signed copies of Part IIA of SEC Form X–17A–5 with the Exchange on a quarterly basis. The Exchange proposes to amend NYSE Arca Rule 4.5(d) to provide that such reports shall be filed electronically with the Exchange, rather than manually, and that the OTP Holder or OTP Firm, as applicable, shall maintain original copies of such reports with manual signatures in accordance with NYSE Arca Rule 11.16(a).[7]

The Exchange proposes amending NYSE Arca Rule 4.5(c) and (d) to codify procedural changes that have been implemented by the Exchange and to be consistent with guidance that has been provided previously to OTP Holders and OTP Firms.

III. Discussion

After careful review and based on the Exchange's representations, the Commission finds that the proposed rule changes are consistent with the Act and the rules and regulations applicable to a national securities exchange.[8] In particular, the Commission finds that the proposed rule changes are consistent with Section 6(b)(5)[9] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Commission believes it is reasonable and consistent with the Act for the Exchange to amend NYSE Arca Rules 2.17 and 4.5(c) and (d) in order to simplify the administrative procedures that OTP Holders and OTP Firms must follow, given the fact that the Exchange believes that such amendments will not compromise the Exchange's ability to regulate its OTP Holders and OTP Firms.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[10] that the proposed rule change (SR–NYSEArca–2006–83), as amended, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[11]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–736 Filed 1–16–08; 8:45 am]

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SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57136; File No. SR–NYSEArca–2006–82]

Self-Regulatory Organizations; NYSE Arca, Inc.; Order Granting Approval of Proposed Rule Changes Relating to Amendments to NYSE Arca Equities Rules 2.16 and 4.5 Relating to Certain ETP Holder Administrative Procedures

January 11, 2008.

I. Introduction

On November 7, 2006, NYSE Arca, Inc. (''NYSE Arca'' or the ''Exchange''), through its wholly owned subsidiary NYSE Arca Equities, Inc. (''NYSE Arca Equities'' or the ''Corporation''), filed with the Securities and Exchange Commission (''Commission'' or ''SEC''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Exchange Act'')[1] and Rule 19b–4 thereunder,[2] a proposal to amend its Rules 2.16 and 4.5 relating to certain ETP Holder administrative procedures. The proposed rule change was published for comment in the **Federal Register** on July 18, 2007.[3] The Commission received no comments

[14] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 56058 (Jul. 12, 2007), 72 FR 39476.

[4] *See* NYSE Arca Rule 1.1(r).

[5] *See* NYSE Arca Rule 1.1(q).

[6] NYSE Arca Rule 11.16(a) provides that each OTP Holder and OTP Firm must make, keep current and preserve such books and records as the Exchange may prescribe and as may be prescribed by the Securities Exchange Act of 1934 (the ''Exchange Act'') and the rules and regulations thereunder (including any interpretation relating thereto) as though such OTP Holder or OTP Firm were a broker or dealer registered with the SEC pursuant to Section 15 of the Exchange Act.

[7] *Id.*

[8] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[9] 15 U.S.C. 78f(b)(5).

[10] 15 U.S.C. 78s(b)(2).

[11] 17 CFR 200.30–3(a)(12).

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] *See* Securities Exchange Act Release No. 56057 (Jul. 12, 2007), 72 FR 39477.

regarding the proposal. This order approves the proposed rule changes.

II. Description of the Proposal

NYSE Arca Equities Rule 2.16 currently provides that all Equity Trading Permit (''ETP'') Holders [4] must file their formation documents with the Corporation. The Exchange proposes to amend NYSE Arca Equities Rule 2.16 in order to provide that only those ETP Holders for which the Exchange is the Designated Examining Authority must submit such formation documents to the Corporation.

NYSE Arca Equities Rule 4.5(b) currently requires ETP Holders that carry or clear accounts for customers to file two manually signed copies of Part II of SEC Form X–17A–5 with the Corporation on a quarterly basis. The Exchange proposes to amend NYSE Arca Equities Rule 4.5(b) to provide that such reports shall be filed electronically with the Corporation, rather than manually, and that the ETP Holder shall maintain original copies of such reports with manual signatures in accordance with NYSE Arca Equities Rule 2.24.[5]

NYSE Arca Equities Rule 4.5(c) currently requires ETP Holders that do not carry or clear accounts for customers to file two manually signed copies of Part IIA of SEC Form X–17A–5 with the Corporation on a quarterly basis. The Exchange proposes to amend NYSE Arca Equities Rule 4.5(c) to provide that such reports shall be filed electronically with the Corporation, rather than manually, and that the ETP Holder shall maintain original copies of such reports with manual signatures in accordance with NYSE Arca Equities Rule 2.24.[6]

Finally, the Exchange proposes to amend paragraphs (b) and (c) of NYSE Arca Equities Rule 4.5 to codify procedural changes that have been implemented by the Exchange and to be consistent with guidance that has been provided previously to ETP Holders.

III. Discussion

After careful review and based on the Exchange's representations, the Commission finds that the proposed rule changes are consistent with the requirements of the Act and the rules and regulations applicable to a national securities exchange.[7] In particular, the Commission finds that the proposed rule changes are consistent with Section 6(b)(5) [8] which requires, among other things, that the rules of a national securities exchange be designed to prevent fraudulent and manipulative acts and practices, to promote just and equitable principles of trade, to foster cooperation and coordination with persons engaged in facilitating transactions in securities, and to remove impediments to and perfect the mechanism of a free and open market and a national market system.

The Commission believes it is reasonable and consistent with the Act for the Exchange to amend NYSE Arca Equities Rules 2.16 and 4.5(b) and (c) in order to simplify the administrative procedures that ETP Holders must follow, given the fact that the Exchange believes that such amendments will not compromise the Exchange's ability to regulate its ETP Holders.

IV. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[9] that the proposed rule change (SR–NYSEArca–2006–82), as amended, be, and hereby is, approved.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–737 Filed 1–16–08; 8:45 am]

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[4] *See* NYSE Arca Equities Rule 1.1(n).

[5] NYSE Arca Equities Rule 2.24 provides that each ETP Holder must make, keep current and preserve such books and records as the Exchange may prescribe and as may be prescribed by the Securities Exchange Act of 1934 (the ''Exchange Act'') and the rules and regulations thereunder (including any interpretation relating thereto) as though such ETP Holders were brokers or dealers registered with the SEC pursuant to Section 15 of the Exchange Act.

[6] *Id.*

[7] In approving this proposed rule change, the Commission notes that it has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78f(b)(5).

[9] 15 U.S.C. 78s(b)(2).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57122; File No. SR–NYSEArca–2008–02]

Self-Regulatory Organizations; NYSE Arca, Inc.; Notice of Filing and Immediate Effectiveness of a Proposed Rule Change Relating to Exchange Fees and Charges

January 10, 2008.

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 January 3, 2008, NYSE Arca, Inc. (''NYSE Arca'' or ''Exchange'') filed with the Securities and Exchange Commission (''Commission'') the proposed rule change as described in Items I, II and III below, which Items have been prepared substantially by the Exchange. NYSE Arca has designated this proposal as one establishing or changing a member due, fee, or other charge imposed by the Exchange under Section 19(b)(3)(A)(ii) of the Act [3] and Rule 19b–4(f)(2) 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

NYSE Arca is proposing to amend the existing Schedule of Fees and Charges for Exchange Services (''Schedule'') to remove the fee reference associated with a pilot program that offered a monthly cap on the Firm Facilitation Fee. The pilot program expired on December 31, 2007. The text of the proposed rule change is available at *http://www.nyse.com*, the principal offices of the Exchange, and the Commission's Public Reference Room.

II. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

In its filing with the Commission, the Exchange included statements concerning the purpose of and basis for the proposed rule change and discussed any comments it received on the proposed rule change. The text of these statements may be examined at the places specified in Item IV below. NYSE Arca has prepared summaries, set forth in Sections A, B, and C below, of the most significant aspects of such statements.

A. Self-Regulatory Organization's Statement of the Purpose of, and Statutory Basis for, the Proposed Rule Change

1. Purpose

The Exchange proposes to amend its Schedule to reflect the termination of a pilot program under which OTP Firms are eligible for a monthly cap of $50,000 on Firm Facilitation Fees (''Pilot'').

The Pilot was established as part of SR–NYSEArca–2007–93 [5] and was in

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] 15 U.S.C. 78s(b)(3)(A)(ii).

[4] 17 CFR 240.19b–4(f)(2).

[5] *See* Securities Exchange Act Release No. 56595 (October 1, 2007) 72 FR 57372 (October 9, 2007) (SR–NYSEArca–2007–93). In addition to the establishment of the Pilot Program capping monthly fees, SR–NYSEArca–2007–93 proposed other

Continued

effect through December 31, 2007. By offering a monthly cap of the Firm Facilitation Fee, the Exchange hoped to garner additional order flow from market participants that were attracted to the competitive fee structure. The Exchange offered this fee cap on a limited pilot basis in order to measure its effectiveness and then make a determination whether to adopt it on a permanent basis.

After analyzing the effectiveness of the fee cap during the Pilot, the Exchange determined that the Pilot did not meet its stated objectives, and therefore the Exchange did not extend the program. The program expired on December 31, 2007. The Exchange now plans to revise the Schedule to remove the reference to the Pilot Program.

2. Statutory Basis

The Exchange believes the proposal is consistent with Section 6(b) of the Act[6] in general, and Section 6(b)(4) of the Act[7] in particular, in that it provides for the equitable allocation of reasonable dues, fees, and other charges among its members.

B. Self-Regulatory Organization's Statement on Burden on Competition

The Exchange does not believe that the proposed rule change will impose any burden on competition that is not necessary or appropriate in furtherance of the purposes of the Act.

C. Self-Regulatory Organization's Statement on Comments on the Proposed Rule Change Received From Members, Participants or Others

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

The foregoing proposed rule change has been designated as a fee change pursuant to Section 19(b)(3)(A)(ii) of the Act[8] and Rule 19b–4(f)(2)[9] thereunder, because it establishes or changes a due, fee, or other charge imposed on members by the Exchange. Accordingly, the proposal is effective upon filing with the Commission. 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–NYSEArca–2008–02 on the subject line.

Paper Comments

- Send paper comments in triplicate to Nancy M. Morris, Secretary, Securities and Exchange Commission, Station Place, 100 F Street, NE., Washington, DC 20549–1090.

All submissions should refer to File Number SR–NYSEArca–2008–02. 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, 100 F Street, NE., Washington, DC 20549, on official business days between the hours of 10 a.m. and 3 p.m. Copies of such filing also will be available for inspection and copying at the principal office of the Exchange. All comments received will be posted without change; the Commission does not edit personal identifying information from submissions. You should submit only information that you wish to make publicly available. All submissions should refer to File Number SR–NYSEArca–2008–02 and should be submitted on or before February 7, 2008.

For the Commission, by the Division of Trading and Markets, pursuant to delegated authority.[10]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–792 Filed 1–16–08; 8:45 am]

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changes related to the Firm Facilitation Fee. This filing serves only to amend the Schedule by removing the reference to the fee cap, and proposes no other changes to the application of the Firm Facilitation Fee.

[6] 15 U.S.C. 78f(b).

[7] 15 U.S.C. 78f(b)(4).

[8] 15 U.S.C. 78s(b)(3)(A)(ii).

[9] 17 CFR 240.19b–4(f)(2).

[10] 17 CFR 200.30–3(a)(12).

SECURITIES AND EXCHANGE COMMISSION

[Release No. 34–57134; File No. SR–Phlx–2005–68]

Self-Regulatory Organizations; Philadelphia Stock Exchange, Inc.; Order Granting Approval of a Proposed Rule Change and Amendment No. 1 Thereto Relating to Deletion of Rule 702, Carrying Accounts

January 11, 2008.

I. Introduction

On November 9, 2005, the Philadelphia Stock Exchange, Inc. (''Phlx'' or ''Exchange'') filed with the Securities and Exchange Commission (''SEC'' or ''Commission''), pursuant to Section 19(b)(1) of the Securities Exchange Act of 1934 (''Act'')[1] and 19b–4 thereunder,[2] a proposal to delete Phlx Rule 702. regarding Carrying Accounts. Phlx filed Amendment No. 1 to the proposed rule change on January 18, 2007. Notice of the proposal, as amended, was published for comment in the **Federal Register** on February 14, 2007.[3] The Commission received no comments regarding the proposal. This order approves the proposed rule change, as amended.

II. Description of the Proposal

The purpose of the proposed rule change to delete Rule 702, Carrying Accounts, is to eliminate an unnecessary and confusing Exchange rule. Currently, Rule 702 provides that ''[n]o member, doing business as an individual, shall carry accounts for customers, except as provided in Rule 903.''[4]

[1] 15 U.S.C. 78s(b)(1).

[2] 17 CFR 240.19b–4.

[3] Exchange Act Release No. 55256 (Feb. 8, 2007), 72 FR 7106 (Feb. 14, 2007).

[4] The reference to Rule 903 is clearly an incorrect reference which should be to Rule 904, Use of a Partnership Name, which provides that ''[n]o member shall conduct business under a partnership firm name unless he has at least one general partner, provided, however, that if by death or otherwise a member becomes the sole general partner in a member organization that is a partnership he may continue business under the

Rule 702 is unnecessary because a Phlx member's ability to carry customer accounts is dictated by its ability to comply with relevant securities laws and regulations, including Exchange Act Rules 15c3–1 and 15c3–3, which do not make distinctions on the basis of a broker-dealer's organizational and corporate structure.

Rule 702 creates confusion because virtually all ''members'' are individuals. The term ''member'' (as opposed to ''member organization'') is defined in Exchange Rules as a permit holder which has not been terminated in accordance with the by-laws of the Exchange.[5] Currently, the only issued and outstanding Exchange permits are Series A–1 Permits, the terms and conditions of which are governed by Rule 908. Among other things, section (b) of Rule 908 provides that a Series A–1 permit shall only be issued to an *individual*.[6] Pursuant to Rule 908, all Series A–1 permit holders must maintain an affiliation with a ''member organization,'' which are not subject to Rule 702.

III. Discussion

The Commission finds that the proposed rule change, as modified by Amendment No. 1, is consistent with the requirements of the Act and the rules and regulations thereunder applicable to a national securities exchange.[7] In particular, the Commission finds that the proposal is consistent with Section 6(b)(5) of the Act, which requires, among other things, that the rules of an exchange be designed to promote just and equitable principles of trade, to remove impediments to and perfect the mechanism of a free and open market, and, in general, to protect investors and the public interest.

The Commission believes it is reasonable and consistent with the Act for the Exchange to eliminate an unnecessary and confusing Exchange rule.

V. Conclusion

It is therefore ordered, pursuant to Section 19(b)(2) of the Act,[8] that the proposed rule change (File No. SR–Phlx–2005–68) be and hereby is approved.

For the Commission by the Division of Trading and Markets, pursuant to delegated authority.[9]

Florence E. Harmon,

Deputy Secretary.

[FR Doc. E8–733 Filed 1–16–08; 8:45 am]

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SOCIAL SECURITY ADMINISTRATION

Agency Information Collection Activities: Proposed Request and Comment Request

The Social Security Administration (SSA) publishes a list of information collection packages that will require clearance by the Office of Management and Budget (OMB) in compliance with Public Law (Pub. L.) 104–13, the Paperwork Reduction Act of 1995, effective October 1, 1995. The information collection packages included in this notice are for new information collections, revisions to OMB-approved information collections and extensions (no change) of OMB-approved information collections.

SSA is soliciting comments on the accuracy of the Agency's burden estimate; the need for the information; its practical utility; ways to enhance its quality, utility and clarity; and how to minimize the burden on respondents, including the use of automated collection techniques or other forms of information technology. Written comments and recommendations regarding the information collection(s) should be submitted to the OMB Desk Officer and the SSA Reports Clearance Officer. The information can be mailed, faxed or e-mailed to the individuals at the addresses and fax numbers listed below:

(OMB), Office of Management and Budget, Attn: Desk Officer for SSA, Fax: 202–395–6974, E-mail address: *OIRA_Submission@omb.eop.gov*.

(SSA), Social Security Administration, DCBFM, Attn: Reports Clearance Officer, 1333 Annex Building, 6401 Security Blvd., Baltimore, MD 21235, Fax: 410–965–6400, E-mail address: *OPLM.RCO@ssa.gov*.

I. The information collections listed below are pending at SSA and will be submitted to OMB within 60 days from the date of this notice. Therefore, your comments should be submitted to SSA within 60 days from the date of this publication. You can obtain copies of the collection instruments by calling the SSA Reports Clearance Officer at 410–965–0454 or by writing to the address listed above.

Application for a Social Security Card—20 CFR 422.103–.110—0960–0066. Forms SS–5 (used in the United States) and SS–5–FS (used outside the United States) are to apply for original and replacement Social Security cards. Revisions are being made to the race/ethnicity question of the form to reflect OMB standards; additionally, several other minor changes are being made to the form's instructions. The respondents are applicants for original and replacement Social Security cards.

Type of Request: Revision to an OMB-approved information collection.

Application scenario	Number of annual respondents	Completion time	Burden hours
Respondents who do not have to provide parents' SSNs	13,000,000	8½	1,841,667
Respondents who are asked to provide parents' SSNs (for application for original SSN cards for children under age 18)	540,000	9	81,000
Applicants age 12 or older who need to answer additional questions so SSA can determine whether an SSN was previously assigned	40,000	9½	6,333

partnership name for such period as may be allowed by the Committee.''

[5] *See* Exchange By-Law Article I, Section 1(t) and Exchange Rule 1(n). Exchange By-Law Article XII, Section 1(b) provides in part that ''[e]xcept as otherwise set forth in the rules of the Exchange or any resolution of the Board of Governors authorizing a specific class or series of permits, a permit will confer upon and subject the holder thereof to all the privileges and obligations of a member pursuant to these By-Laws and the rules of the Exchange, * * * and to conduct business on the Exchange as provided in these By-Laws and such rules.''

[6] Rule 908 does contain one exception, which is not relevant to this analysis, that provides that a Series A–1 Permit may also be issued to ''a corporation meeting the requirements of Section 12–4 of the By-Laws.'' Section 12–4 of the By-Laws, Admission of Corporation, provides that ''[a] corporation may be issued a permit by the Exchange, provided such corporation is incorporated under the laws of the Commonwealth of Pennsylvania, and all of its capital stock is owned by the Exchange.'' This By-Law provision was intended to permit Exchange membership for the Exchange's subsidiary, Stock Clearing Corporation of Philadelphia.

[7] In approving this proposed rule change, the Commission has considered the proposed rule's impact on efficiency, competition, and capital formation. *See* 15 U.S.C. 78c(f).

[8] 15 U.S.C. 78s(b)(2).

[9] 17 CFR 200.30–3(a)(12).

Application scenario	Number of annual respondents	Completion time	Burden hours
Applicants asking for a replacement SSN card beyond the allowable limits (i.e., who must provide additional documentation to accompany the application)	4,000	60	4,000
Totals	13,584,000		1,933,000

II. The information collections listed below have been submitted to OMB for clearance. Your comments on the information collections would be most useful if received by OMB and SSA within 30 days from the date of this publication. You can obtain a copy of the OMB clearance packages by calling the SSA Reports Clearance Officer at 410–965–0454, or by writing to the address listed above.

1. State Mental Institution Policy Review Booklet—20 CFR 404.2035, 404.2065, 416.635, & 416.665—0960–0110. SSA uses the information collected on Form SSA–9584–BK to determine whether an institution's policies and practices conform with SSA's regulations in the use of benefits and whether the institution is performing other duties and responsibilities required of a representative payee. The information also provides a basis for conducting an onsite review of the institution and the subsequent report of findings. The respondents are State mental institutions which serve as representative payees for Social Security beneficiaries and Supplemental Security Income (SSI) claimants.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 95.

Frequency of Response: 1.

Average Burden Per Response: 60 minutes.

Estimated Annual Burden: 95 hours.

2. Development for Participation in a Vocational Rehabilitation or Similar Program—20 CFR 404.316(c), 404.337(c), 404.352(d), 404.1586(g), 404.1596, 404.1597(a), 404.327, 404.328, and 416.1338(c) and (d) 416.1320(d), 416.1331(a)–(b), and 416.1338—0960–0282. SSA State Disability Determination Services (DDS) must determine if a disability beneficiary who (1) no longer has a disability and (2) is enrolled in a vocational rehabilitation program can continue to receive Social Security disability benefits and SSI payments. To determine continuing eligibility, SSA needs information about the beneficiary, the type of program he/she is enrolled in and the types of services the beneficiary is receiving under the auspices of that program. SSA uses Form SSA–4290 to collect this information. The respondents are State Employment Networks, Vocational Rehabilitation agencies or other providers of education/job training services.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 3,000.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Annual Burden: 750 hours.

3. Social Security Statement Survey –0960–NEW.

Background

As per *42 U.S.C. 1320b–13*, SSA is required to provide benefits and earnings statements to Social Security number-holders age 25 and over who earn wages. This document, provided annually, is called the *Social Security Statement.* In response to a recommendation from the Government Accountability Office (GAO), SSA has begun a systematic and regular evaluation of customer satisfaction with the *Statement.* To implement the GAO recommendations, SSA has developed a process for evaluating customer satisfaction with the *Social Security Statement* on a systematic and routine basis.

Description of Proposed Surveys

To take the evaluation process one step further, SSA is planning to conduct a national survey to monitor and improve customer satisfaction with the messages in the 2007 *Statement.* The 2007 *Statement* contains new Windfall Elimination Provision/Government Pension Offset (WEP/GPO) language as mandated by law. There are two versions of the WEP/GPO language in the *Statement* to accommodate different groups of wage-earners: Those who have an earnings history with both covered and non-covered earnings under Social Security and those who have only earnings covered under Social Security. Each group will receive a *Statement* with WEP/GPO language specific to them and will be surveyed to determine their satisfaction.

Information obtained through this evaluation will help SSA improve the *Statement* as a communications product that meets SSA's goals and assures the public is aware of, understands and can act upon the information the *Statement* provides in a timely way. The two groups of respondents match the two groups of wage earners.

BURDEN INFORMATION

	Number of respondents	Frequency of response	Average burden per response (minutes)	Estimated annual burden (hours)
Recipients with covered and non-covered earnings history	600	1	10	100
Recipients with covered earnings only	600	1	10	100
Total	1200			200

4. Student Reporting Form—20 CFR 404.352(b)(2), 404.368, 404.415, 404.434, 422.135—0960–0088. SSA uses the information collected by Form SSA–1383 to determine the effect of reported events on Social Security student beneficiaries' continuing entitlement to these benefits.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 75,000.

Frequency of Response: 1.

Average Burden Per Response: 6 minutes.

Estimated Annual Burden: 7,500 hours.

5. Electronic Death Registration (EDR)—20 CFR 404.301; 404.310–311; 404.316; 404.330–341; 404.350–352; and 404.371; 416.912—0960–0700. SSA has contracted with the States to obtain death certificate information to compare it to SSA's payment files. This match ensures the accuracy of our payment files by detecting unreported or inaccurate dates of deaths of beneficiaries. Entitlement to retirement, disability, wife's, husband's or parent's benefits under the provisions of the Social Security Act terminates when the beneficiary dies.

Type of Request: Extension of an OMB-approved information collection.

Collection format	Number of respondents	Frequency of responses	Average cost per record request	Estimated annual cost burden
State Death Match—Manual Process	35	50,000 per State ..	$0.72	$1,260,000
State Death Match—Electronic Death Registration (EDR)	18	50,000 per State ..	2.58	2,322,000
Total	53			3,582,000

Estimated Annual Cost for all respondents:

**Please note that both of these data matching processes are entirely electronic and there is no hourly burden for the respondent to provide this information. The cost burdens are based on the four cost components incurred by the respondents:

—Software;
—hardware;
—average annual salaries of database management personnel; and
—average annual salaries of support personnel.

6. Work Activity Report (Self-Employed Person)—20 CFR 404.1520(b), 404.1571–404.1576, 404.1584–404.1593, and 416.971–.976—0960–0598. SSA uses the information on Form SSA–820–F4 to determine initial or continuing eligibility for SSI or Social Security disability benefits. Under Titles II and XVI of the Act, applicants for disability benefits must prove an inability to perform any kind of Substantial Gainful Activity (SGA) generally available in the national economy for which they might be expected to qualify on the basis of age, education and work experience. SSA needs to secure information about this work to ascertain whether the applicant was (or is) engaging in SGA. Work after a claimant becomes entitled can cause the cessation of disability benefits. SSA needs the information obtained on Form SSA–820–F4 to determine if a cessation of benefits should occur. The respondents are applicants and claimants for SSI or Social Security disability benefits.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 100,000.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 50,000 hours.

7. Modified Benefit Formula Questionnaire-Employer—20 CFR 401 & 402—0960–0477. When a claimant alleges receipt of a pension based on non-covered employment after 1956 and the claimant reaches age 62 or becomes disabled after 1985, SSA must determine whether the modified benefit formula is applicable and when to first apply it to a person's benefit. SSA collects information on Form SSA–58 to determine whether Social Security benefits should be adjusted. This form will be sent to an employer for pension-related information if the claimant is unable to provide it. The respondents are certain individuals who are eligible for both Social Security benefits and a pension based on work not covered by SSA.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 30,000.

Frequency of Response: 1.

Average Burden Per Response: 20 minutes.

Estimated Average Burden: 10,000 hours.

8. Disability Determination and Transmittal—20 CFR 404.1615(e), 416.1015(f)—0960–0437. SSA uses the information collected on Form SSA–831–C3/U3 to document the State agency determination as to whether an individual who applies for disability benefits is eligible for those benefits based on his/her alleged disability. SSA also uses the information for program management and evaluation. The respondents are State DDS adjudicating Title II and Title XVI disability determinations for SSA.

Type of Request: Extension of OMB-approved information collection.

Number of Respondents: 3,079,916.

Frequency of Response: 1.

Average Burden Per Response: 15 minutes.

Estimated Average Burden: 769,979 hours.

9. Cessation or Continuance of Disability or Blindness Determination—20 CFR 404.1615. 416.1015—0960–0443. SSA uses the information on Form SSA–832–U3/C3 to document whether an individual's disability benefits should be terminated or continued on the basis of his/her impairment. The respondents are State DDS employees adjudicating Title II and Title XVI disability claims.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 200,753.

Frequency of Response: 1.

Average Burden Per Response: 30 minutes.

Estimated Annual Burden: 100,376 hours.

10. Employer Report of Special Wage Payments—20 CFR 404.428–404.429—0960–0565. SSA gathers the information on Form SSA–131 to prevent earnings-related overpayments to Social Security beneficiaries, and to avoid erroneous withholding of benefits. The respondents are employers who provide special wage payment verification.

Type of Request: Extension of an OMB-approved information collection.

Number of Respondents: 30,000.

Frequency of Response: 1.

Average Burden of Response: 20 minutes.

Estimated Average Burden: 10,000 hours.

Dated: January 11, 2008.

Elizabeth A. Davidson,

Reports Clearance Officer, Social Security Administration.

[FR Doc. E8–810 Filed 1–16–08; 8:45 am]

BILLING CODE 4191–02–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Federal Aviation Administration

[Docket No. FAA–2008–0036]

RIN 2120–AF90

Policy Regarding Airport Rates and Charges

AGENCY: Department of Transportation, Office of the Secretary and Federal Aviation Administration.

ACTION: Notice of proposed amendment to policy statement.

SUMMARY: This action proposes to amend the Department of Transportation (''Department'') ''Policy Regarding the Establishment of Airport Rates and Charges'' published in the **Federal Register** on June 21, 1996 (''1996 Rates and Charges Policy''). This action proposes three amendments to the 1996 Rates and Charges Policy (two modifications and one clarification). These amendments are intended to provide greater flexibility to operators of congested airports to use landing fees to provide incentives to air carriers to use the airport at less congested times or to use alternate airports to meet regional air service needs. Any charges imposed on international operations must also comply with the international obligations of the United States.

DATES: Send your comments on or before March 3, 2008.

ADDRESSES: You may send comments [identified by Docket Number FAA–2007–XXXXX] using any of the following methods:

- *Government-wide rulemaking Web site:* Go to *http://www.regulations.gov* and follow the instructions for sending your comments electronically.
- *Mail:* Docket Operations, U.S. Department of Transportation, West Building, Ground Floor, Room W12–140, Routing Symbol M–30, 1200 New Jersey Avenue, SE., Washington, DC 20590.
- *Fax:* 1–202–493–2251.
- *Hand Delivery:* To Docket Operations, Room W12–140 on the ground floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

For more information on the notice and comment process, see the **SUPPLEMENTARY INFORMATION** section of this document.

Privacy: We will post all comments we receive, without change, to *http://www.regulations.gov*, including any personal information you provide. For more information, see the Privacy Act discussion in the **SUPPLEMENTARY INFORMATION** section of this document.

Docket: To read background documents or comments received, go to *http://www.regulations.gov* at any time or to Room W12–140 on the ground floor of the West Building, 1200 New Jersey Avenue, SE., Washington, DC, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

FOR FURTHER INFORMATION CONTACT: Barry L. Molar, Manager, Airports Financial Assistance Division, APP–500, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591; telephone: (202) 267–3831; facsimile: (202) 267–5302; *e-mail: barry.molar@faa.gov;* or Charles Erhard, Manager, Airport Compliance Division, AAS–400, Federal Aviation Administration, 800 Independence Avenue, SW., Washington, DC 20591, *telephone:* (202) 267–3187; *facsimile:* (202) 267–5769; e-mail: *charles.erhard@faa.gov*.

SUPPLEMENTARY INFORMATION:

Comments Invited

The Department of Transportation invites interested persons to join in this notice and comment process by filing written comments, data, or views. The most helpful comments reference a specific portion of the proposal, explain the reason for any recommended change, and include supporting data. We ask that you send us two copies of written comments.

We will file in the docket all comments we receive, as well as a report summarizing each substantive public contact with Department personnel about this proposal. The docket is available for public inspection before and after the comment closing date. If you wish to review the docket in person, go to the address in the **ADDRESSES** section of this preamble between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays. You may also review the docket using the Internet at the web address in the **ADDRESSES** section.

Privacy Act: Using the search function of our docket Web site, anyone can find and read the comments received into any of our dockets. This includes the name of the individual sending the comment (or signing the comment for an association, business, labor union). 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://regulations.gov.*

Before acting on this proposal, we will consider all comments we receive on or before the closing date for comments. We will consider comments filed late if it is possible to do so without incurring expense or delay. We may change this proposal because of the comments we receive.

If you want the Department to acknowledge receipt of your comments on this proposal, include with your comments a preaddressed, stamped postcard on which the docket number appears. We will stamp the date on the postcard and mail it to you.

Proprietary or Confidential Business Information

Do not file in the docket information that you consider to be proprietary or confidential business information. Send or deliver this information directly to the person identified in the **FOR FURTHER INFORMATION CONTACT** section of this document. You must mark the information that you consider proprietary or confidential. If you send the information on a disk or CD ROM, mark the outside of the disk or CD ROM and also identify electronically within the disk or CD ROM the specific information that is proprietary or confidential.

Under 14 CFR 11.35(b), when we are aware of proprietary information filed with a comment, we do not place it in the docket. We hold it in a separate file to which the public does not have access and place a note in the docket that we have received it. If we receive a request to examine or copy this information, we treat it as any other request under the Freedom of Information Act (5 U.S.C. 552). We process such a request under the DOT procedures found in 49 CFR Part 7.

Availability of Documents

You can get an electronic copy using the Internet by:

(1) Searching the Federal eRulemaking portal (*http://www.regulations.gov/search*);

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

(3) Accessing the Government Printing Office's Web page at *http://www.access.gpo.gov/su_docs/aces/aces140.html.*

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

Authority for This Proceeding

This notice is published under the authority described in Subtitle VII, Part B, Chapter 471, Section 47129 of Title 49 United States Code. Under subsection (b) of this section, the Secretary of Transportation is required to publish publishing policy statements establishing standards or guidelines the Secretary will use in determining the reasonableness of airport fees charged to airlines under Section 47129.

Background

This action proposes to amend the Department of Transportation (''Department'') ''Policy Regarding the Establishment of Airport Rates and Charges'' published in the **Federal Register** on June 21, 1996, (''1996 Rates and Charges Policy''). Portions of the policy were subsequently vacated by the United States Court of Appeals for the District of Columbia Circuit in *Air Transport Ass'n of America* v. *DOT,* 119 F.3d 38, amended by 129 F.3d 625 (DC Cir. 1997). This action proposes three amendments to the 1996 Rates and Charges Policy (two modifications and one clarification). These amendments are intended to provide greater flexibility to operators of congested airports to use landing fees to provide incentives to air carriers to use the airport at less congested times or to use alternate airports to meet regional air service needs. Any charges imposed on international operations must also comply with the international obligations of the United States.

First, this notice proposes to clarify the policy by explicitly acknowledging the ability of airport operators to establish a two-part landing fee structure consisting of both an operation charge and a weight-based charge, in lieu of the standard weight-based charge. Such a two-part fee would serve as an incentive for carriers to use larger aircraft and increase the number of passengers served with the same or fewer operations. Second, this action proposes to expand the ability of the operator of a congested airport to include in the airfield fees of a congested airport a portion of the airfield costs of other, underutilized airports owned and operated by the same proprietor. Third, this action proposes to permit the operator of a congested airport to charge users of a congested airport a portion of the cost of airfield projects under construction. Currently, costs of new or reconstructed airfield facilities may be included in airfield charges only when the new or reconstructed facilities are completed and in use, unless carriers at the airport agree otherwise. This proposed modification would also permit the operator of a congested airport to include in the rate base the costs of projects under construction. This notice proposes two alternatives. The first would permit the costs to be included in the rate base only during periods when the airport experiences congestion. At some airports, such as Chicago O'Hare or New York LaGuardia, this could occur throughout the normal operating day. The second would permit these costs to be included in the rate base of the congested airport at all times. Because the latter two proposed amendments would apply only at congested airports, this notice also proposes to add a definition of ''congested airport'' in the Applicability section.

Legal Requirements for Airport Rates and Charges

All commercial service airports operating in the United States and most other airports that are open to the public have accepted grants for airport development under the Airport Improvement Program, authorized in Title 49 of the United States Code, Subtitle VII, Part B, Chapter 471. Under § 47107, in exchange for receiving grant funds, airport operators must give a variety of assurances regarding the operation of their airports and the implementation of grant funded projects. Among other things, airport operators pledge to make the airport ''available for public use on reasonable conditions and without unjust discrimination.'' 49 U.S.C. 47107(a)(1). This obligation encompasses the obligation to establish reasonable and not unjustly discriminatory fees and charges for aeronautical use of the airfield.

Section 47129 authorizes the Department to review the reasonableness of airport fees charged to air carriers, upon a complaint or request for determination and a finding of a significant dispute, and directs the publication of policies or guidelines for determining reasonable fees and development of expedited hearing procedures to resolve airport fee disputes. The Department's procedures applicable to proceeding concerning airport fees are contained in Subpart F, Title 14 CFR 302.601—§ 302.609.

The Policy Regarding Airport Rates and Charges

The Department published the 1996 Rates and Charges Policy in the **Federal Register** at 61 FR 31994 on June 21, 1996. The statement of policy was required by section 113 of the Federal Aviation Administration Authorization Act of 1994, Public Law 103–305 (August 23, 1994), now codified at 49 U.S.C. 47129. The publication of the 1996 Rates and Charges Policy followed publication of a notice of proposed policy (59 FR 29874, June 9, 1994). That proposal predated enactment of section 47129. After enactment of section 47129, the Department published a supplemental notice of proposed policy (59 FR 51585, October 12, 1994); an Interim Policy (60 FR 6906, February 3, 1995); and a further supplemental notice of proposed policy (60 FR 47102, September 8, 1995).

On behalf of its member airlines, the Air Transport Association of America (ATA) and the City of Los Angeles, operator of Los Angeles International Airport, challenged elements of the 1996 Rates and Charges Policy in the United States Court of Appeals for the District of Columbia. The court vacated portions of the 1996 Rates and Charges Policy in *Air Transport Ass'n of America* v. *DOT,* 119 F3d 38, amended by 129 F.3d 625 (DC Cir. 1997).

The 1996 Rates and Charges Policy specified that, unless otherwise agreed to by an airport user, fees for airfield use must be based on costs calculated using the historic cost accounting (HCA) methodology. 1996 Rates and Charges Policy, paras. 2.2, 2.4, 2.5.1. For other airport facilities and services, however, the airport proprietor was free to use any reasonable methodology to determine fees, if justified and applied on a consistent basis. 1996 Rates and Charges Policy, para. 2.6. Petitioners in the court case challenged the disparate treatment of airfield fees and other fees. The court determined that this distinction had not been adequately justified. 119 F.3d at 44. At the Department's request, the Court vacated only the specific provisions of the 1996 Rates and Charges Policy that petitioners challenged as implementing that distinction. 129 F.3d at 625.

Since the court's ruling, the Department has addressed significant airport-airline fee disputes through case-by-case adjudication. The Department's decisions are informed by the statutory limitations imposed on airport fees. One limitation derives from requirements of the airport improvement program grant assurances, 49 U.S.C. 47107. In particular, a federally assisted airport sponsor must give the Secretary of Transportation and the FAA certain assurances, including the assurance that the airport will be available for public use on fair and reasonable terms and without unjust discrimination. The other limitation arises from the proprietor's exception to the Anti-Head

Tax Act, which allows the airport sponsor to collect only reasonable rental charges, landing fees, and other service charges from aircraft operators for the use of airport facilities.

Our past cases have established some guidelines for our analysis of fees challenged by airlines. Our cases have examined fees and fee methodologies that we considered reasonable as well as those we considered not to be reasonable. See *Miami International Airport Rates Proceeding,* Order 97–3–26 (March 19, 1997), *aff'd sub nom., Air Canada* v. *DOT,* 148 f.3D 1142 (DC Cir. 1998); *Alaska Airlines, Inc., et al.* v. *Los Angeles World Airports,* Order 2007–6–8 (June 15, 2007) (*LAX III*), on appeal to the United States Court of Appeals for the District of Columbia Circuit).

Additionally, we have established some guidance on unreasonable airline fees *Second Los Angeles Int'l Airport Rates Proceeding,* Order 95–9–24 (Sept. 22, 1995, (*LAX II*), *aff'd sub nom, City of Los Angeles* v. *DOT,* 165 F.3d 972 (DC Cir. 1999); *Brendan Airways, LLC* v. *Port Authority of New York and New Jersey,* Order 2005–6–11 (June 14, 2005), *aff'd in part, Port. Auth. of New York and New Jersey* v. *DOT,* 478 F.3d 21 (DC Cir. 2007).

The Secretary has also determined whether or not certain disputed fees were unjustly discriminatory. Brendan Airways, op cit., Order 2005–6–11; *LAX III.*

Airport Congestion in the United States

Currently, the National Airspace System (NAS) handles 750 million passengers each year. We expect this number to reach one billion by 2015, and forecasts indicate increases in demand ranging from a factor of two to three by 2025. Market competition spurred by new-entrant, low-cost carriers and the competitive response by legacy airlines have generated much of the increase in air travel demand. Among the trends are new and expanded route networks to lesser-served markets connecting major hubs with regional jet service. The additional service in some cases provides no net increase in seats between origins and destinations but provides more operations in the system with greater numbers of smaller capacity aircraft.

The majority of the airports in the NAS have adequate airport capacity with little, if any, delay. Generally, congestion occurs at the largest airports. The 35 busiest airports, known as Operational Evolution Partnership (OEP) airports, handle approximately 73 percent of the commercial air passenger boardings in the system. Runway construction projects have long served as a primary method to improve capacity. Since fiscal year 2000, thirteen new runways (more than 20 miles of new pavement) have opened at the 35 OEP airports. In addition, six more of the OEP airports have airfield projects under construction (two airfield reconfigurations, three new runways, and one runway extension), which should be commissioned within the next three years. These new runways and airfield reconfigurations involve eighteen of the 35 OEP airports, providing these airports with the potential to accommodate about two million more annual operations.

Nevertheless, the experience of summer 2007 shows that congestion is a problem today. Airlines at New York JFK International Airport increased their scheduled operations by 41 percent between March 2006 and August 2007. As a result, the number of arrival delays exceeding one hour increased by 114 percent in the first ten months of fiscal year 2007, compared to the same period the previous year. During June and July 2007, on-time arrival performance at JFK was only 59 percent. Moreover, delays resulting from operations at New York metropolitan area airports alone can account for up to one-third of the delays throughout the entire national system. The congestion in the New York airspace has ripple effects across the national airspace system, causing flight delays, cancellations, and/or missed connections. These delays impose economic and social costs on airline passengers and shippers; airlines incur extra costs for fuel, flight crews, and schedulers. Delays are likewise beginning to increase at San Francisco. At Chicago O'Hare, the FAA implemented voluntary flight restrictions in 2004 to limit congestion and delays. The reconfiguration of the O'Hare airfield will eventually provide the capacity to overcome congestion. In the short run, however, congestion would be much worse if not for FAA intervention.

Most portions of the country have plans and capabilities to meet projected aviation demand. A recent study, *Capacity Needs in the National Airspace System 2007–2025: An Analysis of Airports and Metropolitan Area Demand and Operational Capacity in the Future,* conducted by the Federal Aviation Administration as part of the Future Airport Capacity Task (FACT) 2, indicates metropolitan areas and regions along the east and west coasts are experiencing large amounts of growth in population and economic activity that cause chronic congestion. Based on studies and analyses associated with FACT 2, conditions are projected to get worse in the future in these coastal regions, primarily concentrated at various OEP airports. Fourteen of the 35 OEP airports and eight metropolitan areas are forecasted to be capacity-constrained in 2025.

Of the fourteen airports identified as capacity-constrained in the study, several are further constrained by conditions, either physical (New York LaGuardia) or environmental (Long Beach-Daugherty Field), that prevent additional runway capacity from being built. To date, even with planned improvements, no single solution to the congestion at these airports has been identified. Aside from adding runway capacity, air traffic operational improvements and airspace redesign are additional measures that have been considered. In addition, even at airports where expansion is possible or planned, the lead-time to bring a planned improvement project from concept to commissioning may be substantial (10–15 years). Until new facilities are completed and put into service, these locations may continue to be plagued by congestion and delays.

To adequately prepare to handle the increasing air travel demand in the system, it will be necessary to augment tools available to the local governments which operate these airports to encourage regional aviation assets to be employed to resolve the capacity issues. In areas where the metropolitan areas may be served by more than one commercial service airport, the dispersal or regionalization of traffic can be encouraged by certain financial incentives, not all of which are expressly permitted by the current rates and charges policy.

Role of Price in Addressing Congestion

One way of addressing congestion of an airport's airside facilities is by the pricing of those facilities. By raising the cost of operating a flight during congested periods, an airport owner/operator can increase the efficient utilization of the airport in a number of ways. First, by charging higher landing fees during periods of peak congestion, the airport proprietor gives aircraft operators the incentive to reschedule their flights to less congested periods or to use secondary airports. The degree to which aircraft operators reschedule will in large part depend on their network structure and access to secondary airports. Second, if airports structure their airfield charges to reflect scarcity by incorporating per-operation charges with weight-based charges, they will provide an incentive for air carriers to use congested airfield facilities more efficiently by increasing the size of

aircraft operating during periods of congestion. Third, properly pricing scarce airfield capacity will yield a clearer signal as to the desirability of expansion of capacity at that airfield. Even where expansion is not feasible, the industry and users benefit if adjustment of prices during congested periods increases the efficiency with which congested airfield facilities are used.

The proposed actions do not represent true congestion pricing because they do not authorize airport proprietors to set fees to balance demand with capacity without regard to allowable costs of airfield facilities and services. Nevertheless, by enabling proprietors at congested airports to assign additional, but still appropriate, costs to the airfield to better reflect the cost of using congested airfield facilities, these proposed actions should encourage more efficient use of these facilities and encourage feasible capacity expansion. Airport sponsors must assure the Department that the airport is available to the public on reasonable terms and without unjust discrimination. If we adopt the two proposed amendments targeted for congested airports, we expect affected proprietors to implement them in a manner that is consistent with the grant assurance and we expect that the implementation will lead to a more efficient use of the congested facilities

Discussion of Proposals

General Discussion

The three specific proposals do not alter one of the fundamental principles of the 1996 Rates and Charges Policy: that reasonable fees must be based on the capital and operating costs of the facilities for which the fees are assessed. Rather, two of the proposals would modify costs that may be reasonably included in the cost base of landing fees at a congested airport. The third would clarify the ability of airports to adopt a ''dual-element'' landing fee with both a per-operation and weight-based component. This authority exists today for airports with or without congestion. While the presence or absence of congestion may affect how an airport may reasonably implement a dual element-landing fee, as discussed below, the 1996 Rates and Charges Policy is silent on this point. None of the proposed amendments is intended to permit an airport to generate revenues in excess of the allowable costs of providing airfield facilities and services at the congested airport, as defined in accordance with the 1996 Rates and Charges Policy.

The effect of each of these modifications would be to allow the airport operator to increase the cost of landing at a congested airport during periods of congestion, even if congestion lasts through much of the day. By raising the costs of the congested facilities, the airport operator would provide an incentive for current or potential aircraft operators to (1) adjust schedules to operate at less congested times (if they exist); (2) use less congested secondary or reliever airports to meet regional air service needs; or (3) use the congested airport more efficiently by up-gauging aircraft. The three proposals are not intended to be mutually exclusive. In other words, if the circumstances justify doing so, an airport proprietor might use a combination of two, or even all three, proposals in setting landing fees during periods of congestion. Any charges imposed on international operations, whether using this proposed flexibility or not, would also have to comply with the international obligations of the United States, including requirements that the charges be just, reasonable, and equitably apportioned among categories of users.

Where additions to airport capacity are financially and physically feasible and can be accomplished without undue adverse environmental or social impacts, the Department considers such additions to be the most appropriate long-term actions to address airport congestion and delay. The amendments to the 1996 Rates and Charges Policy proposed in this action are intended to help airports manage available capacity in the short-run, while additions to capacity are being planned and built and to help those airports where capacity expansion is not feasible.

Definition of Congested Airport

Two of the three proposed revisions would apply only to congested airports. Therefore, this action proposes to add a new subsection E to the Applicability Section of the 1996 Rates and Charges Policy that would define a congested airport. The subsection would establish two categories of congested airports—those meeting the statutory definition of congested airport contained in 49 U.S.C. 47175 or those identified in the report titled ''Capacity Needs in the National Airspace System, 2007–2025'' (May 2007), issued by the Future Airport Capacity Task and commonly referred to as the ''FACT 2 Report.'' Section 47175 is part of an aviation development streamlining program enacted by Congress in 2003 (Vision-100). That program recognized the significant negative economic impact on our national economy resulting from congestion and delays at our major airports. It gave airport capacity enhancement projects at those airports a national priority status, and authorized an expedited environmental coordination process that would protect the environment while ensuring the economic vitality resulting from the continued growth in aviation. Public Law 108–176, Title III, § 302 (2003). A congested airport is defined as an airport that accounted for at least one percent of all delayed aircraft operations in the Untied States and an airport listed in Table 1 of the FAA's Airport Capacity Benchmark Report 2001. 49 U.S.C. 47175(2). Under its general authority to manage airspace, and after a comprehensive analysis of current and forecasted traffic, demand, and demographic trends, the FAA published the FACT 2 report identifying airports that are or will be congested at three milestones—2007, 2015 and 2025. It would not be appropriate to permit an airport that is not projected to be congested in 2025 to rely on provisions applicable to congested airports in setting fees today. Therefore, the proposed amendment would also exclude airports projected to be congested in 2025 for the first time from the scope of the definition.

Two-Part Landing Fees

As noted, although most airports rely on a single element weight-based landing fee, the use of a weight-based landing fee is not required. This issue was squarely addressed in the Department's decision in the Massport Pace case, *Investigation into Massport's Landing Fees,* Opinion and Order, FAA Docket 13–88–2 (December 22, 1988), *aff'd New England Legal Foundation* v. *Department of Transportation,* 883 F.2d 157 (1st Cir. 1989). In that case, the Department did not determine that Massport's two-part landing fee for Boston Logan Airport was unreasonable, *per se.* Rather, the Department concluded that ''landing fee structures that vary from the traditional weight-based approach are permissible so long as the approach adopted reasonably allocates costs to the appropriate users on a rational and economically justified basis.'' Opinion and Order at 11. The Department found the landing fee to be unreasonable because it failed to meet this standard for allocating costs. *Id.* This decision followed a previous ruling in *AOPA* v. *PANYNJ,* 305 F. Supp 93 (E.D.N.Y. 1969), upholding a minimum take-off fee (essentially a per-operation charge) imposed by the Port Authority of New York and New Jersey at Newark, LaGuardia and Kennedy airports.

The proposed amendment would explicitly acknowledge the ability of an airport to establish a two-part landing fee. The amendment would add a new paragraph 2.1.4, in the section titled ''Fair and Reasonable Fees,'' stating that fair and reasonable fees may include a two-part landing fee consisting of a per-operation charge and a weight-based charge, so long as the two-part fee reasonably allocates costs to the appropriate users on a rational and economically justified basis. This provision would apply to any airport. However, the presence of congestion and the potential to serve more individual travelers if larger aircraft are used in the limited number of operations available, would be the most obvious circumstance for the justification of a dual component fee.

Carriers may have many reasons to serve routes with smaller aircraft—regional jets or even turboprops. Smaller aircraft may have lower operating costs or allow the carrier to offer more frequent service economically. However, operations of smaller aircraft during periods of airport congestion reduce the efficiency of the airport. First, it simply takes more operations to move the same number of people to and from the airport. Second, these aircraft may have slower speeds on approach to and departure from the airport than larger jets. Also, they may require larger separation distances from large jet aircraft than other large jets.

A purely weight-based landing fee provides no disincentive, and may actually provide an incentive, for carriers to operate smaller aircraft. The landing fee for small aircraft will be substantially lower than the fee for a larger aircraft. If an airport assesses a per-operation charge as a component of the landing fee, the cost of operating a smaller aircraft will increase, and the cost per seat of operating smaller aircraft will increase. The proposed amendment would make it clear that during periods of congestion the airport proprietor may take the presence of congestion into account in determining the proportion of airfield costs to be recovered from the per-operation charge, so long as the combination of the two elements do not generate revenues in excess of the allowable costs of the airfield. The flaw with the Massport ''PACE'' fee was that Massport justified the per operations fee on the basis of congestion, yet applied it at all times, even when congestion was not present. Opinion and Order at 9. For a per operation fee imposed during times when congestion might not be present, the per-operation charge would need to be justified on other settled principles of cost allocation.

Costs of Facilities Under Construction

The proposed action would amend the 1996 Rates and Charges Policy by replacing paragraph 2.5.3, which was vacated by the court of appeals, with a new paragraph addressing charges for facilities under construction. The paragraph vacated by the court specified that with limited exceptions for land acquired for future development, costs of airfield facilities not yet built and operating could not be included in the rate base of the airfield unless agreed to by airfield users. The court's decision to vacate this paragraph did not necessarily represent a determination that the provision was erroneous, per se. Rather, as noted, the court identified the provision as one that was intimately connected to the 1996 Rates and Charges Policy's erroneous distinction between airfield fees and fees for other facilities.

The court's decision did not vacate the principle that airfield fees are limited to an amount that recovers the costs of operating and maintaining the airfield. One of the fundamental principles of this ''cost of service'' approach to setting fees is the principle that only the cost of facilities ''used and useful'' by the rate-payers may be included in the rate-base. (A. Priest, 1 Principles of Public Utility Regulation 174, 178 (1969); J. Bonbright, *Principles of Public Utility Rates* 178 (1961); S. Breyer, *Regulation and Its Reform* 40 (1982); *City and County of Denver* v. *Continental Air Lines, Inc.,* 712 F. Supp. 834, D.CO. (1989)). The vacated paragraph 2.5.3 represented the application of this principle, which is still accepted practice in ''cost of service'' fee setting. The Department has applied this principle only once in a fee dispute adjudication, finding that an airport may reasonably include, in its landing fee, a debt service charge for uncompleted capital projects, since the projects were expected to be completed during the year in which the charges were made. *Second Los Angeles International Airport Rates Proceeding,* DOT Order 95–12–33 (Dec. 22, 1995).

With that said, exceptions to the principle that the costs of facilities not yet built and operating may not be included in the rate base have been recognized in unusual circumstances (*e.g., Consumer Protection Board* v. *Public Service Commission,* 78 A.D. 2d 65, 434 N.Y. Supp. 2d 820, 822 (1980) (inclusion of construction work in progress in rate base is an extraordinary remedy); *Mid-Tex Electric Cooperative, Inc.* v. *FERC,* 773 F.2d 327 (DC Cir. 1985) (decision to allow construction work in progress in rate base is consistent with the ''used and useful'' principle)). The proposed amendment would represent a modest departure from this principle. It would permit the operator of a congested airport to incorporate the costs of airfield facilities under construction (including costs associated with reconstructing facilities) into the landing fee. Two approaches are being considered, and we solicit comment on each. Under the first approach, the costs of facilities under construction could be included only during periods when the airport experiences congestion. Under the second approach, the costs could be included at the congested airport throughout the day. Any costs recovered for principal and interest during the construction period would have to be deducted from the amount later capitalized and amortized for recovery in the rate-base after the facility is put into use. To qualify for inclusion, the facilities would need to be under construction, so that availability of the facilities for use would not be speculative. All planning and environmental reviews would need to have been completed, a financing plan developed, and financing arranged. Once construction is under way, the risk that current users will not benefit from the facility in the foreseeable future is reduced or eliminated if the user remains at the airport. In addition, allowing the airport proprietor to begin early recovery of capital and interest carrying costs of the facility during construction would reduce the long-term costs of the project by reducing the amount of financing costs incurred during the construction period that would otherwise be capitalized and added to the rate base. In any event, it would not increase the total costs of the project passed on to carriers, and it could hasten the arrival of capacity expansions which benefit the carriers by reducing future congestion. The proposed amendment would also direct international airports intending to charge for projects under construction to consult the International Civil Aviation Organization Document 9562, *Airport Economics Manual,* Second Edition, Attachment 6. This document sets forth internationally accepted principles for charging airport users for projects under construction.

This modification would allow the airport proprietor to raise the cost of using congested airfield facilities during periods of congestion or alternatively during all periods of the day in the near term. The increased cost in turn would provide additional financial incentives to users to consider alternatives to using

the airfield when congestion is present, including shifting operations to off-peak periods or to less congested airports that also serve the market area of the congested airport, or to serving the airfield more efficiently such as with up-gauged aircraft.

Including Costs of Secondary Airports in the Rate-Base of a Congested Airport

The 1996 Rates and Charges Policy permits, in paragraph 2.5.4, the operator of an airport to include in the rate base of that airport costs of another airport currently in use if three conditions are met: (1) The two airports have the same proprietor; (2) the second airport is currently in use; and (3) the costs of the second airport to be included in the first airport's rate-base are reasonably related to the aviation benefits that the second airport provides or is expected to provide to the aeronautical users of the first airport. Subparagraph (a) further provides that the third condition will be presumed to be satisfied if the second airport is designated as a reliever airport to the first in the FAA's National Plan of Integrated Airport Systems (NPIAS).

The proposed action would amend subparagraph (a) to add another category of airports to the presumption—those that the FAA has designated as secondary airports serving cities, metropolitan areas, or regions served by congested airports. FAA has identified these airports and tracks development at these airports in the FAA strategic plan or ''Flight Plan.'' The current list of secondary airports is included as an appendix to this notice. The FAA will post the current list of designated secondary airports on its website upon publication of a final amendment to the policy statement and will keep it up to date.

The proposed action would also add a new subparagraph (e) stating that the proprietor of a congested airport may consider the presence of congestion when determining the share of the airfield costs of the secondary airport to be included in the rate base of the congested airport during periods of congestion. In no event would the airport operator be allowed to generate more revenue from airfield charges imposed at the two airports than the costs of operating the two airfields.

The proposed action would provide incentives to aircraft operators to shift service away from congested times at congested airports in two ways. First, it would raise the cost of operating at the congested airport during times of congestion. Second, by adding costs of the secondary airport to the rate base of the first airport, the amendment would reduce the costs of the secondary airport remaining to be recovered from landing fees imposed at the secondary airport. Thus the costs of serving the region through a secondary airport would go down.

These proposed modifications to our rates and charges policy do not affect an airport's requirement to meaningfully consult with airline users before increasing fees, charging new fees, or changing fee methodologies. ''Adequate information'' should be provided by the airport to permit aeronautical users to evaluate the proprietor's justification for the charge and to assess the reasonableness of the charge. Each party should give ''due regard'' to the views of the other and the airport should consider the effects of fee changes on the users and the users should consider the financial needs of the airports. A ''good faith effort'' to reach agreement should be made. Additionally, the Department encourages the airport operator to provide certain historic financial information for the airport, economic, financial and/or legal justification for change in fee methodology or level of fees, traffic information, and planning and forecasting information.[1]

In the context of considering a fee dispute complaint under 49 U.S.C. 47129, the Department has stated that ''one of the important goals in the Policy Statement is the encouragement of airport–airline negotiations in the establishment of new fees or fee increases'' and it encouraged:

> All airports to comply with their obligations under the Policy Statement and applicable bilateral aviation agreements to engage in meaningful consultations with carriers in advance of increasing fees or establishing new fees. We expect airports to justify their fees and to exchange appropriate financial information to enable the carriers to fully evaluate those proposed fees.

British Airways PLC and Virgin Atlantic Airways Limited v. *The Port Authority of New York and New Jersey,* Order 2000–5–23 at 10. (May 24, 2000).

The Proposed Amendment

Because of the foregoing, the Department of Transportation proposes to amend the Policy Regarding Airport Rates and Charges, published at 61 FR 31994 (June 21, 1996) as follows:

[1] DOT Policy Regarding Airport Rates and Charges, 61 Fed. Reg. 32018–32019 and 32022 (1996).

Policy Regarding Airport Rates and Charges

Applicability of Policy

1. Add a new subsection E, Congested Airports to read as follows:

E. Congested Airports

The Department considers a congested airport to be—

(1) An airport meeting the definition of congested airport in 49 U.S.C. 47175; or

(2) An airport identified as congested by the Federal Aviation Administration in the report of the Future Airport Capacity Task entitled *Capacity Needs in the National Airspace System 2007–2025: An Analysis of Airports and Metropolitan Area Demand and Operational Capacity in the Future* (FACT 2 Report), or any update to that report that the FAA may publish from time-to-time, except for airports that will not become congested until 2025.

Fair and Reasonable Fees

2. Amend subsection 2.1 by adding a new paragraph 2.1.4 to read as follows:

2.1.4 An airport proprietor may impose a two-part landing fee consisting of a per-operation charge and a weight-based charge provided that (1) the two-part fee reasonably allocates costs to users on a rational and economically justified basis; and (2) the total revenues from the two-part landing fee do not exceed the allowable costs of the airfield. The operator of a congested airport may consider the presence of airfield congestion when determining the portion of allowable airfield costs to be allocated to the per operation charge during periods of congestion

3. Add a new paragraph 2.5.3 to read as one of the following two options:

Option One

''2.5.3. The proprietor of a congested airport may include in the rate-base used to determine airfield charges during periods of congestion a portion of the costs of airfield projects under construction so long as (1) all planning and environmental approvals have been obtained for the projects; (2) the proprietor has obtained financing for the projects; and (3) construction has commenced on the projects.

''(a) The airport proprietor must deduct from the total costs of the projects any principal and interest collected during the period of construction in determining the amount of project costs to be capitalized and amortized once the project is commissioned and put in service.

''(b) The airport proprietor should consult the International Civil Aviation Organization Document 9562, *Airport Economics Manual,* Second Edition, Attachment 6 before taking action to include costs of a project under construction in the rate-base of an airport with international air service.'';

Option Two

''2.5.3. The proprietor of a congested airport may include in the rate-base used to determine airfield charges a portion of the costs of airfield projects under construction so long as (1) all planning and environmental approvals have been obtained for the projects; (2) the proprietor has obtained financing for the projects; and (3) construction has commenced on the projects.

''(a) The airport proprietor must deduct from the total costs of the projects any principal and interest collected during the period of construction in determining the amount of project costs to be capitalized and amortized once the project is commissioned and put in service.

''(b) The airport proprietor should consult the International Civil Aviation Organization Document 9562, *Airport Economics Manual,* Second Edition, Attachment 6 before taking action to include costs of a project under construction in the rate-base of an airport with international air service.''

4. Revise paragraph 2.5.4(a) to read as follows:

(a) Element no. 3 above will be presumed to be satisfied if

(1) the other airport is designated as a reliever airport for the first airport in the FAA's National Plan of Integrated Airport Systems (''NPIAS''); or

(2) the first airport is congested and the other airport has been designated by the FAA as a secondary airport serving the community, metropolitan area, or region served by the first airport.

b. Add a new subparagraph (e) to read as follows:

(e) The proprietor of a congested airport may consider the presence of airfield congestion at the first airport when determining the portion of the airfield costs of the other airport to be paid by the users of the first airport during periods of congestion, so long as the total airfield revenue recovered from the users of both airports do not exceed the total allowable costs of the two airports combined.

Issued in Washington, DC, on January 11, 2008.

Mary E. Peters,

Secretary of Transportation.

Robert A. Sturgell,

Acting Administrator, Federal Aviation Administration.

[FR Doc. E8–815 Filed 1–16–08; 8:45 am]

BILLING CODE 4910–13–P

DEPARTMENT OF TRANSPORTATION

Office of the Secretary

Privacy Act of 1974: System of Records

AGENCY: Department of Transportation (DOT), Office of the Secretary.

ACTION: Notice to modify a system of records.

SUMMARY: DOT proposes to modify a system of records under the Privacy Act of 1974. The system is DOT's Docket Management System (DMS), which is being modified to reflect: (1) Incorporation in the new Government-wide Federal DMS; (2) relocation of DOT's Headquarters Building (HQ), in which DMS is located; and (3) new name of the organizational entity of which DMS is a part, and its location in the new DOT HQ. This system would not duplicate any other DOT system of records.

EFFECTIVE DATE: This notice will be effective, without further notice, on February 26, 2008, unless modified by a subsequent notice to incorporate comments received by the public. Comments must be received by February 19, 2008 to be assured consideration.

ADDRESSES: Send comments to Habib Azarsina, Acting Departmental Privacy Officer, S–80, United States Department of Transportation, Office of the Secretary of Transportation, 1200 New Jersey Avenue, SE., Washington DC 20590 or *habib.azarsina@dot.gov.*

FOR FURTHER INFORMATION CONTACT: Habib Azarsina, Acting Departmental Privacy Officer, S–80, United States Department of Transportation, Office of the Secretary of Transportation, 1200 New Jersey Avenue, SE., Washington DC 20590; telephone 202.366.1965, or *habib.azarsina@dot.gov.*

SUPPLEMENTARY INFORMATION: The DOT system of records notice subject to the Privacy Act of 1974 (5 U.S.C. 552a), as amended, as proposed to be modified, is available from the above mentioned address and appears below:

DOT/ALL 14

SYSTEM NAME:

Federal Docket Management System (FDMS).

SECURITY CLASSIFICATION:

Unclassified, non-sensitive.

SYSTEM LOCATION:

The system is located in U.S. Department of Transportation, Office of Information Services, Docket Operations, M–30, New Jersey Ave., SE., Room W12–140, Washington, DC 20590.

CATEGORIES OF INDIVIDUALS COVERED BY THE SYSTEM:

Individuals who participate in proceedings at DOT that are covered by the Administrative Procedure Act (APA), and who provide information about their identities. These include proceedings conducted by DOT and by the Department of Homeland Security's U.S. Coast Guard (USCG) and Transportation Security Administration (TSA).

CATEGORIES OF RECORDS IN THE SYSTEM:

DOT, USCG, and TSA rulemaking and related documents issued in informal rulemakings, and public comments thereon; non-rulemaking and related documents, and public comments thereon; in formal rulemakings, motions, petitions, complaints, and related documents and formal responses thereto.

AUTHORITY FOR MAINTENANCE OF THE SYSTEM:

5 U.S.C. 551 *et seq.*

PURPOSE(S):

To facilitate involvement of the public in APA and related proceedings. Routine uses of records maintained in the system, including categories of users and the purposes of such uses: See Prefatory Statement of General Routine Uses.

DISCLOSURE TO CONSUMER REPORTING AGENCIES:

None

POLICIES AND PRACTICES FOR STORING, RETRIEVING, ACCESSING, RETAINING, AND DISPOSING OF RECORDS IN THE SYSTEM:

STORAGE:

Electronically on a publicly-accessible website.

RETRIEVABILITY:

Documents are retrievable through FDMS by name of individual submitting comment, and by docket number.

SAFEGUARDS:

Records are freely available to anyone.

RETENTION AND DISPOSAL:

Paper copies are returned to the originating office upon transfer to electronic medium. Electronic version is retained indefinitely at the discretion of DOT, USCG, or TSA, as appropriate.

SYSTEM MANAGER(S) AND ADDRESS:

U.S. Department of Transportation, Dockets Program Manager, Office of Information Services, Docket Operations, M–30, 1200 New Jersey Ave., SE., Room W12–140, Washington, DC 20590.

NOTIFICATION PROCEDURE:

Same as ''System Manager.''

RECORD ACCESS PROCEDURES:

Same as ''System Manager.''

CONTESTING RECORD PROCEDURES:

Same as ''System Manager.''

RECORD SOURCE CATEGORIES:

Individuals participating in DOT, USCG, or TSA APA proceedings who provide information about their identities.

EXEMPTIONS CLAIMED FOR THE SYSTEM:

None.

Habib Azarsina,

Acting Departmental Privacy Officer.

[FR Doc. E8–785 Filed 1–16–08; 8:45 am]

BILLING CODE 4910–9X–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2007–0082]

Agency Information Collection Activities; Revision of a Currently Approved Information Collection: Motor Carrier Identification Report

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for review and approval. FMCSA requests approval to revise an ICR entitled, ''Motor Carrier Identification Report,'' which is used to identify FMCSA regulated entities, help prioritize the agency's activities, aid in assessing the safety outcomes of those activities, and for statistical purposes. On November 7, 2007, FMCSA published a **Federal Register** notice allowing for a 60-day comment period on the ICR. No comments were received.

DATES: Please send your comments by February 19, 2008. OMB must receive your comments by this date in order to act quickly on the ICR.

ADDRESSES: All comments should reference DOT Docket No. FMCSA–2007–0082. You may submit comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street, NW., Washington, DC 20503, *Attention: DOT/FMCSA Desk Officer.*

FOR FURTHER INFORMATION CONTACT: Ms. Delores Vaughn, Transportation Specialist, Office of Information Technology, Operations Division, Department of Transportation, Federal Motor Carrier Safety Administration, 6th Floor, West Building, 1200 New Jersey Ave., SE., Washington, DC 20590. Telephone Number: (202) 366–9409; e-mail address: *delores.vaughn@dot.gov*. Office hours are from 7 a.m. to 4:30 p.m., Monday through Friday, except Federal Holidays.

SUPPLEMENTARY INFORMATION:

Title: Motor Carrier Identification Report.

OMB Control Number: 2126–0013.

Type of Request: Revision of a currently-approved information collection.

Respondents: Motor carriers and commercial motor vehicle drivers.

Estimated Number of Respondents: 472,470.

Estimated Time per Response: To complete Form MCS–150—20 minutes; and for Form MCS–150A—9 minutes. To complete Form MCS–150B (HM Permit Application)—6 minutes for interstate carriers that have already completed the Form MCS–150; and for intrastate carriers that have never completed a Form MCS–150—they will need about 16 minutes to complete the permit renewal.

Expiration Date: January 31, 2008.

Frequency of Response: One time for Form MCS–150A; biennially for MCS–150 and MCS–150B.

Estimated Total Annual Burden: 119,270 hours [108,825 hours for Form MCS–150 + 10,305 hours for Form MCS–150A + 140 hours for Form MCS–150B = 119,270 hours].

Background: Title 49 U.S.C. 504(b)(2) provides the Secretary of Transportation (Secretary) with authority to require carriers, lessors, associations, or classes of them to file annual, periodic, and special reports containing answers to questions asked by the Secretary. The Secretary may also prescribe the form of records required to be prepared or compiled and the time period during which records must be preserved (See §§ 504(b)(1) and (d)). FMCSA will use this data to administer its safety programs by establishing a database of entities that are subject to its regulations. This database necessitates that these entities notify the FMCSA of their existence. For example, under 49 CFR 390.19(a), FMCSA requires all motor carriers beginning operations to file a Form MCS–150 entitled, ''Motor Carrier Identification Report.'' This report is filed by all motor carriers conducting operations in interstate or international commerce within 90 days after beginning operations. It asks the respondent to provide the name of the business entity that owns and controls the motor carrier operation, address and telephone of principal place of business, assigned identification number(s), type of operation, types of cargo usually transported, number of vehicles owned, term leased and trip leased, driver information, and certification statement signed by an individual authorized to sign documents on behalf of the business entity.

The Department of Transportation (DOT) and Related Agencies Appropriations Act for fiscal year 2002 (DOT Appropriations Act) (Pub. L. 107–87, 115 Stat. 833, December 18, 2001) directed the agency to implement section 210 of the Motor Carrier Safety Improvement Act of 1999 (Pub. L. 106–159, 113 Stat. 1748, December 9, 1999) by issuing an interim final rule (IFR) to ensure that new entrant motor carriers are knowledgeable about the Federal Motor Carrier Safety Regulations (FMCSRs) and standards. The IFR was published on May 13, 2002 (67 FR 31983). The Form MCS–150A associated with this rule is entitled, ''Safety Certification for Application for U.S. DOT Number,'' and is used to help ensure that new entrants are knowledgeable about the Federal motor carrier safety regulations and standards before being granted registration authority to operate in interstate commerce (Intrastate carriers are *not* considered new entrants since they do not operate in interstate commerce; and thus do not need to complete or file the Form MCS–150A.). Under the Form MCS–150A, as required by 49 CFR 385.305, the new entrant must certify that it has a system(s) in place to ensure compliance with applicable requirements covering driver qualifications, hours-of-service, controlled substance and alcohol testing, vehicle condition, accident monitoring and hazardous materials

(HM) transportation. The certification reminds the new entrant of its statutory and regulatory responsibilities, which if neglected or violated, may subject the applicant to civil penalties and lead to the revocation of the new entrant registration.

On June 30, 2004, the agency issued another final rule entitled, ''Federal Motor Carrier Safety Regulations: Hazardous Materials Safety Permits,'' (69 FR 39350) which required all HM carriers (both interstate and intrastate) to complete and file the Form MCS–150B entitled, ''Combined Motor Carrier Identification Report and HM Permit Application,'' to obtain a safety permit to transport hazardous materials. The safety program under 49 CFR 390.19(a) also requires all HM permitted carriers to complete Form MCS–150B in place of the current Form MCS–150 to ''renew'' both their permit and their DOT numbers according to the DOT number renewal schedule.

Accordingly, FMCSA seeks to revise this currently-approved information collection to update the records and forms associated with its safety programs identified above; and to identify the regulated entities currently engaged in these activities.

FMCSA published a **Federal Register** notice allowing for a 60-day comment period on the ICR on November 7, 2007. No comments were received in response to this notice.

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 performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways for the FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information.

Issued on: January 10, 2008.

Terry Shelton,

Associate Administrator for Research and Information Technology.

[FR Doc. E8–793 Filed 1–16–08; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2007–0074]

Agency Information Collection Activities; New Information Collection: Share the Road Safely Outreach Program Assessment

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice and request for comments.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for review and approval. The proposed ICR will be used to collect information on commercial motor vehicle (CMV) and passenger car drivers' awareness of the Share the Road Safely Outreach Program safety messages and activities. On September 11, 2007, FMCSA published a **Federal Register** notice allowing for a 60-day comment period on the ICR. The Agency received one comment on the ICR.

DATES: Please submit your comments by February 19, 2008. OMB must receive your comments by this date in order to act quickly on the ICR.

ADDRESSES: All comments should reference DOT Docket Number FMCSA–2007–0074. You may submit comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street, NW., Washington, DC 20503, *Attention: DOT/FMCSA Desk Officer.*

FOR FURTHER INFORMATION CONTACT: Mr. Brian Ronk, Program Manager, FMCSA, Office of Outreach and Development, U.S. Department of Transportation, 1200 New Jersey Avenue, SE., Washington, DC 20590–0001. Telephone: (202) 366–1072; or e-mail *brian.ronk@dot.gov*. Office hours are from 8:30 a.m. to 5 p.m., Monday through Friday, except Federal holidays.

SUPPLEMENTARY INFORMATION:

Title: Share the Road Safely Outreach Program Assessment.

OMB Control Number: 2126–XXXX.

Type of Request: New information collection.

Respondents: Public/licensed passenger car drivers.

Estimated Number of Respondents: 1500.

Estimated Time per Response: The estimated average burden per response is 10 minutes.

Expiration Date: N/A. This is a new information collection request.

Frequency of Response: This information collection will occur twice within the three year effective period of the OMB clearance; once in the initial year of approval and again two years following the initial data collection.

Estimated Average Total Annual Burden: 167 hours [1,500 respondents × 10 minutes/60 minutes per response × 2 telephone interviews/3 year ICR approval timeframe = 167].

Background

The purpose of this study is to assess the awareness of licensed drivers (both CMV and passenger car) regarding Share the Road Safely (STRS) messages and activities. The study will assist FMCSA in developing future STRS campaign messages and identifying target audiences and distribution strategies. The data will be collected through a telephone survey. Results of the study will not be published in the **Federal Register**, but used for internal research purposes by FMCSA to assess its outreach activities and identify additional opportunities to help raise the public's awareness of driving safely in, or around, large trucks and vehicles. A follow-up survey will be conducted two years after the initial data collection and compared against the results from the baseline assessment, then the IC will continue every two years thereafter.

FMCSA published a **Federal Register** notice allowing for a 60-day comment period on the ICR on September 11, 2007. The Agency received one comment regarding the need for it to develop and enforce more rigorous standards on the trucking industry. The commenter asserts that a program like ''Share the Road Safely'' is mind-boggling when the agency continues to let unsafe trucks travel on our nation's highways, license one-eyed drivers and those who submit spurious statements to support registration. FMCSA responded to the comment citing to section 4127 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (SAFETEA–LU) (Pub. L. 109–59, 119 Stat. 1144; Aug. 10, 2005) which authorizes the Secretary of Transportation (Secretary) to conduct an outreach and education program to be administered by the Agency and the National Highway Traffic Safety Administration (NHTSA). The Agency affirmed the writer's concern about truck safety on our Nation's roadways and explained that the intent of the STRS program is to educate the public on how to prevent crashes, injuries and fatalities when sharing the road safely with large trucks, buses, and other types

of vehicles. The FMCSA response also stressed that the STRS program assessment study is part of an effort to establish baseline data to determine the program's effectiveness.

Public Comments Invited: You are asked to comment on any aspect of this information collection, including: (1) Whether the proposed collection is necessary for FMCSA to perform its functions; (2) the accuracy of the estimated information collection burden; (3) ways for the FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the information collected.

Issued on: January 10, 2008.

Terry Shelton,

Associate Administrator for Research and Information Technology.

[FR Doc. E8–794 Filed 1–16–08; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF TRANSPORTATION

Federal Motor Carrier Safety Administration

[Docket No. FMCSA–2007–0075]

Agency Information Collection Activities; New Information Collection: Household Goods Consumer Information Program Assessment Study

AGENCY: Federal Motor Carrier Safety Administration (FMCSA), DOT.

ACTION: Notice and request for information.

SUMMARY: In accordance with the Paperwork Reduction Act of 1995, FMCSA announces its plan to submit the Information Collection Request (ICR) described below to the Office of Management and Budget (OMB) for review and approval. The intent of the ICR is to collect information on recent interstate household goods shippers' (consumers) awareness of the Household Goods (HHG) Consumer Information Program messages and activities. On September 26, 2007, FMCSA published a **Federal Register** notice allowing for a 60-day comment period on the ICR. One comment was received.

DATES: Please send your comments by February 19, 2008. OMB must receive your comments by this date in order to act quickly on the ICR.

ADDRESSES: All comments should reference DOT Docket No. FMCSA–2007–0075. You may submit comments to the Office of Information and Regulatory Affairs, Office of Management and Budget, 725 Seventeenth Street, NW., Washington, DC 20503, *Attention: DOT/FMCSA Desk Officer.*

FOR FURTHER INFORMATION CONTACT: Mr. Brian Ronk, Program Manager, FMCSA, Office of Outreach and Development. Telephone: (202) 366–1072; or e-mail *brian.ronk@dot.gov.*

SUPPLEMENTARY INFORMATION:

Title: Household Goods Consumer Information Program Assessment Study.

OMB Control Number: 2126–XXXX.

Type of Request: New information collection.

Respondents: Public/consumers who have moved household goods from one State to a different State in the U.S. (Interstate Household Goods Shippers).

Estimated Number of Respondents: 1500.

Estimated Time per Response: The estimated average burden per response is 15 minutes.

Expiration Date: N/A. This is a new information collection.

Frequency of Response: This information collection will occur twice within the three year effective period of the OMB clearance; once in the initial year of approval and again two years following the initial data collection.

Estimated Average Total Annual Burden: 250 hours [1,500 respondents × 15 minutes/60 minutes per response × 2 telephone interviews/3 year ICR approval timeframe = 250].

Background

The purpose of this study is to quantify and assess consumer awareness of the Household Goods (HHG) Consumer Information Program. The study will determine the interstate moving public's recognition or knowledge of the Program's activities or messages, such as the ''Protect Your Move'' campaign. The data will be collected through a telephone survey. Results of the study will not be published, but used for internal research purposes by FMCSA in developing future HHG campaign materials, identifying target audiences, and determining distribution strategies to provide better consumer information to the public. It will also serve as a baseline for future program evaluations or assessments. A follow-up telephone survey will be conducted two years after the initial data collection and compared against the results from baseline assessment.

FMCSA published a **Federal Register** notice allowing for a 60-day comment period on the ICR on September 26, 2007. One comment was received regarding the need for the Agency to focus on problems that have been reported instead of conducting a data collection effort. FMCSA responded to the comment explaining the need for the study and affirmed the writer's concern about the safe and reliable delivery of a consumer's household goods. The FMCSA's response also explained the goal of the agency's Household Goods (HHG) Consumer Information Program.

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 performance of FMCSA's functions; (2) the accuracy of the estimated burden; (3) ways for the FMCSA to enhance the quality, usefulness, and clarity of the collected information; and (4) ways that the burden could be minimized without reducing the quality of the collected information.

Issued on: January 10, 2008.

Terry Shelton,

Associate Administrator for Research and Information Technology.

[FR Doc. E8–795 Filed 1–16–08; 8:45 am]

BILLING CODE 4910–EX–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0576]

Agency Information Collection (Certificate of Affirmation of Enrollment Agreement—Correspondence Course) Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before February 19, 2008.

ADDRESSES: Submit written comments on the collection of information through www.Regulations.gov or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235,

Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0576'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, FAX (202) 273–0443 or e-mail *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0576.''

SUPPLEMENTARY INFORMATION:

Title: Certificate of Affirmation of Enrollment Agreement—Correspondence Course (Under Chapters 20, 32, & 35, Title 38 U.S.C., Section 903 of PL 96–342, or Chapter 1606, Title 10, U.S.C.), VA Form 22–1999c.

OMB Control Number: 2900–0576.

Type of Review: Extension of a currently approved collection.

Abstract: Claimants enrolled in a correspondence training course complete and submit VA Form 22–1999c to the correspondence school to affirm the enrollment agreement contract. The certifying official at the correspondence school submit the form and the enrollment certification to VA for processing. VA uses the information to determine if the claimant signed and dated the form during the ten-day reflection period deciding whether to enroll in the correspondence course and if such course is suitable to his or her abilities and interest. In addition, the claimant must sign VA Form 22–1999c on or after the twelfth day the enrollment agreement was dated. VA will not pay educational benefits for correspondence training that was completed nor accept the affirmation agreement that was signed and dated on or before the enrollment agreement date.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on October 16, 2007, at pages 58737–58738.

Affected Public: Individuals or households.

Estimated Annual Burden: 48 hours.

Estimated Average Burden Per Respondent: 3 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 952.

Dated: January 3, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–755 Filed 1–16–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0659]

Agency Information Collection (Statement in Support of Claim for Service Connection for PTSD) Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATES: Comments must be submitted on or before February 19, 2008.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0659'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, FAX (202) 273–0443 or e-mail *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0659.''

SUPPLEMENTARY INFORMATION:

Titles: a. Statement in Support of Claim for Service Connection for Post-Traumatic Stress Disorder (PTSD), VA Form 21–0781.

b. Statement in Support of Claim for Service Connection for Post-Traumatic Stress Disorder (PTSD) Secondary to Personal Assault, VA Form 21–0781a.

OMB Control Number: 2900–0659.

Type of Review: Extension of a currently approved collection.

Abstract: Veterans seeking compensation for post-traumatic stress disorder and need VA's assistance in obtaining evidence from military records and other sources to substantiate their claims of in-service stressors must complete VA Forms 21–0781 and 21–0791a. Veterans who did not serve in combat or were not a prisoner of war and are claiming compensation for post-traumatic stress disorder due to in-service stressors, he or she must provide credible supporting evidence that the claimed in-service stressor occurred.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on October 11, 2007, at pages 57997–57998.

Affected Public: Individuals or households.

Estimated Annual Burden:

a. Statement in Support of Claim for Service Connection for Post-Traumatic Stress Disorder (PTSD), VA Form 21–0781—16,800 hours.

b. Statement in Support of Claim for Service Connection for Post-Traumatic Stress Disorder (PTSD) Secondary to Personal Assault, VA Form 21–0781a—980 hours.

Estimated Average Burden per Respondent:

a. Statement in Support of Claim for Service Connection for Post-Traumatic Stress Disorder (PTSD), VA Form 21–0781—70 minutes.

b. Statement in Support of Claim for Service Connection for Post-Traumatic Stress Disorder (PTSD) Secondary to Personal Assault, VA Form 21–0781a—70 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents:

a. Statement in Support of Claim for Service Connection for Post-Traumatic Stress Disorder (PTSD), VA Form 21–0781—14,400.

b. Statement in Support of Claim for Service Connection for Post-Traumatic Stress Disorder (PTSD) Secondary to Personal Assault, VA Form 21–0781a—840.

Dated: January 7, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–764 Filed 1–16–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0657]

Agency Information Collection (Conflicting Interests Certification for Proprietary Schools) Under OMB Review

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: In compliance with the Paperwork Reduction Act (PRA) of 1995 (44 U.S.C. 3501–3521), this notice announces that the Veterans Benefits Administration (VBA), Department of Veterans Affairs, will submit the collection of information abstracted below to the Office of Management and Budget (OMB) for review and comment. The PRA submission describes the nature of the information collection and its expected cost and burden; it includes the actual data collection instrument.

DATE: Comments must be submitted on or before February 19, 2008.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov* or to VA's OMB Desk Officer, OMB Human Resources and Housing Branch, New Executive Office Building, Room 10235, Washington, DC 20503 (202) 395–7316. Please refer to ''OMB Control No. 2900–0657'' in any correspondence.

FOR FURTHER INFORMATION CONTACT: Denise McLamb, Records Management Service (005R1B), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420, (202) 461–7485, FAX (202) 273–0443 or e-mail *denise.mclamb@mail.va.gov.* Please refer to ''OMB Control No. 2900–0657.''

SUPPLEMENTARY INFORMATION:

Title: Conflicting Interests Certification for Proprietary Schools (Under Chapters 30, 31, 32, and 35, Title 38, U.S.C.; Chapters 1606 and 1607, Title 10, U.S.C.; Sections 901 or 903 of Public Law 96–342, National Call to Service Provision of Public Law 107–314 and the Omnibus Diplomatic Security and Antiterrorism Act of 1986), VA Form 22–1919.

OMB Control Number: 2900–0657.

Type of Review: Extension of a currently approved collection.

Abstract: VA pays education benefits to veterans and other eligible person pursuing approved programs of education. Employees of VA and State approving agency enrolled in a proprietary profit school are prohibit from owning any interest in the school. Educational assistance provided to veterans or eligible person based on their enrollment in proprietary school and who are officials authorized to signed certificates of enrollment are also prohibit from receiving educational assistance based on their enrollment. Propriety schools officials complete VA Form 22–1919 certifying that the institution and enrollees do not have any conflict of interest.

An agency may not conduct or sponsor, and a person is not required to respond to a collection of information unless it displays a currently valid OMB control number. The **Federal Register** Notice with a 60-day comment period soliciting comments on this collection of information was published on October 16, 2007, at pages 58736–58737.

Affected Public: Business or other for-profit.

Estimated Annual Burden: 25 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 150.

Dated: January 3, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–765 Filed 1–16–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0390]

Proposed Information Collection (Restored Entitlement Program for Survivors); Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to determine a surviving spouse or child's eligibility to REPS (Restored Entitlement Program for Survivors) benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before March 17, 2008.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0390'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501—3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Application of Surviving Spouse or Child for REPS Benefits (Restored Entitlement Program for Survivors), VA Form 21–8924.

OMB Control Number: 2900–0390.

Type of Review: Extension of a currently approved collection.

Abstract: Survivors of deceased veteran's complete VA Form 21–8924 to apply for Restored Entitlement Program for Survivors (REPS) benefits. REPS benefits is payable to certain surviving spouses and children of veterans who died in service prior to August 13, 1981 or who died as of a result of a service-connected disability incurred or aggravated prior to August 13, 1981.

Affected Public: Individuals or households.

Estimated Annual Burden: 600 hours.

Estimated Average Burden Per Respondent: 20 minutes.

Frequency of Response: One time.

Estimated Number of Respondents: 1,800.

Dated: January 7, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–772 Filed 1–16–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0215]

Proposed Information Collection (Request for Information To Make Direct Payment to Child Reaching Majority); Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to determine a schoolchild's eligibility to VA death benefits.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before March 17, 2008.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail to *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0215'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Request for Information to Make Direct Payment to Child Reaching Majority, VA Form Letter 21–863.

OMB Control Number: 2900–0215.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form Letter 21–863 is used to determine a schoolchild's continued eligibility to death benefits and eligibility to receive direct payment at the age of majority. Death pension or dependency and indemnity compensation is paid to an eligible veteran's child when there is not an eligible surviving spouse and the child is between the ages of 18 and 23 is attending school. Until the child reaches the age of majority, payment is made to a custodian or fiduciary on behalf of the child. An unmarried schoolchild, who is not incompetent, is entitled to begin receiving direct payment on the age of majority.

Affected Public: Individuals or households.

Estimated Annual Burden: 3 hours.

Estimated Average Burden Per Respondent: 10 minutes.

Frequency of Response: One-time.

Estimated Number of Respondents: 20.

Dated: January 7, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst Records Management Service.

[FR Doc. E8–773 Filed 1–16–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0179]

Proposed Information Collection (Application for Change of Permanent Plan (Medical)); Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to the notice. This notice solicits comments on information needed to establish eligibility to change insurance plans.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before March 17, 2008.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov;* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail *nancy.kessinger@va.gov.* Please refer to OMB Control No. 2900–0179 in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of

information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Application for Change of Permanent Plan (Medical) (Change to a policy with a lower reserve value), VA Form 29–1549.

OMB Control Number: 2900–0179.

Type of Review: Extension of a currently approved collection.

Abstract: The form is used by the insured to establish his/her eligibility to change insurance plans from a higher reserve to a lower reserve value.

Affected Public: Individuals or households.

Estimated Annual Burden: 14 hours.

Estimated Average Burden Per Respondent: 30 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 28.

Dated: January 7, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–775 Filed 1–16–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0139]

Proposed Information Collection (Notice—Payment Not Applied); Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to this notice. This notice solicits comments for information needed determine a claimant's eligibility to reinstate government life insurance.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before March 17, 2008.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov;* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0139 in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Notice—Payment Not Applied, VA Form 29–4499a.

OMB Control Number: 2900–0139.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 29–4499a is used by policy holders to reinstate their National Service Life Insurance (NSLI) policy. The information collected is used to determine the insurer's eligibility for reinstatement to government life insurance.

Affected Public: Individuals or households.

Estimated Annual Burden: 300 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 1,200.

Dated: January 7, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–777 Filed 1–16–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0149]

Proposed Information Collection (Application for Conversion); Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to this notice. This notice solicits comments for information needed to convert to a permanent plan of insurance.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before March 17, 2008.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov;* or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0149 in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is

being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Application for Conversion (Government Life Insurance), VA Form 29–0152.

OMB Control Number: 2900–0149.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 29–0152 is completed by insured veterans to convert his/her term insurance to a permanent plan of insurance.

Affected Public: Individuals or households.

Estimated Annual Burden: 1,125 hours.

Estimated Average Burden Per Respondent: 15 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 4,500.

Dated: January 7, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–780 Filed 1–16–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF VETERANS AFFAIRS

[OMB Control No. 2900–0159]

Proposed Information Collection (Matured Endowment Notification); Comment Request

AGENCY: Veterans Benefits Administration, Department of Veterans Affairs.

ACTION: Notice.

SUMMARY: The Veterans Benefits Administration (VBA), Department of Veterans Affairs (VA), is announcing an opportunity for public comment on the proposed collection of certain information by the agency. Under the Paperwork Reduction Act (PRA) of 1995, Federal agencies are required to publish notice in the **Federal Register** concerning each proposed collection of information, including each proposed extension of a currently approved collection, and allow 60 days for public comment in response to this notice. This notice solicits comments on information needed to determine the disposition of proceeds of a matured endowment policy.

DATES: Written comments and recommendations on the proposed collection of information should be received on or before March 17, 2008.

ADDRESSES: Submit written comments on the collection of information through *www.Regulations.gov*; or to Nancy J. Kessinger, Veterans Benefits Administration (20M35), Department of Veterans Affairs, 810 Vermont Avenue, NW., Washington, DC 20420 or e-mail *nancy.kessinger@va.gov.* Please refer to ''OMB Control No. 2900–0159'' in any correspondence. During the comment period, comments may be viewed online through the Federal Docket Management System (FDMS) at *www.Regulations.gov.*

FOR FURTHER INFORMATION CONTACT: Nancy J. Kessinger at (202) 461–9769 or FAX (202) 275–5947.

SUPPLEMENTARY INFORMATION: Under the PRA of 1995 (Pub. L. 104–13; 44 U.S.C. 3501–3521), Federal agencies must obtain approval from the Office of Management and Budget (OMB) for each collection of information they conduct or sponsor. This request for comment is being made pursuant to Section 3506(c)(2)(A) of the PRA.

With respect to the following collection of information, VBA invites comments on: (1) Whether the proposed collection of information is necessary for the proper performance of VBA's functions, including whether the information will have practical utility; (2) the accuracy of VBA's estimate of the burden of the proposed collection of information; (3) ways to enhance the quality, utility, and clarity of the information to be collected; and (4) ways to minimize the burden of the collection of information on respondents, including through the use of automated collection techniques or the use of other forms of information technology.

Title: Matured Endowment Notification, VA Form 29–5767.

OMB Control Number: 2900–0159.

Type of Review: Extension of a currently approved collection.

Abstract: VA Form 29–5767 is used to notify the insured that his or her endowment policy has matured. The form also request that the insured elect whether he or she prefer to receive the proceeds in monthly installment or in a combination of cash and monthly installment and to designate a beneficiary(ies) to receive the remaining proceeds.

Affected Public: Individuals or households.

Estimated Annual Burden: 2,867 hours.

Estimated Average Burden per Respondent: 20 minutes.

Frequency of Response: On occasion.

Estimated Number of Respondents: 8,600.

Dated: January 7, 2008.

By direction of the Secretary.

Denise McLamb,

Program Analyst, Records Management Service.

[FR Doc. E8–781 Filed 1–16–08; 8:45 am]

BILLING CODE 8320–01–P

DEPARTMENT OF LABOR

Employment and Training Administration

[SGA/DFA–PY 05–05]

Solicitation for Grant Applications (SGA); Indian and Native American Employment and Training Program SGA

AGENCY: Employment and Training Administration (ETA), Labor.

ACTION: Notice: Amendment to SGA/DFA–PY–05–05.

SUMMARY: The Employment and Training Administration published a document in the **Federal Register** on January 4, 2008, announcing the availability of funds and solicitation for grant applications (SGA) for the Indians, Alaska Natives and Native Hawaiians under section 166 of the Workforce Investment Act (WIA) for Program Years (PY) 2008 and 2009. This notice is an amendment to the SGA and it amends ''Announcement Type'' and the ''Application and Submission'' Information section to correct the Funding Opportunity Number.

FOR FURTHER INFORMATION CONTACT: James Stockton, Grant Officer, Division of Federal Assistance, at (202) 693–3335.

SUPPLEMENTARY INFORMATION CORRECTION: In the **Federal Register** of January 4, 2008, in FR Doc. E7–25608. On the first page (883) under the heading, ''Announcement Type,'' ''Reference Funding Opportunity Number: SGA/DFA–PY–05–05'' is amended to read, ''SFA/DFA PY–07–04.'' The third paragraph entitled ''Submission Dates and Times'' (page

888), ''Reference SGA/DFA PY 05–05'' is amended to read, ''Reference SGA/DFA PY 07–04.''

EFFECTIVE DATE: This notice is effective January 17, 2008.

Signed at Washington, DC, this 11th day of January, 2008.

James W. Stockton,

Grant Officer.

[FR Doc. E8–662 Filed 1–16–08; 8:45 am]

BILLING CODE 4510–FN–P

DEPARTMENT OF VETERANS AFFAIRS

Rehabilitation Research and Development Service Scientific Merit Review Board; Notice of Meeting

The Department of Veterans Affairs gives notice under Public Law 92–463 (Federal Advisory Committee Act) that the Rehabilitation Research and Development Service Scientific Merit Review Board will meet from 8 a.m. until 5:30 p.m. each day as indicated below:

February 20–21, 2008—Hamilton Crowne Plaza Hotel, Washington, DC.

February 28–29, 2008—Westin Washington, DC City Center Hotel, Washington, DC.

The purpose of the Board is to review rehabilitation research and development applications for scientific and technical merit and to make recommendations to the Director, Rehabilitation Research and Development Service, regarding their funding.

The meetings will be open to the public for the February 20 and February 28, sessions from 8 a.m. to 9 a.m. for the discussion of administrative matters, the general status of the program and the administrative details of the review process. The meetings will be closed as follows for the Board's review of research and development applications:

February 20—from 9 a.m. to 5:30 p.m.
February 21—from 8 a.m. to 5:30 p.m.
February 28—from 9 a.m. to 5:30 p.m.
February 29—from 8 a.m. to 5:30 p.m.

The reviews involves oral comments, discussion of site visits, staff and consultant critiques of proposed research protocols, and similar analytical documents that necessitate the consideration of the personal qualifications, performance would constitute a clearly unwarranted invasion of personal privacy. Disclosure would also reveal research proposals and research underway which could lead to the loss of these projects to third parties and thereby frustrate future agency research efforts. Thus, the closing is in accordance with 5 U.S.C. 552b(c)(6), and (c)(9)(B) and the determination of the Secretary of the Department of Veterans Affairs under sections 10(d) of Public Law 92–463 as amended by section 5(c) of Public Law 94–409.

Those who plan to attend the open sessions should contact Terrilynn Carlton, Federal Designated Officer, Portfolio Manager, Rehabilitation Research and Development Service (122P), Department of Veterans Affairs, 810 Vermont Avenue NW., Washington, DC 20420, at (202) 254–0265.

Dated: January 10, 2008.

By Direction of the Secretary.

E. Philip Riggin,

Committee Management Officer.

[FR Doc. 08–127 Filed 1–16–08; 8:45 am]

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Federal Register

Thursday,
January 17, 2008

Part II

Department of the Interior

Fish and Wildlife Service

50 CFR Part 17

Endangered and Threatened Wildlife and Plants; Revised Designation of Critical Habitat for the Quino Checkerspot Butterfly (Euphydryas editha quino); Proposed Rule

DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

[FWS–R8–ES–2008–0006, 92210–1117–0000, ABC Code: B4]

50 CFR Part 17

RIN 1018–AV23

Endangered and Threatened Wildlife and Plants; Revised Designation of Critical Habitat for the Quino Checkerspot Butterfly (Euphydryas editha quino)

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule.

SUMMARY: We, the U.S. Fish and Wildlife Service (Service), propose to revise currently designated critical habitat for the Quino checkerspot butterfly (*Euphydryas editha quino*) under the Endangered Species Act of 1973, as amended (Act). In total, approximately 98,487 acres (ac) (39,857 hectares (ha)) fall within the boundaries of the proposed revised critical habitat designation: 23,494 ac (9,508 ha) are federally owned; 7,756 ac (3,139 ha) are owned by the State of California; 4,359 ac (1,764 ha) are Tribal lands; 7,739 ac (3,132 ha) are owned by city or county governments; and 55,139 ac (22, 314 ha) are privately owned. Of these 98,487 ac (39,857 ha), we are considering excluding 1,684 ac (681 ha) of land within the San Diego County Multiple Species Conservation Plan's City of Chula Vista Subarea Plan, and 37,245 ac (15,073) of non-Federal land within the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP) area. Areas included in the proposed revision are in Riverside and San Diego Counties, California.

DATES: We will accept comments from all interested parties until March 17, 2008. We must receive requests for public hearings, in writing, at the address shown in the **ADDRESSES** section by March 3, 2008.

ADDRESSES: If you wish to comment on this proposed rule, you may submit your comments and materials by one of the following methods:

- *Federal eRulemaking Portal: http://www.regulations.gov.* Follow the instructions for submitting comments.
- *U.S. mail or hand-delivery:* Public Comments Processing, Attn: 1018–AV23; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, Suite 222; Arlington, VA 22203.

We will not accept e-mail or faxes. We will post all comments on *http://www.regulations.gov.* This generally means that we will post any personal information you provide us (see the Public Comments section below for more information).

FOR FURTHER INFORMATION CONTACT: Jim Bartel, Field Supervisor, U.S. Fish and Wildlife Service, Carlsbad Fish and Wildlife Office, 6010 Hidden Valley Road, Carlsbad, CA 92011; telephone 760–431–9440; facsimile 760–431–5901. If you use a telecommunications device for the deaf (TDD), call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Public Comments

We intend that any final action resulting from this proposal will be as accurate and as effective as possible. Therefore, we request comments or suggestions on this proposed rule. We particularly seek comments concerning:

(1) The reasons why we should or should not designate habitat as ''critical habitat'' under section 4 of the Act (16 U.S.C. 1531 et seq.), including whether there are threats to the subspecies from human activity, the degree of which can be expected to increase due to the designation, and whether that increase in threat outweighs the benefit of designation such that the designation of critical habitat is not prudent;

(2) Specific information on:

- The amount and distribution of Quino checkerspot butterfly habitat;
- What areas within the geographical area occupied at the time of listing that contain features essential to the conservation of the subspecies we should include in the designation and why; and
- What areas not within the geographical area occupied at the time of listing are essential for the conservation of the subspecies and why;

(3) Land use designations and current or planned activities in the subject areas and their possible impacts on proposed revised critical habitat;

(4) Any probable economic, national security, or other impacts of designating any areas that may be included in the final designation, and, in particular, any impacts on small entities, and the benefits of including or excluding areas that exhibit these impacts;

(5) Whether the City of Chula Vista Subarea Plan (under the San Diego County Multiple Species Conservation Program):

- Is being implemented as set forth in the Plan;
- Provides the same or better level of protection from adverse modification or destruction than that provided through a consultation under section 7 of the Act;
- Provides for the implementation of conservation management strategies and actions for the foreseeable future, based on past practices, written guidance, or regulations; and
- Provides conservation strategies and measures consistent with currently accepted principles of conservation biology;

(6) Whether the Western Riverside County MSHCP:

- Is being implemented as set forth in the MSHCP and Implementing Agreement (IA) with regard to the Quino checkerspot butterfly;
- Provides the same or better level of protection from adverse modification or destruction of habitat essential to the conservation of the subspecies than that provided through consultation under section 7 of the Act;
- Provides for the implementation of conservation management strategies and actions for the foreseeable future, based on past practices, written guidance, or regulations; and
- Provides conservation strategies and measures consistent with currently accepted principles of conservation biology;

(7) Whether we should include or exclude the Tribal lands of the Cahuilla Band of Indians and Campo Band of Kumeyaay Indians from final revised critical habitat and why;

(8) Whether there are areas we previously designated, but are not proposing for revised designation here, that should be designated as critical habitat; and

(9) Whether we could improve or modify our approach to designating critical habitat in any way to provide for greater public participation and understanding, or to better accommodate public concerns and comments.

You may submit your comments and materials concerning this proposed rule by one of the methods listed in the **ADDRESSES** section. We will not accept comments you send by e-mail or fax. Please note that we may not consider comments we receive after the date specified in the **DATES** section in our final determination.

Before including your address, phone number, e-mail address, or other personal identifying information in your comment, you should be aware that we will post your entire comment—including your personal identifying information—on *http://www.regulations.gov.* 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.

Comments and materials we receive, as well as supporting documentation we used in preparing this proposed rule, will be available for public inspection on *http://www.regulations.gov*, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service Carlsbad Fish and Wildlife Office, 6010 Hidden Valley Road, Carlsbad, CA 92011; telephone 760–431–9440.

Background

We intend to discuss only those topics directly relevant to the designation of critical habitat in this proposed rule. For more information on the Quino checkerspot butterfly, refer to the final listing rule published in the **Federal Register** on January 16, 1997 (62 FR 2313), the final rule designating critical habitat published in the **Federal Register** on April 15, 2002 (67 FR 18356), and the Recovery Plan for the Quino Checkerspot Butterfly (*Euphydryas editha quino*) (recovery plan; Service 2003a). The recovery plan was co-authored by a Technical Recovery Team of seven expert biologists and ecologists (Service 2003a, p. ii), and provides a comprehensive scientific review and analysis of published and non-published information through 2002 relevant to conservation of the Quino checkerspot butterfly. While an extensive amount of peer-reviewed, published scientific information is available on the species *Euphydryas editha* (Edith's checkerspot butterfly), such information specific to the Quino checkerspot butterfly subspecies is relatively sparse. Therefore, much of the information used in the final listing rule (62 FR 2313, January 16, 1997), the previous final rule designating critical habitat (67 FR 18356, April 15, 2002), and the recovery plan (Service 2003a) has been based on research on other subspecies of Edith's checkerspot. A number of biological and ecological similarities exist among subspecies of Edith's checkerspot (Service 2003a, p. 7), including similar life histories, shared or related host plant species, and similar movement behavior. We believe that extrapolation of data collected on other Edith's checkerspot butterfly subspecies, particularly the federally endangered bay checkerspot butterfly (*Euphydryas editha bayensis*), to the Quino checkerspot butterfly is justified in most cases (67 FR 18356, April 15, 2002).

Taxonomy and Biology

The Quino checkerspot butterfly is a member of the family Nymphalidae (brushfooted butterflies) and the subfamily Melitaeinae (checkerspots and fritillaries). The life cycle of the Quino checkerspot butterfly includes four distinct life stages: Egg, larva (caterpillar), pupa (chrysalis), and adult, with the larval stage divided into 5 to 7 instars (periods between molts, or shedding skin) (Service 2003a, p. 157). Typically there is one generation of adults per year, although larvae may remain in diapause (summer dormancy) for multiple years prior to maturation (Service 2003a, p. 8).

Distribution

The Quino checkerspot butterfly was historically distributed throughout the coastal portion of southern California (Los Angeles, Orange, western Riverside, San Diego, and southwestern San Bernardino Counties; Service 2003a, p. 32), and northern Baja California, Mexico (Mattoni, *et al.* 1997, p. 105). The historical distribution of the Quino checkerspot butterfly included the westernmost slopes of the Santa Monica Mountains, Los Angeles Plain and Transverse Ranges to the edge of the upper Anza-Borrego Desert, and south to El Rosario in Baja California, Mexico (Mattoni, *et al.* 1997, pp. 104–105). Extant U.S. populations are apparently restricted to southwest Riverside and southern San Diego Counties (Service 2003a, p. 3; see further discussion below under Status and Local Distribution of Populations).

Behavior and Population Structure

Scientific information indicates that Quino checkerspot butterfly populations display metapopulation dynamics characterized by highly variable habitat occupancy patterns, similar to most subspecies of Edith's checkerspot butterfly (Mattoni, *et al.* 1997, p. 111; Service 2003a, pp. 21–27). Edith's checkerspot butterfly metapopulation structure is described by Ehrlich and Murphy (1987, p. 123) as subdivision of a population into subpopulations that occupy clusters of habitat patches and interact extensively. Harrison, *et al.* (1988, p. 360) described Edith's checkerspot butterfly metapopulation structure as: ''a set of [subpopulations] that are interdependent over ecological time.'' Although subpopulations within a metapopulation may change in size independently, their probabilities of existing at a given time are not independent, because they are linked by an extirpation and mutual recolonization process that occurs every 10 to 100 generations (Harrison, *et al.* 1988, p. 360). Ehrlich and Murphy (1987, p. 127) noted that the minimum viable population approach favored by many conservation biologists may not be appropriate for the Edith's checkerspot butterfly; instead, focus should be shifted toward ''minimum viable metapopulations.'' Minimum viable metapopulation size is the minimum number of interacting local populations (and available habitat patches) required to balance subpopulation extirpations and recolonizations, and therefore required for long-term persistence (Hanski, *et al.* 1996, p. 527). No minimum viable metapopulation sizes have been assessed for the Quino checkerspot butterfly. Metapopulation viability analyses have been conducted for other species of nymphalid butterflies (Schtickzelle and Baguette 2004, p. 277; Schtickzelle, *et al.* 2005, p. 89) and one species within the genus *Euphydryas* (Wahlberg, *et al.* 2002, p. 224); however, these analyses are not applicable to Quino checkerspot butterfly as these studies all examined species that occur in other types of habitats (e.g., forest clear cuts, bogs, and marshes).

Harrison (1989, p. 1241) found that, although dispersal direction from habitat patches seemed to be random in the bay checkerspot butterfly, dispersing butterflies were likely to move into habitat patches when they passed within approximately 163 feet (ft) (50 meters (m)) of those habitat patches. Dispersing butterflies were most likely to remain in habitat patches where existing bay checkerspot butterfly density was low (Harrison 1989, p. 1241). Bay checkerspot butterfly occupancy patterns also suggested that unoccupied habitat separated from occupied habitat by hilly terrain was less likely to be colonized than habitat separated by flat ground (Harrison 1989, p. 1241). Harrison (1989, pp. 1241, 1242) concluded that the long-term habitat recolonization pattern of her study population was likely due to relatively large numbers of bay checkerspot butterflies having dispersed from consistently occupied ''source'' habitat. High habitat colonization rates probably only occur during rare outbreak years, when high local densities combine with favorable establishment conditions in unoccupied habitat (Harrison 1989, p. 1242). These rare outbreak events are also thought to play a crucial role in Quino checkerspot butterfly metapopulation resilience and subspecies' survival (Murphy and White 1984, p. 353; Ehrlich and Murphy 1987, p. 127).

Delineating Population Footprints (Distribution)

Our ability to delineate individual population footprints (distribution) for

the Quino checkerspot butterfly is limited to correlating presence-absence survey observations with mapped habitat components. Quino checkerspot butterfly habitat patches are defined in any given year by adult movement within annually shifting host plant and nectar source distributions. Geographic population footprints have not been quantified for the Quino checkerspot butterfly. Therefore, the recovery plan discusses Quino checkerspot butterfly population locations in terms of ''occurrence complexes'' (Service 2007, p. 35), which are our best estimators based on recorded movement distances (see below discussion). Occurrence complexes are mapped in the recovery plan using a 0.6 mile (mi) (1 kilometer (km)) movement radius from each butterfly observation, and may be based on the observation of a single individual. Occurrences within approximately 1.2 mi (2 km) of each other are considered to be part of the same occurrence complex, as these occurrences are proximal enough that the observed butterflies were likely to have come from the same population (Service 2003a, p. 35). All post-listing butterfly observations are classified as occurrence complexes, and the only one considered extirpated is Harford Springs. Occurrence complexes may expand due to new observation locations, or contract due to habitat loss (e.g. occurrence complexes defined in part by development, see Service 2003a, p. 78). Information regarding habitat within and contiguous with an occurrence complex must be used to estimate population distributions associated with occurrence complexes (Service 2003a, p. 35).

Long-distance movement in bay checkerspot butterflies has been documented as far as 4 mi (6.4 km; 1 male) (Murphy and Ehrlich 1980, p. 319), 3.5 mi (5.6 km; 1 male), and 2 mi (3 km; 1 female) (Harrison 1989, p. 1239). White and Levin (1981) conducted the only mark-recapture movement study including Quino checkerspot butterflies. White and Levin (1981) studied within-habitat patch movement of the Quino and bay checkerspot butterfly subspecies. They concluded that patterns of dispersal changed ''dramatically'' from year to year (White and Levin 1981, p. 348), and Quino checkerspot butterflies were less sedentary than the more heavily studied bay checkerspot butterflies (White and Levin 1981, p. 105). The high rate of dispersal observed by White and Levin (1981, p. 348), when it occurs during outbreak events, would result in expansion of existing population distributions, and recolonization of habitat patches where subpopulations have been extirpated within a metapopulation distribution, as hypothesized by Murphy and White (1984, p. 353).

Although the average mark-recapture distance traveled by a Quino checkerspot butterfly in White and Levin's (1981, p. 349) study was only 305 ft (93 m), recorded movement distances were limited by the local study area. White and Levin (1981, p. 349) stated, ''It seems likely from the lower rate of return in 1972 and from the observed pattern of out-dispersal that many marked animals dispersed beyond the area covered by our efforts that year. This out-dispersal might make the value for average distance [traveled] in 1972 an underestimate of significant magnitude'' (1981, p. 353). According to recorded Edith's checkerspot butterfly movement distances (Gilbert and Singer 1973, pp. 65, 66; Harrison, *et al.* 1988, pp. 367–380; Harrison 1989, pp. 1239, 1240), occurrence complexes appropriately describe the area within which a significant proportion of the habitat patch associated with individual observed butterflies is likely to occur (Service 2003a, p. 35). The size of occurrence complexes is defined as the total area encompassed by all 1.2 mi (2 km) movement radii from individual butterfly observation locations. New occurrence information since 2002 supports expanding some occurrence complexes and/or merging some separate occurrence complexes that were previously described in the Quino checkerspot butterfly recovery plan.

Some occurrence complexes were identified in the recovery plan (Service 2003a, p. 35) as ''core.'' Core occurrence complexes are those that, based on geographic size, number of reported individuals, and repeated observations, appear to be centers of population density. Such population density centers are likely to contain ''source'' habitat (supporting ''source'' subpopulations) for a Quino checkerspot butterfly metapopulation (Murphy and White 1984, p. 353; Ehrlich and Murphy 1987, p. 125; Mattoni, *et al.* 1997, p. 111), or ''source'' populations for megapopulations (a group of populations also dependent on one another, but on a time scale greater than that of subpopulations; Service 2003a, pp. 21, 24). A source population is one in which the emigration rate typically exceeds the immigration rate (therefore a source of colonists for unoccupied habitat patches within a population footprint), although they are not necessarily more stable than non-source populations (Service 2003a, p. 166).

Status and Local Distribution of Populations in Riverside County

The recovery plan identified 7 core and 18 non-core occurrence complexes in western Riverside County: Harford Springs (non-core); Canyon Lake (non-core); Warm Springs Creek (core); Warm Springs Creek North (non-core); Skinner/Johnson (core); Domenigoni Valley (non-core); Sage (core); Black Hills (non-core); San Ignaciao (non-core); Rocky Ridge (non-core); Wilson Valley (core); Vail Lake (core); Butterflied/Radec (non-core); Aguanga (non-core); Dameron Valley (non-core); Billy Goat Mountain (non-core); Brown Canyon (non-core); Southwest Cahuilla (non-core); Tule Peak (core); Silverado (core); Spring Canyon (non-core); Cahuilla Creek (non-core); Bautista Road (non-core); Pine Meadow (non-core); and Lookout Mountain (non-core) (Service 2003a, pp. 39, 41, 44). Occurrence data collected in Riverside County since the recovery plan was published in 2003 has resulted in expansion of all core occurrence complexes, and merging of some core occurrence complexes with non-core occurrence complexes (see discussion below). Quino checkerspot butterflies have not been observed in the Harford Springs (non-core) Occurrence Complex or other proximal historic locations since 1986, and therefore are no longer considered extant in that area.

Development has reduced the quality, connectivity, and amount of associated habitat in the Warm Springs Creek Core Occurrence Complex since the recovery plan was published in 2003 (Allen and Preston 2006, p. 7). Although habitat associated with this core occurrence complex may support a declining population, the Quino checkerspot butterfly captive rearing facility is also located within this area, and it is likely to be a site of focused population management and augmentation in the future. Despite concern for the viability of this population, several experts have expressed the opinion that this core occurrence complex represents an important Quino checkerspot butterfly population that has potential to persist indefinitely if the remaining habitat is conserved and managed (Ballmer, *et al.* 2003, p. 2; Ballmer and Osborne 2005, pp. 1–2; Allen and Preston 2006, pp. 10–12). Because the Warm Springs Creek Core Occurrence Complex has been isolated from other core occurrence complexes (Service 2003a, p. 41) and recent development has reduced and fragmented habitat in this area (Allen and Preston 2006, p. 7),

remaining contiguous habitat, including habitat more than one km distant from observation locations (outside of the mapped occurrence complexes), is likely the minimum area needed to support a viable managed population. Therefore, we have determined that the Warm Springs Creek North (non-core) Occurrence Complex (Service 2003a, p. 39) and habitat contiguous with the Warm Springs Creek Core Occurrence Complex habitat should be considered a single population footprint and merged with the Warm Springs Creek Core Occurrence Complex identified in the recovery plan (Service 2003a) into a single, expanded Warm Springs Creek Core Occurrence Complex. The expanded Warm Springs Creek Core Occurrence Complex is a constrained population distribution defined by remaining undeveloped, connected habitat associated with Quino checkerspot butterfly observations in this area.

Occurrence data collected in Riverside County since listing (62 FR 2313, January 16, 1997) has continued almost annually to expand the known northeastern limits of the subspecies' range (Pratt, *et al.* 2001, pp. 169–171; Service 2003a, p. 44; Poopatanapong 2008, pp. 2, 4). The recovery plan identified four non-core occurrence complexes east of Temecula in the foothills and valleys south of Mount San Jacinto: Brown Canyon (Service 2003a, p. 41), Bautista Road, Pine Meadow, and Lookout Mountain (Service 2003a, p. 44). The Bautista Road (described as non-core in the recovery plan) Occurrence Complex is in a valley east of Temecula and north of the town of Anza. Multiple new observations have occurred within and around the Bautista Road Occurrence Complex (AMEC 2004, p. 6; Mooney Jones & Stokes 2005, p. 10). Consistent with criteria outlined in the recovery plan (Service 2003a, p. 35), we now consider the Bautista Road Occurrence Complex to be a core occurrence complex. As described below, from 2004 to 2006, multiple new observation locations were also reported in the town of Anza, and north and northwest of the Bautista Road (core), Pine Grove (non-core), and Lookout Mountain (non-core) occurrence complexes, resulting in new non-core occurrence complexes and expansion of the subspecies' known range (Service Geographic Information Systems (GIS) database). The new non-core occurrence complexes are: the Cave Rocks Occurrence Complex within the town of Anza, just north of the intersection of Bautista Road and State Route (SR) 371 (AMEC 2004, p. 9); the Quinn Flat Occurrence Complex located between Forbes Ranch Road and Morris Ranch Road northeast of Quinn Flat and SR 74 (Pratt 2005, p. 1; Toth 2005, p. 1; San Bernardino National Forest (SBNF) GIS database); the Horse Creek Occurrence Complex adjacent to Bautista Road, southeast of Bautista Spring (AMEC 2004, p. 6; Malisch 2006, p. 1); and the North Rouse Ridge Occurrence Complex located on Rouse Ridge in the hills east of Bautista Canyon, near where Bautista Road exits the foothills (Toth 2005, p. 1; Poopatanapong 2007, pp. 2, 4; SBNF GIS database).

Recent monitoring information indicates that the Tule Peak and Silverado core occurrence complexes described in the recovery plan (Service 2003a, p. 44) are part of a single high-density population footprint supporting periodic outbreak events, similar to historic events (Service 2003a, p. 29) such as the 1977 outbreak reported by Murphy and White (1984, p. 351; Ehrlich and Murphy 1987, p. 127) in San Diego County (Carlsbad Fish and Wildlife Office (CFWO) 2004; Pratt 2004, p. 17). Occupancy in the Silverado Core Occurrence Complex was first documented in 1998 (Pratt 2001, p. 17), followed by the discovery of hundreds of Quino checkerspot adults in 2001 within the Tule Peak Core Occurrence Complex (TeraCor 2002, p. 14). The hundreds of adults observed during surveys in the Tule Peak Core Occurrence Complex in 2001 were unprecedented, because typically five or fewer individuals are reported during project-based surveys (Service GIS database). In 2004, following a year of above-average host plant density in the Anza area (CFWO 2004), another Quino checkerspot butterfly outbreak event occurred with even higher abundance than was reported in 2001. An estimated 500 to 1000 adult Quino checkerspot butterflies were reported from the Silverado Core Occurrence Complex in a single day in 2004 (Anderson 2007a, p. 1; CFWO 2004; Pratt 2004, pp. 16, 17). Moreover, over 30 new occurrence locations with high adult densities were reported in 2004 in the vicinity of Tule Peak Road (92 to over 100 observations in a single day) south of the Cahuilla Band of Indians Tribal lands and the town of Anza (Osborne 2004, pp. 1–6, 8–10; Anderson 2007a, p. 5; CFWO 2004; Osborne 2007, pp. 13–16). These new observations prompted us to merge the Tule Peak (core), Silverado (core), and Southwest Cahuilla (non-core) occurrence complexes to form a single, expanded Tule Peak/Silverado Core Occurrence Complex.

Available scientific information (including recent outbreaks in the closest core occurrence complexes) suggests the new Bautista Core Occurrence Complex and other non-core occurrence complexes north of the town of Anza are the result of recent colonization events and an ongoing range shift for this subspecies northward and upward in elevation. Parmesan (1996, pp. 765–766) concluded that the average position of known Edith's checkerspot butterfly populations (including the Quino checkerspot butterfly) has shifted northward and upward in elevation, apparently due to a warming, drying climate, and the recovery plan confirms this (Service 2003a, p. 64). Parmesan (1996, pp. 765–766) compared the distribution of Edith's checkerspot butterfly in the early part of the 20th century to its distribution from 1994 to 1996 using historical records and field surveys. This study identified range-wide patterns of local extirpations of Edith's checkerspot butterflies, and noted that populations in the southern part of the range (primarily the Quino checkerspot butterfly) experienced 80 percent of all recorded local extirpations (Parmesan 1996, pp. 765–766). Parmesan (1996, pp. 765–766) concluded that this pattern of extirpations indicated contraction of the southern boundary of the subspecies' overall distribution by almost 100 mi (160 km), and a shift in the average location of a Edith's checkerspot butterfly occurrence northward by 57 mi (92 km). This shift in range closely matched shifts in mean yearly temperature (Parmesan 1996, pp. 765–766). Studies have demonstrated a correlation of population distribution and phenology changes with climate changes for many other butterfly and insect species in California and around the world (Parmesan, *et al.* 1999, p. 580; Forister and Shapiro 2003, p. 1130; Parmesan and Yohe 2003, pp. 38, 39; Karban and Strauss 2004; Thomas, *et al.* 2006, pp. 146–147, 251; Osborne and Ballmer 2006, p. 1; Parmesan 2006, pp. 646–647; Thomas, *et al.* 2006, pp. 415–416). Metapopulation viability analyses of other endangered nymphalid butterfly species also indicate that current climate trends pose a major threat to butterfly metapopulations by reducing butterfly growth rates and increasing subpopulation extirpation rates (Schtickzelle and Baguette 2004, p. 277; Schtickzelle, *et al.* 2005, p. 89). Such similar climate response patterns in related and co-occurring insect species further support the validity of Parmesan's (1996, pp. 765–766) Quino

checkerspot butterfly observations and conclusions.

Documentation of climate-related changes that have already occurred in California (Ehrlich and Murphy 1987, p. 124; Croke, *et al.* 1998, pp. 2128, 2130; Davis, *et al.* 2002, p. 820; Brashears, *et al.* 2005, p. 15144), and future drought predictions for California (e.g., Field, *et al.* 1999, pp. 8–10; Brunell and Anderson 2003, p. 21; Lenihen, *et al.* 2003, p. 1667; Hayhoe, *et al.* 2004, p. 12422; Brashears, *et al.* 2005, p. 15144; Seager, *et al.* 2007, p. 1181) and North America (IPCC 2007, p. 9) indicate prolonged drought and other climate-related changes will continue into the foreseeable future, and we anticipate these changes will affect Quino checkerspot butterfly habitat and populations. Thomas, *et al.* (2004, p. 147) estimated 29 percent of species in scrublands (habitat for Quino checkerspot butterfly) face eventual extinction, and 7 (with dispersal) to 9 (without dispersal) percent of butterfly species in Mexico will become extinct (mid-range climate predictions; Thomas, *et al.* 2004, p. 146). The most-recent subspecies-specific evidence corresponds with the hypothesis that drought conditions at the northern edge of the subspecies' range is resulting in ongoing range shift at the northern edge of the range to more northern and higher elevation areas that experience higher precipitation: Surveyors noted that during drought conditions in 2007, for the first time since the subspecies was listed, no Quino checkerspot butterflies were observed during Riverside County surveys or core occurrence complex monitoring (CFWO 2007).

The Anza/Mount San Jacinto foothills area (Bautista care occurrence complex) is the northern extent of the range of the Quino checkerspot butterfly and supports the greatest elevational gradient within the extant range of the butterfly. Indications that maintenance of the Tule Peak/Silverado and Bautista Road core occurrence complexes, and maintenance of habitat connectivity to higher elevation non-core occurrence complexes, is needed to prevent a significant increase in the subspecies' extinction probability (Service 2003a, pp. 46, 47; Osborne 2007, pp. 9–10) include the following: Parmesan's subspecies-specific study (Parmesan 1996); recent documented Quino checkerspot butterfly outbreak events (discussed above); the complete lack of Quino checkerspot butterfly observations in Riverside County during 2007 monitoring; documented drought conditions and the likelihood that recurrent drought conditions will persist into the foreseeable future; and the likelihood that the new non-core occurrence complexes in the most northern, highest elevation habitat areas (Pine Grove, Lookout Mountain, Quinn Flat, Horse Creek, Cave Rocks, and the North Rouse Ridge) are a result of colonization from lower elevation populations over the past 10–15 years (such as the Bautista Road and Tule Peak/Silverado core occurrence complexes). Parmesan's (1996, pp. 765–766) range-shift statistics predict the following Quino checkerspot butterfly population changes: (1) Declines in, and losses of, the southernmost and/or lowest elevation populations, especially in drier areas where rainfall is most variable (such as southwest Riverside County; Anderson 2000, pp. 3, 6); (2) increases in the density and resilience of the most northern and/or highest elevation populations, especially in wetter areas (such as the Anza area; Service 2003a, p. 44); and (3) establishment of new populations, or expansion of existing populations, northward and upward in elevation where range shift is the least impeded by habitat loss due to land-use changes (such as the Mount San Jacinto foothills; Service GIS database and satellite imagery). Anza area core occurrence complexes (Tule Peak/Silverado and Bautista Road) also support the highest (co-occurring) diversity of host plant species (*Plantago patagonica, Antirrhinum coulterianum, Cordylanthus rigidus,* and *Castilleja exserta*) within the range of the Quino checkerspot butterfly, a factor known to mitigate the effects of climate extremes on Edith's checkerspot butterfly populations (Hellman 2002, p. 925). In light of the recent warming and drying trends (see above discussion), prudent design of reserves and other managed habitats in the Anza area, where the subspecies range is expanding northward and upward in elevation should include landscape connectivity to other habitat patches and ecological connectivity (habitat patches linked by dispersal areas; Service 2003a, p. 162) in order to accommodate range shifts northward and upward in elevation (Service 2003a, p. 64). Although habitat quality may be changing throughout the subspecies range, suitable habitat north and upward in elevation of the southernmost populations is already occupied, and colonization events associated with climate change are likely only occurring in the Anza area.

Status and Local Distribution of Populations in San Diego County

The recovery plan identifies 4 core and 10 non-core occurrence complexes in southwest San Diego County surrounding Otay Mountain and Otay Lakes: West Otay Mesa (non-core), Otay Valley (core); West Otay Mountain (core); Otay Lakes/Rancho Jamul (core); Proctor Valley (non-core); Jamul (non-core); Hidden Valley (non-core); Rancho San Diego (non-core); Los Montañas (non-core); Honey Springs (non-core); Dulzura (non-core); Marron Valley (core); Barrett Junction (non-core), and Tecate (non-core) occurrence complexes (Service 2003a, pp. 39, 41, 44). New Quino checkerspot butterfly observations (Service GIS database) between occurrence complexes identified in the recovery plan have resulted in merging of the Otay Valley (core), West Otay Mountain (core), Otay Lakes (core), Proctor Valley (non-core), Dulzura (non-core), and Honey Springs (non-core) occurrence complexes into a single, expanded Otay Mountain Core Occurrence Complex. This merging of occurrence complexes in the Otay area is further supported by the recovery plan, which noted that occupied habitat in the vicinity of Otay Lakes and Rancho Jamul is an area of key landscape connectivity for all subpopulations in southwest San Diego County (Service 2003a, pp. 53, 54).

Following publication of the recovery plan in 2003, the Otay Fire severely burned habitats where the majority of Quino checkerspot butterflies had been observed within southwest San Diego County (IBAERT 2003, pp. 89–90), including most of the Otay Mountain Core Occurrence Complex. In 2005, the smaller Border 50 Fire burned most habitat within the Marron Valley Core Occurrence Complex west of Otay Mountain that was not burned in the 2003 Otay Fire (Service GIS database). Although post-fire monitoring surveys indicated no populations were completely extirpated by the 2003 and 2005 fires (CFWO 2004, 2005, 2006; Anderson 2007b, p. 2), Quino checkerspot butterfly densities and the extent of occupied habitat appeared to be reduced, and surveyors reported an apparent increased rate of exotic plant species invasion (Anderson 2007b, pp. 2–3). An indirect threat exacerbated by fire damage is increased invasion of habitat by nonnative plant species, resulting in reduction of Quino checkerspot butterfly host plants through competition (Service 2003a, pp. 57–58, 60–61). Catastrophic fire has been implicated in the final extirpation of the Quino checkerspot butterfly from Orange County (Service 2003a, pp. 30, 60–61), therefore widespread catastrophic fire impacts to Quino checkerspot butterfly habitat within this core occurrence complex, are likely to

affect the survival probability of the subspecies in southwest San Diego County (Service 2003a, pp. 60–61).

The effects of fire on Quino checkerspot butterfly populations in southwest San Diego County were evident in 2007. The northernmost occupied areas within the Otay Mountain Core Occurrence Complex (Honey Springs and Dulzura non-core occurrence complexes as identified in the recovery plan) had the highest densities of adult butterflies and supported the most reproduction (observed larvae) of any known occupied areas in 2007 (CFWO 2007). These areas were not affected by the 2003 Otay and 2005 Border 50 fires. Therefore, observed relatively high Quino checkerspot butterfly abundance in 2007 in the Honey Springs and Dulzura areas (CFWO 2002, 2003, 2004, 2005, 2006, 2007) was primarily due to the lack of recent fire impacts (Anderson 2007b, p. 3). In 2007, the Harris Fire perimeter encompassed approximately 72% of the new Otay Mountain Core Occurrence Complex, including the northern areas that were not affected by fire in 2003 or 2005 (Service GIS database). Habitat damage within the 2007 fire perimeter is still being assessed.

Several widely distributed new observation locations have been reported in central San Diego County since 2002 (Dudek 2005, p. 1; Faulkner 2005, p. 1; Tierra Environmental Services 2005, p. 4), resulting in three new San Diego County non-core occurrence complexes (Fanita Ranch, Sycamore Canyon, and Mission Trails Park). Although these Quino checkerspot butterfly populations may contribute to the subspecies' recovery (Service 2003a, pp. 86–88), we cannot determine whether these new non-core occurrence complexes represent: (1) Residual, low-density populations decreasing in abundance; (2) resilient, low-density populations increasing in abundance; or (3) recent colonization events. Given the proximity of these occurrence complexes to historical collection locations (Service 2003a, p. 3), observed and predicted climate trends and associated population dynamic/range changes (see above discussion), and the relative isolation of these occurrence complexes from areas known to be occupied at the time of listing, it is likely they represent residual, low-density populations decreasing in abundance.

Multiple new Quino checkerspot butterfly observation locations have been reported in south-central San Diego County since 2002 east of the community of Campo (Dicus 2005, pp. 1–2; PSBS 2005a, p. 18; 2005b, p. 26; O'Conner 2006, pp. 2–4). This cluster of occurrence complexes near Campo is over 7 mi (11 km) from the closest core occurrence complex, Jacumba (Service 2003a, p. 52; Service GIS satellite imagery and database), and over 12 mi (19 km) from the Tecate (non-core) Occurrence Complex (Service 2003a, p. 47; Service GIS satellite imagery and database). Although not quite proximal enough to be considered a single occurrence complex based on overlapping movement distances (Service 2003a, p. 35), we consider this cluster of new observations near Campo to belong to a new, independent La Posta/Campo Core Occurrence Complex that we believe represents a population density center likely to contain source habitat (i.e., core occurrence complex) based on: (1) Recent documentation of these occupied habitats; (2) the small number of surveys conducted in this area in the past (Service survey report files) resulting in a low likelihood of detection; (3) contiguous habitat linked by short dispersal areas (e.g., a stream butterflies can fly over) between observation locations (Service GIS vegetation database and satellite imagery); and (4) the presence of *Antirrhinum coulterianum* (white snapdragon) host plants in occupied habitat (O'Connor 2006, pp. 2–4). White snapdragon had not been previously recorded in occupied Quino checkerspot butterfly habitat in San Diego County (Service survey report files). White snapdragon densities recorded in the vicinity of Campo (O'Connor 2006, pp. 2–4) were relatively high, and similar to those observed in the Tule Peak/Silverado Core Occurrence Complex in Riverside County, the only core occurrence complex where recent Quino checkerspot butterfly ''outbreak events'' have been recorded (see above discussion).

Quino checkerspot butterflies have recently been observed in two new locations in southeast San Diego County near Jacumba (identified as the Jacumba East and Jacumba West occurrence complexes) (Essex and Osborne 2005, p. 82; Klein 2007, p. 1). Additionally, data collected from the Jacumba Occurrence Complex since publication of the recovery plan has led us to reclassify the Jacumba complex as a Core Occurrence Complex. The Jacumba Occurrence Complex was not classified as a core occurrence complex in the recovery plan (Service 2003a, p. 52), due to its relatively small geographic size and small number of observed individuals. However, adult Quino checkerspot butterflies are consistently observed in the area, even during drought years and under difficult survey conditions (high winds) (CFWO 2002–2007; Klein 2007, p. 1). As many as 50 individuals are estimated to have been observed in one day near Jacumba Peak (Pratt 2007c, p. 1). Furthermore, reproduction was documented in the Jacumba Occurrence Complex in 1998 and again in 2004 (Pratt 2007a, p. 1). Therefore, we now consider Jacumba to be a core occurrence complex representing what appears to be a small, but resilient, population.

The prediction that drought conditions are likely to continue into the foreseeable future (Service 2003a, pp. 63, 64; see above discussion) highlights the importance of conserving populations locally adapted to drier climates and diverse habitat types (Service 2003a, p. 76). The La Posta/Campo and Jacumba core occurrence complexes are warmer and drier than the Otay Mountain Core Occurrence Complex, and differ substantially in other habitat characteristics (Service 2003a, pp. 36–54; O'Conner 2006, p. 4). Therefore, maintenance of these core occurrence complexes likely is important for recovery and survival of the Quino checkerspot butterfly in San Diego County. These new core occurrence complexes were also the only core occurrence complexes in San Diego County (the subspecies' southern range) not affected by the fires in 2003 and 2005 (see above discussion). Therefore, new information indicates the La Posta/Campo and Jacumba core occurrence complexes contribute significantly to reducing the subspecies' extinction probability.

Previous Federal Actions

For more information on previous Federal actions concerning the Quino checkerspot butterfly, refer to the final critical habitat rule published in the **Federal Register** on April 15, 2002 (67 FR 18356) and the final listing rule published in the **Federal Register** on January 16, 1997 (62 FR 2313). In March 2005, the Homebuilders Association of Northern California, *et al.,* filed suit against the Service challenging the merits of the final critical habitat designations for several species, including the Quino checkerspot butterfly. In March 2006, a settlement was reached that required the Service to re-evaluate five final critical habitat designations, including critical habitat designated for the Quino checkerspot butterfly. The settlement stipulated that any proposed revisions to the Quino checkerspot butterfly designation would be submitted for publication to the

Federal Register on or before December 7, 2007. A court-approved amendment to the settlement agreement extended this deadline for submission to the **Federal Register** to January 8, 2008.

Critical Habitat

Critical habitat is defined in section 3 of the Act as:

(1) The specific areas within the geographical area occupied by a species, at the time it is listed in accordance with the Act, on which are found those physical or biological features

(a) Essential to the conservation of the species and

(b) Which may require special management considerations or protection; and

(2) Specific areas outside the geographical area occupied by a species at the time it is listed, upon a determination that such areas are essential for the conservation of the species.

Conservation, as defined under section 3 of the Act, means the use of all methods and procedures that are necessary to bring any endangered species or threatened species to the point at which the measures provided under the Act are no longer necessary.

Critical habitat receives protection under section 7 of the Act through the prohibition against Federal agencies carrying out, funding, or authorizing the destruction or adverse modification of critical habitat. Section 7(a)(2) of the Act requires consultation on Federal actions that may affect critical habitat. The designation of critical habitat does not affect land ownership or establish a refuge, wilderness, reserve, preserve, or other conservation area. Such designation does not allow government or public access to private lands. Such designation does not require implementation of restoration, recovery, or enhancement measures by private landowners. Where a landowner requests federal agency funding or authorization for an action that may affect a listed species or critical habitat, the consultation requirements of section 7(a)(2) may apply, but even in the event of a destruction or adverse modification finding, the Federal action agency's and the applicant's obligation is not to restore or recover the species, but to implement reasonable and prudent alternatives to avoid destruction or adverse modification of critical habitat.

To be included in a critical habitat designation, habitat within the geographical area occupied by the species at the time it was listed must contain physical and biological features that are essential to the conservation of the species. Consistent with this requirement, the Service identifies, to the extent known using the best scientific data available, habitat areas on which are found primary constituent elements (PCEs), as defined at 50 CFR 424.12(b), and identifies the quantity and spatial arrangement of such areas to ensure that the areas designated as critical habitat are essential for the conservation of the species. To be included in the designation, the features at issue must also be ones that may require special management considerations or protection.

Under the Act, we can designate areas outside the geographical area occupied by the species at the time it is listed as critical habitat only when we determine that those areas are essential for the conservation of the species.

Section 4 of the Act requires that we designate critical habitat on the basis of the best scientific and commercial data available. Further, our Policy on Information Standards Under the Endangered Species Act (published in the **Federal Register** on July 1, 1994 (59 FR 34271)), the Information Quality Act (section 515 of the Treasury and General Government Appropriations Act for Fiscal Year 2001 (Pub. L. 106–554; H.R. 5658)), and our associated Information Quality Guidelines provide criteria, establish procedures, and provide guidance to ensure that our decisions are based on the best scientific data available. They require our biologists, to the extent consistent with the Act and with the use of the best scientific data available, to use primary and original sources of information as the basis for recommendations to designate critical habitat.

When we are determining which areas should be proposed as critical habitat, our primary source of information is generally the information developed during the listing process for the species. Additional information sources may include the recovery plan for the species, articles in peer-reviewed journals, conservation plans developed by States and Counties, scientific status surveys and studies, biological assessments, other unpublished materials, and expert opinion or personal knowledge.

Habitat is often dynamic, and species may move from one area to another over time. Furthermore, we recognize that critical habitat designated at a particular point in time may not include all of the habitat areas that we may later determine, based on scientific data not now available to the Service, are essential for the conservation of the species. For these reasons, a critical habitat designation does not signal that habitat outside the designated area is unimportant or may not be required for recovery of the species.

Areas that are important to the conservation of the species, but are outside the critical habitat designation, will continue to be subject to conservation actions implemented by the Service and other Federal agencies under section 7(a)(1) of the Act. Areas that support populations are also subject to the regulatory protections afforded by the section 7(a)(2) jeopardy standard, as determined on the basis of the best available scientific information at the time of the agency action. Federally funded or permitted projects affecting listed species outside their designated critical habitat areas may still result in jeopardy findings in some cases. Similarly, critical habitat designations made on the basis of the best available information at the time of designation will not control the direction and substance of future recovery plans, habitat conservation plans (HCPs), or other species conservation planning efforts if new information available at the time of these planning efforts calls for a different outcome.

Methods

As required by section 4(b) of the Act, we used the best scientific data available to determine areas within the geographical area occupied at the time of listing that contain physical or biological features essential to the conservation of the Quino checkerspot butterfly, and areas outside of the geographical area occupied at the time of listing that are essential for the conservation of the butterfly. We have also reviewed available information that pertains to the habitat requirements of this subspecies. These sources included, but were not limited to, the final rule to list this subspecies (62 FR 2313; January 16, 1997); data and information published in peer-reviewed articles; data and information contained in the recovery plan (Service 2003); survey and research reports submitted to the Service, including reports required by 10(a)(1)(A) recovery permits; information provided by subspecies experts, including the subspecies' recovery team; data submitted during section 7 consultations; and regional GIS data.

Primary Constituent Elements

In accordance with section 3(5)(A)(i) of the Act and regulations at 50 CFR 424.12, in determining which areas within the geographical area occupied at the time of listing to propose as critical habitat, we identify the physical or biological features essential to the conservation of the Quino checkerspot

butterfly based on its biological needs. We consider the physical or biological features essential to the conservation of the species to be the primary constituent elements (PCEs) laid out in the appropriate quantity and spatial arrangement for conservation of the species. As described at 50 CFR 424.12, the physical and biological features that are essential to the conservation of a species, and that may require special management considerations or protection, include, but are not limited to:

(1) Space for individual and population growth and for normal behavior;

(2) Food, water, air, light, minerals, or other nutritional or physiological requirements;

(3) Cover or shelter;

(4) Sites for breeding, reproduction, rearing, or development of offspring; and

(5) Habitats that are protected from disturbance or are representative of the historical, geographical, and ecological distributions of a species.

Space for Individual and Population Growth and for Normal Behavior

Habitat for the Quino checkerspot butterfly is characterized by patchy shrub or small tree landscapes with openings of several meters between large plants, or a landscape of open swales alternating with dense patches of shrubs (Mattoni, *et al.* 1007, p. 112), habitats often collectively termed ''scrublands.'' Quino checkerspot butterflies will frequently perch on vegetation or other substrates to mate or bask, and require open areas to facilitate movement (Service 2003, pp. 10–11). White and Levin (1981, pp. 350, 351) found that adult Quino checkerspot butterfly's within-habitat patch movement distances from larval host plant patches to adult nectar sources often exceeded 656 ft (200 m).

Food, Water, Air, Light, Minerals, or Other Nutritional or Physiological Requirements

Because of their exothermic (cold-blooded) metabolism (Service 2003a, p. 18) and need to complete their life cycle in as short a time as possible (Service 2003a, p. 20), larval and adult Quino checkerspot butterflies require an open, woody canopy that allows sun to penetrate and speed their metabolic rate.

Within open, woody-canopy communities, larvae seek microclimates with high solar exposure (Weiss, *et al.* 1987, p. 161; Weiss, *et al.* 1988, p. 1487; Osborne and Redak 2000, p. 113). Like most butterflies, adult Quino checkerspot butterflies frequently bask and remain in open-canopy areas, using air temperature and sunshine to increase their body temperature to the level required for normal active behavior (Service 2003a, p. 18).

Quino checkerspot butterfly oviposition (egg deposition) has most often been documented on dwarf plantain (*Plantago erecta*), woolly plantain (*Plantago patagonica*), and white snapdragon (*Anterrhinum coulterianum*) (Service 2003a, p. 14–18). Egg clusters and/or pre-diapause larval clusters (proof of adult oviposition) have also been documented in the field on thread-leaved bird's beak (*Cordylanthus rigidus*) and purple owl's-clover (*Castilleja exserta*) (Service 2003a, pp. 14–18). *Cordylanthus rigidus* and *Castilleja exserta* alone are not believed to be sufficient to support Quino checkerspot butterfly breeding; therefore, other species of host plant must co-exist within approximately 328 ft (100 m) of these species of host plant for habitat to support breeding (Service 2003, pp. 16–17).

During the first two instars, pre-diapause larvae cannot move more than a few centimeters and feed on the host plant on which the adult female butterfly deposited eggs (primary host plant species). Third instar larvae usually wander independently in search of food and may switch to feeding on a secondary host plant species (Service 2003, p. 7). All known species of host plant (see species listed above) may serve as primary or secondary host plants, depending on location and environmental conditions (Service 2003, p. 17). Although *Plantago erecta* densities required for larval development have been estimated (Service 2003, pp. 22–23), it is not always possible any given year to determine typical host plant densities because germinating host plants may be entirely consumed by larvae, or when precipitation levels have been below-average, seeds may not germinate and larvae may remain in diapause (Service 2003, p. 23).

Adult checkerspot butterflies of the genus Euphydryas have a short tongue, approximately 0.43 inches (in) (11 millimeters (mm)) in length (Pratt 2007b, p. 1), and typically cannot feed on flowers that have deep corolla tubes or flowers evolved to be opened by bees (Service 2003a, p. 19). Edith's checkerspot butterflies prefer flowers with a platform-like surface on which they can remain upright while feeding (Service 2003a, p. 19). Examples of flowers Quino checkerspot butterflies frequently take nectar from include lomatium (*Lomatium* spp.), goldenstar (*Muilla* spp.), fiddleneck (*Amsinckia* spp.), goldfields (*Lasthenia* spp.), and popcorn flowers (*Plagiobothrys* and *Cryptantha* spp.) (Service 2003a, p. 19). Adults may nectar on flowers with a corolla length nearly a centimeter longer than their proboscis (0.59–1.10 in (15–28 mm)), like *Linanthus androsaceus* (Murphy 1984, p. 114; Hickman 1993, p. 842), but they are not likely to prefer such species (Murphy 1984, p. 114).

Cover or Shelter

Quino checkerspot butterfly larvae require sheltered sites for diapause (Service 2003a, p. 8), and adults typically roost in or below shrubs overnight and during adverse weather conditions (Service 2003a, p. 10). A pilot laboratory study (Pratt 2006, p. 9) and larval distribution observations (Osborne and Redak 2000, p. 113) indicate Quino checkerspot butterfly larvae prefer to diapause in or near the base of native shrubs, such as California buckwheat (*Eriogonum fasciculatum*).

Sites for Breeding, Reproduction, or Rearing (or Development) of Offspring

Male Quino checkerspot butterflies, and to a lesser extent females, are frequently observed on hilltops and ridgelines (CFWO GIS Quino checkerspot butterfly database, Osborne 2001, pp. 1–2; Pratt 2001, p. 59). In Edith's checkerspot butterflies, this tendency of females to move upwards in elevation and of males to defend hilltops (''hilltopping behavior'') increases the likelihood of male and female butterflies finding each other to mate during years of low adult density (Baughman and Murphy 1988, p. 119; Ehrlich and Wheye 1988, pp. 460–461). On hilltops where males are likely to encounter virgin females, the males will defend their territory from other males; therefore, higher ground can serve as a ''visual beacon'' to enhance mating success (Baughman and Murphy 1988, p. 119; Ehrlich and Wheye 1988, pp. 460–461; Mattoni, *et al.* 1997, p. 109). Hilltopping has been observed in Quino checkerspot butterflies (Mattoni *et al.* 1997, p. 110, Osborne 2001, pp. 1–2). Like other subspecies of Edith's checkerspot, adult Quino checkerspot butterflies are reliably observed on hilltops in occupied habitat (Service GIS database), even in the absence of larval host plants (Osborne 2001, pp. 1–2; Pratt 2001, p. 59); therefore, hilltops and ridgelines provide features essential for breeding in local populations.

Primary Constituent Elements for the Quino Checkerspot Butterfly

For areas within the geographical area occupied by the Quino checkerspot

butterfly at the time of listing, we must identify the primary constituent elements (PCEs) that may require special management considerations or protection. Based on the above needs and our current knowledge of the life history, biology, and ecology of the subspecies, we have determined the Quino checkerspot butterfly's PCEs are:

(1) Open areas within scrublands at least 21.5 square feet (ft) (2 square meters (m)) in size that:

(A) Contain no woody canopy cover; and

(B) Contain one or more of the host plants *Plantago erecta, Plantago patagonica*, or *Antirrhinum coulterianum;* or

(C) Contain one or more of the host plants *Cordylanthus rigidus* or *Castilleja exserta* that are within 328 ft (100 m) of the host plants *Plantago erecta, Plantago patagonica,* or *Antirrhinum coulterianum;* or

(D) Contain flowering plants with a corolla tube less than or equal to 0.43 inches (11 millimeters) used for Quino checkerspot butterfly growth, reproduction, and feeding;

(2) Open scrubland areas and vegetation within 656 ft (200 m) of the open canopy areas (PCE 1) used for movement and basking; and

(3) Hilltops or ridges within scrublands, linked by open areas and natural vegetation (PCE 2) to open canopy areas (PCE 1) containing an open, woody-canopy area at least 21.5 square ft (2 square m) in size used for Quino checkerspot butterfly mating (hilltopping behavior).

Special Management Considerations or Protection

When designating critical habitat, we assess whether the areas within the geographical area occupied by the species at the time of listing contain features that are essential to the conservation of the species and may require special management considerations or protection.

When the Quino checkerspot butterfly was listed on January 16, 1997 (62 FR 2313), the primary threats to the subspecies thought to be responsible for its decline were reduction and fragmentation of habitat by urban and agricultural development and recreational activities, over-collection, vandalism, fire, and drought. Threats described in the listing rule, as well as trash dumping, nitrogen deposition, elevated atmospheric carbon dioxide concentrations, and climate change, were listed as active or probable threats in the final designation of critical habitat (67 FR 18356) published April 15, 2002. Current threats to the subspecies and management needs were described in detail in the recovery plan (Service 2003a, pp. 55–65). They are: (1) Loss and fragmentation of habitat and landscape connectivity; (2) invasion by nonnative plants; (3) off-road vehicle activity; (4) grazing; (5) fire; (6) enhanced soil nitrogen; (7) increasing atmospheric carbon dioxide concentration; and (8) climate change. Scientific research indicates all threats individually, and interactively, cause loss or reduced availability of Quino checkerspot butterfly host plants, nectar sources, and suitable areas for necessary behaviors (e.g., mating, basking, hilltopping, etc.) (Service 2003a, pp. 55–65). This results in a loss of PCEs. For example, increased atmospheric carbon dioxide concentration resulted in an approximate 30 percent loss in seed production of *Plantago lanceolata* (Jablonski, *et al.* 2002, p. 14), and increased temperatures caused an approximate 5 percent reduction in reproductive duration (Sherry, *et al.* 2007, p. 200), indicating reduced host plant density and phenological availability under current and predicted climate conditions (Service 2003a, pp. 62–65; see Background section above). In addition, development activities can result in the loss of open, woody-canopy native scrublands and hilltops (space for normal behavior and larval diapausing sites) and fragmentation of habitat and landscape connectivity.

Management needs and actions recommended by the recovery plan that may be required to protect and maintain the PCEs for the Quino checkerspot butterfly include: (1) Reestablishment and maintenance of habitat and landscape connectivity within and between populations (Service 2003a, pp. 57, 96–101); (2) habitat restoration and control of invasive nonnative species (Service 2003a, pp. 58, 96–101, 146–159); (3) monitoring of ongoing habitat loss and nonnative plant invasion (Service 2003a, p. 106); (4) phased replacement of grazing with nonnative invasive plant control (Service 2003a, pp. 60, 101–102); (5) carefully controlled burn experiments to assess effectiveness for control of nonnative plant invasion and protection of PCEs from wildfire destruction (Service 2003a, p. 61); (6) reduction of local nitrogen emissions from sources such as high-traffic roads (Service 2003a, p. 62); (7) management of off-road vehicle activity (Service 2003a, pp. 59, 146–159), including outreach and partnerships with local off-road vehicle clubs and organizations (Service 2003a, p. 105); (8) reduction of firearm use and trash dumping in habitat (Service 2003a, p. 109); and (9) prudent design of managed habitats to include landscape connectivity (habitat) and ecological connectivity (wildlands that may not currently include habitat) (Service 2003a, pp. 65, 96).

Criteria Used to Identify Critical Habitat

There is a lack of specific knowledge regarding distribution of occupancy within the greater historical range of the Quino checkerspot butterfly, and Edith's checkerspot butterfly subspecies' occupancy within population distributions is generally shifting and ephemeral (see Background Section above). Therefore, the appropriate scale for determining Quino checkerspot butterfly occupancy at the time of listing is the population distribution level, and criteria for determining habitat required to support a population should incorporate long-term occupancy data as well as movement distances in order to include all habitat necessary to support continued occupancy by the population. The process we used is described below.

To delineate proposed revised critical habitat, we first determined occupancy within the extant range of the Quino checkerspot butterfly. Occupancy status was determined using occurrence data from the Carlsbad Fish and Wildlife Office GIS database and associated survey reports. Areas containing occurrence records from 1999 or later were considered currently occupied. We then determined which areas were occupied at the time of listing by comparing survey and collection information to descriptions of occupied areas in the final listing rule published in the **Federal Register** on January 16, 1997 (62 FR 2313). Core occurrence complexes recorded within 4 years of listing that contained repeated observations of a large number of individuals (relative to all known occupied locations), and were more than 4 mi (6.4 km; the maximum recorded Edith's checkerspot dispersal distance) from other occurrence complexes known to be occupied at the time of listing were also considered to be occupied at the time of listing on the basis that these parameters indicate such areas were not colonized post-listing.

Once we determined the extant range of the subspecies and identified all occupied habitat, we used the following rule set to identify areas for inclusion in this proposed revision to designated critical habitat. As described further in the Background section above, core occurrence complexes appear to be population density centers likely to contain source habitat based on

geographic size, number of reported individuals, repeated observations, and/or documented reproduction. Therefore, we believe that core occurrence complexes are the most likely to persist into the future and provide emigrants to other populations, and, as such, are essential to the recovery of this subspecies. We first identified seven core occurrence complexes that were known to be occupied at the time of listing (Warm Springs Creek, Skinner/Johnson, Vail Lake, Sage, Wilson Valley, Tule Peak/Silverado, Otay Mountain). Furthermore, we identified two new core occurrence complexes (Bautista Road and La Posta/Campo) that were not known to have been occupied at the time of listing (see Background section above).

Within the geographical area occupied by the subspecies at the time of listing, to delineate all the core occurrence complexes we grouped occurrence records together that were within 0.6 mi (1 km) of each other as one core occurrence (as described further in the Background Section above). We then identified the extent of habitat needed to support each represented population by including additional contiguous habitat that contained the PCEs within 0.6 mi (1 km movement distance, see Background section above) of the mapped core occurrence complex areas. This criterion used biological and geographic information (primarily GIS host plant occurrence data, vegetation layers, and satellite imagery) to capture a habitat-based population footprint associated with each core occurrence complex necessary to support continued occupancy of each complex.

When delineating the habitat-based population footprint for each core occurrence complex, we examined all identified habitat to ensure that all areas contained one or more PCEs in the quantity and spatial arrangement to provide the features essential to this subspecies. Any areas that did not appear to contain the PCEs were removed. We did this by using biological and geographic information (primarily GIS vegetation layers and satellite imagery). Habitat delineation after addition of contiguous habitat outside of occurrence complex movement radii, and removal of non-habitat within movement radii, is our best scientific estimate of population footprints (occupied areas) associated with core occurrence complexes.

As previously stated, we identified two new core occurrence complexes that were not known to be occupied at the time of listing (Bautista Road and La Posta/Campo). At La Posta/Campo, we consider all recently identified clusters of occurrence records to be a single core occurrence complex (as described further in the Background section above). Similar to the core occurrence complexes known to be occupied at the time of listing, we grouped occurrence records together that were within 0.6 mi (1 km) of each other. We then identified the extent of habitat needed to support each represented population by including additional contiguous habitat that contained the PCEs within 0.6 mi (1 km) of the mapped core occurrence complex areas. This process grouped all recent records into one complex and identified the habitat-based population footprint associated with this core occurrence complex necessary to support continued occupancy. Finally, we examined all identified habitat to ensure that all areas contained one or more PCEs in the quantity and spatial arrangement to provide the features essential to this subspecies. Any areas that did not appear to contain the PCEs were removed.

We closely examined the new Bautista Road Core Occurrence Complex and determined that the status of this core occurrence complex reflects a shift in the Quino checkerspot butterfly's range, correlated with increased temperatures and drought conditions in the region (see Background section above). Recognizing the predictions by Parmesan (1996, p. 765; 2006, pp. 647–648) and Seager, *et al.* (2007, pp. 1181, 1183, 1184), we expect range shift northward and upward in elevation in this region to continue as climate models predict above-average temperatures and drought conditions into the foreseeable future (see Background section above; National Oceanic and Atmospheric Administration 2007). Therefore, consistent with recommendations in the recovery plan (Service 2003a, p. 65), we delineated additional habitat containing the PCEs that was contiguous with the Bautista Road Core Occurrence Complex, to also capture landscape connectivity to three non-core occurrence complexes (Pine Grove, Lookout Mountain, and Horse Creek) that are higher in elevation and/or further north.

Inclusion of lands supporting core occurrence complexes is necessary to ensure the conservation of the Quino checkerspot butterfly, and therefore consistent with 50 CFR § 424.12(e), we have delineated areas outside the geographical area presently occupied by the subspecies contiguous with the Bautista Road Core Occurrence Complex for inclusion in the proposed revision to critical habitat. The unoccupied habitat connects this core occurrence complex with other occupied (non-core) areas at Pine Grove, Lookout Mountain, and Horse Creek.

When determining the proposed revisions to critical habitat boundaries, we made every effort to avoid including (within the boundaries of the map contained within this proposed revision to critical habitat) developed areas such as lands covered by buildings, pavement, and other structures because such lands lack PCEs for the Quino checkerspot butterfly. The scale of the maps prepared under the parameters for publication within the Code of Federal Regulations may not reflect the exclusion of such developed lands. Any such lands inadvertently left inside critical habitat boundaries shown on the maps of this proposed revision to critical habitat have been excluded by text in the proposed rule and are not proposed for designation as critical habitat. Therefore, Federal actions involving these areas would not trigger section 7 consultation with respect to critical habitat and the requirement of no adverse modification unless the specific action would affect the PCEs of critical habitat.

Our delineation of proposed revisions to critical habitat includes lands owned by the Cahuilla Band of Indians and the Campo Band of Kumeyaay Indians. The Tule Peak/Silverado Core Occurrence Complex, which was occupied at the time of listing, overlaps with Cahuilla Band of Indians Tribal lands in Riverside County. These lands contain scrublands with openings of at least 21.5 square feet (ft) (2 square m) in size containing host and nectar plants for feeding, hilltops areas for mating within 656 ft (200 m) of an open area containing host and nectar plants for feeding, and natural vegetation or open areas for movement and basking. These lands support the quantity and spatial arrangement of the PCEs necessary to conserve the Tule Peak/Silverado Core Occurrence Complex, and therefore, we are including Cahuilla Band of Indians Tribal lands in this proposed revision to designated critical habitat. Similarly, we determined that the La Posta/Campo Core Occurrence Complex, which is not known to have been occupied at the time of listing, overlaps with Campo Band of Kumeyaay Indians Tribal lands in San Diego County. These lands contain scrublands with openings of at least 21.5 square feet (ft) (2 square m) in size containing host and nectar plants for feeding, hilltops areas for mating within 656 ft (200 m) of an open area containing host and nectar plants for feeding, and natural vegetation or open areas for movement and basking. These

lands support the quantity and spatial arrangement of the PCEs necessary to conserve the La Posta/Campo Core Occurrence Complex, and therefore, we are including Campo Band of Kumeyaay Indians Tribal lands in this proposed revision to designated critical habitat.

No management for conservation of the Quino checkerspot butterfly is currently occurring on Tribal lands, nor do any draft management plans exist. However, we have met with both affected Tribes, and we have agreed to work with them to develop management plans for the subspecies prior to designation of critical habitat. Should management plans be completed prior to finalization of this critical habitat rule, we will evaluate any submitted plans in consideration of Secretarial Order 3206, ''American Indian Tribal Rights, Federal Tribal Trust Responsibilities, and the Endangered Species Act'' (June 5, 1997); the President's memorandum of April 29, 1994, ''Government-to-Government Relations with Native American Tribal Governments'' (59 FR 22951); Executive Order 13175; and the relevant provision of the Departmental Manual of the Department of the Interior (512 DM 2) in relation to the conservation benefits to the subspecies, the features essential to the conservation of the subspecies, and the appropriateness of excluding Tribal lands under section 4(b)(2) of the Act.

We are proposing to revise the existing critical habitat designation and propose to designate critical habitat in areas that we have determined are within the geographical area occupied at the time of listing and contain the physical or biological features essential to the conservation of the subspecies, and in areas outside the geographical area occupied at the time of listing that also are essential for the conservation of the subspecies. Information provided in comments on this proposed revision to critical habitat designation and draft economic analysis will be evaluated and considered in the development of the final revised designation of critical habitat for Quino checkerspot butterfly.

Summary of Changes From Previously Designated Critical Habitat

The areas identified in this proposed rule constitute a proposed revision of the areas we designated as critical habitat for the Quino checkerspot butterfly on April 15, 2002 (67 FR 18356). The main differences include the following:

(1) Currently, four units totaling 171,605 ac (69,440 ha) are designated as critical habitat for the Quino checkerspot butterfly (67 FR 18356, April 15, 2002). This proposed revision to designated critical habitat, which is based on new occupancy and habitat information (updated GIS information on vegetation, butterfly, and host plant distribution), includes 10 units totaling 98,487 ac (39,857 ha). This proposed revision to critical habitat for the Quino checkerspot butterfly, if adopted, would result in a decrease of 73,118 ac (29,583 ha) from currently designated critical habitat for this subspecies. However, we are considering excluding 1,684 ac (681 ha) of land within the San Diego County Multiple Species Conservation Plan's City of Chula Vista Subarea Plan and 37,245 ac (15,073) of non-Federal land within the Western Riverside County MSHCP area from the final designation.

(2) We revised the PCE descriptions to make them more quantifiable and easy to apply in the field; however, the habitat components have not changed. Hilltops, nectar sources, host plant species, and open-canopy scrublands are the same habitat components described as PCEs in the 2002 final critical habitat rule (67 FR 18356, April 15, 2002).

(3) In the 2002 critical habitat designation (67 FR 18356, April 15, 2002) we based our criteria on the reasoning that habitat areas supporting core occurrence complexes, habitat areas that had the potential support for a core population complex, and habitat areas that facilitate landscape connectivity or otherwise played a significant role in maintaining metapopulation viability were essential to the long-term conservation of the subspecies. Populations on the periphery of the subspecies' range or in atypical environments were considered important for maintaining the genetic diversity of the subspecies, and possibly essential for adaptation to changing climatic and environmental conditions. In this proposed revision to the critical habitat designation our underlying reasoning has not changed, however, our revised Criteria Used to Identify Critical Habitat are based on new scientific information not available when critical habitat was designated on April 15, 2002 (67 FR 18356). Application of new data and updated occurrence information described in the Background section above resulted in the identification of different essential habitat areas than were identified in the 2002 final critical habitat rule, and a reduced total amount of acreage that is essential to the long-term conservation of this subspecies. The large amount of new habitat and distribution information resulted in our expanding the boundaries of known core occurrence complexes to include areas that were considered to support adjacent non-core occurrence complexes in the 2002 final designation, and our identification of the new Bautista Road and La Posta/Campo core occurrence complexes (see Background Section above). These revisions capture all habitat areas necessary to sustain and recover the subspecies and are adequate to ensure the long-term conservation of this subspecies based on our current knowledge of this subspecies' life history and ecological needs as described in the Background, Primary Constituent Elements, and Special Management Considerations or Protection sections above. The new criteria capture different areas on the periphery of the subspecies' range and in atypical environments considered important to this subspecies for adaptation to changing climatic and environmental conditions than were identified in the 2002 critical habitat designation. For example, the new proposed revised Bautista Unit (including 3 non-core occurrence complexes and habitat not known to be occupied) adequately incorporates habitat in the San Jacinto foothills at the northern edge of the subspecies' range. Furthermore, data collected since 2002 indicates that this area is providing the function that the more isolated, non-core, Brown Canyon subunit of currently designated Unit 2 (67 FR 18356, April 15, 2002; 50 CFR 17.95(i)) was speculated to provide this subspecies in the 2002 critical habitat designation. Therefore, the Brown Canyon subunit is no longer considered essential (see further discussion below). We believe the proposed revised critical habitat units, which are based primarily on core occurrence complex and habitat distributions, are the areas essential for conservation of the Quino checkerspot butterfly.

(4) The 2002 critical habitat designation (FR 18356, April 15, 2002) in Riverside County consisted of two units that included almost all known non-core occurrence complexes, areas connecting those occurrence complexes, and habitat within the Lake Mathews/Estelle Mountain Reserve associated with the ''Lake Mathews Population Site'' described in the recovery plan (Sevice 2003a, p. 77). We considered, but did not include any of the 5,765 ha (14,250 ac) of habitat in northwest Riverside County corresponding with current Unit 1 (67 FR 18356, April 15, 2002; 50 CFR 17.95(i)) associated with the Harford Springs (non-core) Occurrence Complex and the Lake Mathews/Estelle Mountain Reserve. Data collected since we designated

critical habitat on April 15, 2002 (67 FR 18356) indicates this area is no longer likely to support the features essential to the conservation of the subspecies, and that it is not essential for conservation of the subspecies. Most of the habitat associated with the Harford Springs (non-core) Occurrence Complex (currently designated Unit 1) is functionally isolated from occupied areas or has subsequently been developed, and this non-core occurrence complex has apparently been extirpated (see Background section above). We considered but did not include portions of habitat within currently designated Unit 2 (67 FR 18356, April 15, 2002; 50 CFR 17.95(i)) associated with the Domenigoni Valley (Service 2003a, p. 39), Brown Canyon, Rocky Ridge, Billygoat Mountain, Dameron Valley, Oak Grove (Service 2003a, p. 41), and Spring Canyon non-core occurrence complexes in Riverside County identified in the recovery plan (Service 2003a, p. 44; current Unit 2). We believe habitat captured by the expanded core occurrence complexes and the criteria that included additional habitat within 0.6 mi (1 km) of the mapped core occurrence complex areas (see Criteria Used to Identify Critical Habitat Section above) provides adequate landscape connectivity for conservation of the subspecies, and adequately captures areas that otherwise play a significant role in maintaining metapopulation viability.

(5) We considered but did not include in this proposed revision to critical habitat currently designated areas dominated by Tecate cypress (*Callitropsis* (*Cupressus*) *forbesii*) woodland on Otay Mountain, or currently designated areas associated with the National Wildlife Refuge (NWR) Rancho San Diego, NWR Los Montanas, Jamul, West Otay Mesa, Barrett Junction, and Tecate non-core occurrence complexes identified in the recovery plan (Service 2003a, p. 47; current Unit 3, 67 FR 18356, April 15, 2002; 50 CFR 17.95(i)). We believe habitat captured by the expanded core occurrence complexes on Otay Mountain and the criteria that included additional habitat within 0.6 mi (1 km) of the mapped core occurrence complex areas (see Criteria Used to Identify Critical Habitat Section above) provides adequate landscape connectivity for conservation of the subspecies at Otay Mountain, and adequately captures areas that otherwise play a significant role in maintaining metapopulation viability.

(6) This proposed revision to designated critical habitat includes 8,393 ac (3,397 ha) in one unit in San Diego County (La Posta/Campo) that is not currently designated as critical habitat. We acquired occupancy data from the La Posta/Campo Unit after publication of the April 15, 2002, critical habitat rule (67 FR 18356). The proposed La Posta/Campo unit supports the newly identified La Posta/Campo Core Occurrence Complex (see Background section above). This newly described core occurrence complex represents a population locally adapted to a unique habitat type and a warmer, drier climate (relative to the Otay Mountain Core Occurrence Complex). Conservation of this unique habitat provides geographic, genetic, and habitat diversity that is likely to reduce the subspecies' extinction probability due to fire and climate change (Service 2003a, pp. 60–61, 76; see Background section above).

(7) This proposed revision to designated critical habitat includes 14,014 ac (5,671 ha) in one unit in Riverside County (Bautista Road) that is not currently designated as critical habitat. We did not include the Bautista Road Core Occurrence Complex in the April 15, 2002, designation (67 FR 18356), because it was first documented following publication of the proposed rule (66 FR 9476, February 7, 2001), and we did not have sufficient information concerning habitat within the complex and landscape connectivity to other complexes to determine whether it was essential to the conservation of the subspecies (67 FR 18356, April 15, 2002). We have acquired substantial new occupancy and other scientific information relevant to this area since 2002 (see Background section above), and we have determined that conservation of the Bautista Unit is essential to the conservation of the subspecies. Conservation of this unique habitat provides geographic, genetic, and habitat diversity that is likely to reduce the subspecies' extinction probability due to fire and climate change (Service 2003a, pp. 63–65, 60–61; see Background section above). Recent data indicate the Bautista Road Core Occurrence Complex (identified as non-core in the recovery plan; Service 2003a, p. 44), is most accurately described as a core occurrence complex (see Background and Criteria Used to Identify Critical Habitat sections above), and is therefore included in this proposed revision to designated critical habitat. The Bautista Unit also includes habitat associated with the Lookout Mountain and Pine Meadows non-core occurrence complexes identified in the recovery plan (Service 2003a, p. 44) and the recently discovered Horse Creek (non-core) Occurrence Complex, where a range shift for the subspecies is expected to continue into the foreseeable future (see Background and Criteria Used to Identify Critical Habitat sections above).

(8) In preparing this proposed revision to designated critical habitat, we re-examined the boundaries of core occurrence complexes described in the April 15, 2002, critical habitat designation (67 FR 18356). As a result, this proposal includes some areas adjacent to, but not within, currently designated units. This re-examination resulted in merging or expanding identified core occurrence complexes (see Background and Criteria Used to Identify Critical Habitat sections above). In particular, new occurrence data indicates the Butterfield/Radec (non-core) Occurrence Complex south of SR 79 (Service 2003a, p. 41) is part of the Vail Lake Core Occurrence Complex, and we therefore reflect that in this proposed revision to designated critical habitat (see Background and Criteria Used to Identify Critical Habitat sections above). New occurrence data also indicates the Proctor Valley, Dulzura, and Honey Springs non-core occurrence complexes (Service 2003a, p. 47) are part of the new Otay Mountain Core Occurrence Complex, and we therefore reflect that in this proposed revision to designated critical habitat (see Background and Criteria Used to Identify Critical Habitat sections above).

Proposed Revisions to the Critical Habitat Designation

We are proposing 10 units as critical habitat for the Quino checkerspot butterfly; all of the units are currently occupied (Table 1). The designation of these units, if finalized, would replace the existing critical habitat designation for the Quino checkerspot butterfly in 50 CFR 17.95(i). The critical habitat areas described below constitute our current best assessment of areas that meet the definition of critical habitat for the Quino checkerspot butterfly.

TABLE 1.—OCCUPANCY STATUS OF PROPOSED CRITICAL HABITAT FOR THE QUINO CHECKERSPOT BUTTERFLY

Unit	Occupied at time of listing?	Currently occupied?	Size of unit in acres hectares)
1. Warm Springs	yes	yes	2,684 (1,086)
2. Skinner/Johnson	yes	yes	12,030 (4,869)
3. Sage	yes	yes	2,693 (1,090)
4. Wilson Valley	yes	yes	4,813 (1,948)
5. Vail Lake/Oak Mountain	yes	yes	8,187 (3,313)
6. Tule Peak	yes	yes	6,433 (2,603)
7. Bautista	no	yes	14,014 (5,671)
8. Otay	yes	yes	36,726 (14,863)
9. La Posta/Campo	no	yes	8,393 (3,397)
10. Jacumba	yes	yes	2,514 (1,017)

The approximate area of various land ownerships encompassed within each proposed critical habitat unit is shown in Table 2.

TABLE 2.—PROPOSED CRITICAL HABITAT UNITS FOR THE QUINO CHECKERSPOT BUTTERFLY

[Area estimates reflect all land within critical habitat unit boundaries]

Critical habitat unit	Land ownership by type [1]	Size of unit in acres (hectares)
1. Warm Springs	Private	2,684 (1,086)
	BLM	107 (43)
	Local	3,312 (1,340)
	CDFG	608 (246)
	Private	8,003 (3,239)
3. Sage	BLM	126 (51)
	Private	2,567 (1,039)
4. Wilson Valley	BLM	468 (189)
	Private	4,345 (1,759)
5. Vail Lake/Oak Mountain	BLM	822 (333)
	CNF	912 (369)
	Private	6,453 (2,612)
6. Tule Peak	BLM	328 (133)
	CDFG	321 (123)
	Cahuilla Tribe	1,203 (487)
	Private	4,581 (1,861)
7. Bautista	SBNF	8,420 (3,407)
	BLM	1,223 (495)
	CSLC	74 (30)
	Private	4,297 (1,739)
8. Otay	BLM	7,663 (3,101)
	CDFG	6,361 (2,574)
	USFWS	405 (164)
	Local	4,427 (1,792)
	State	43 (17)
	DOD	109 (44)
	Private	17,718 (7,170)
9. La Posta/Campo	DOD	1,083 (438)
	BLM	1,828 (740)
	Campo Tribe	3,156 (1,277)
	Private	2,326 (942)
10. Jacumba	CDPR	349 (141)
	Private	2,165 (876)
Total		98,487 (39,857)

[1] Private = private ownership, including conserved lands managed for species' recovery; BLM = Bureau of Land Management; Local = City or County owned land; CDFG = California Department of Fish and Game; CDPR = California Department of Parks and Recreation; CNF = Cleveland National Forest; CSLC = California State Lands Commission; Cahuilla Tribe = Cahuilla Band of Indians; SBNF = San Bernardino National Forest; USFWS = U.S. Fish and Wildlife Service Refuge; DOD = U.S. Department of Defense; Campo Tribe = Campo Band of Kumeyaay Indians.

We present brief descriptions of all units, and reasons why they meet the definition of critical habitat for the Quino checkerspot butterfly, below.

Unit 1: Warm Springs

Unit 1 consists of approximately 2,684 ac (1,086 ha) of habitat that was occupied by the subspecies at the time of listing and that remains occupied at the present time. This unit contains all of the features essential to the conservation of the subspecies (PCEs 1, 2, and 3): Dwarf plantain, thread-leaved birds-beak, and purple owl's-clover host

plants; nectar sources; open, woody-canopy scrublands; and hilltops (Service 2003a, pp. 39, 41; Service GIS database). Unit 1 is located in Riverside County, north of Interstate 15, between Interstate 215 and SR 79, north of Murrieta Hot Springs Road to Scott Road, in the vicinity of Warm Springs Creek. This unit includes land associated with the Warm Springs Creek (core) and Warm Springs Creek North (non-core) occurrence complexes as described in the recovery plan (Service 2003a, p. 79); new information indicates the Warm Springs Creek North (non-core) Occurrence Complex should be considered part of the Warm Springs Creek Core Occurrence Complex (see Background section above).

Habitat in this unit is threatened by invasion of nonnative annuals, development, off-road vehicle use, foot traffic, and other recreational impacts (Service 2003 pp. 41, 79; Service GIS satellite imagery). Therefore, the PCEs in this unit may require special management considerations or protection to minimize impacts resulting from these threats (see Special Management Considerations or Protection section above for a detailed discussion). The majority of Unit 1 is privately owned (Table 1), but this portion of the unit is part of a plan for conservation and management under the Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP). The remaining portion of the unit is in conservation, is privately owned, and is managed by the Center for Natural Lands Management (CNLM) under the Assessment District 161 Habitat Conservation Plan. We are considering excluding all of this unit, which is within the MSHCP plan area, from the final revision to designated critical habitat under section 4(b)(2) of the Act (see Areas Considered For Exclusion Under Section 4(b)(2) of the Act section below).

Unit 2: Skinner/Johnson

Unit 2 consists of approximately 12,030 ac (4,869 ha) of habitat that was occupied by the subspecies at the time of listing and that remains occupied at the present time. This unit contains all of the features essential to the conservation of the subspecies (PCEs 1, 2, and 3): Dwarf plantain, white snapdragon, thread-leaved birds-beak, and purple owl's-clover host plants; nectar sources; open, woody-canopy scrublands; and hilltops (Service 2003a, pp. 39, 41; Service GIS database). Unit 2 is located in Riverside County, north of the City of Temecula, in the vicinity of Lake Skinner. This unit includes land associated with the Skinner/Johnson Core Occurrence Complex as described in the recovery plan (Service 2003a, p. 79).

Habitat in this unit is threatened by invasion of nonnative annuals, housing and utilities infrastructure development, off-road vehicle use, foot traffic, and other recreational impacts (Service 2003 pp. 41, 79; Service GIS satellite imagery), and elevated soil nitrogen levels (Service 2003 pp. 61, 62). Therefore, the PCEs in this unit may require special management considerations or protection to minimize impacts resulting from these threats (see Special Management Considerations or Protection section above for a detailed discussion). The majority of land in Unit 2 is held in conservation and managed within the Southwest Riverside County Multiple Species preserve, or conserved and managed by CNLM. We are considering excluding 11,923 ac (4,825 ha), the non-Federal lands within the MSHCP plan area in this unit, from the final revision to designated critical habitat under section 4(b)(2) of the Act (see Areas Considered For Exclusion Under Section 4(b)(2) of the Act section below).

Unit 3: Sage

Unit 3 consists of approximately 2,692 ac (1,090 ha) of habitat that was occupied by the subspecies at the time of listing and that remains occupied at the present time. This unit contains all of the features essential to the conservation of the subspecies (PCEs 1, 2, and 3): Dwarf plantain, thread-leaved birds-beak, and purple owl's-clover host plants; nectar sources; open, woody-canopy scrublands; and hilltops (Service 2003a, pp. 41, 43; Service GIS database). Unit 3 is located in Riverside County, northeast of Temecula, in the vicinity of the community of Sage. This unit includes land associated with the Sage (core) and San Ignacio (non-core) occurrence complexes as described in the recovery plan (Service 2003a, p. 79). New occurrence information indicates the San Ignaciao (non-core) Occurrence Complex should be considered part of the Sage Core Occurrence Complex (see Background and Criteria Used to Identify Critical Habitat sections above).

Habitat in this unit is threatened by invasion of nonnative annuals, rural development, off-road vehicle use, foot traffic, and other recreational impacts (Service 2003 p. 79; Service GIS satellite imagery). Therefore, the PCEs in this unit may require special management considerations or protection to minimize impacts resulting from these threats (see Special Management Considerations or Protection section above for a detailed discussion). Land in Unit 3 is primarily privately owned (Table 2), but this area is included in the plan for conservation and management under the MSHCP. We are considering excluding 2,567 ac (1,039 ha), the non-Federal lands within the MSHCP plan area in this unit, from the final revision to designated critical habitat under section 4(b)(2) of the Act (see Areas Considered For Exclusion Under Section 4(b)(2) of the Act section below).

Unit 4: Wilson Valley

Unit 4 consists of approximately 4,813 ac (1,948 ha) of habitat that was occupied by the subspecies at the time of listing and that remains occupied at the present time. This unit contains all of the features essential to the conservation of the subspecies (PCEs 1, 2, and 3): Dwarf plantain, white snapdragon, thread-leaved birds-beak, and purple owl's-clover host plants; nectar sources; open, woody-canopy scrublands; and hilltops (Service 2003a, pp. 41, 43: Service GIS database). Unit 4 is located in Riverside County, north of SR 79, east of Oak Mountain and Temecula, in the vicinity of Wilson Valley. This unit includes land associated with the Wilson Valley Core Occurrence Complex described in the recovery plan (Service 2003a, p. 79).

Habitat in this unit is threatened by invasion of nonnative annuals, development, trash dumping, off-road vehicle use, foot traffic, and other recreational impacts (Service 2003 pp. 59, 79; Service GIS satellite imagery). Therefore, the PCEs in this unit may require special management considerations or protection to minimize impacts resulting from these threats (see Special Management Considerations or Protection section above for a detailed discussion). A small part of the land in Unit 4 is managed by the Bureau of Land Management (BLM), and the majority is privately owned (Table 2). The private land in this unit is planned for conservation and management under the MSHCP. We are considering excluding 4,345 ac (1,758 ha), the non-Federal lands within the MSHCP plan area in this unit, from the final designation under section 4(b)(2) of the Act (see Areas Considered For Exclusion Under Section 4(b)(2) of the Act section below).

Unit 5: Vail Lake/Oak Mountain

Unit 5 consists of approximately 8,187 ac (3,313 ha) of habitat that was occupied by the subspecies at the time of listing and that remains occupied at the present time. This unit contains all of the features essential to the

conservation of the subspecies (PCEs 1, 2, and 3): Dwarf plantain, thread-leaved birds-beak, and purple owl's-clover host plants; nectar sources; open, woody-canopy scrublands; and hilltops (Service 2003a, pp. 41, 43; Service GIS database). Unit 5 is located in Riverside County, north and south of SR 79, east of Temecula, in the vicinity of Oak Mountain and Vail Lake. This unit includes land associated with the Vail Lake (core) and Butterfield/Radec (non-core) occurrence complexes described in the recovery plan (Service 2003a, p. 79). New occurrence information indicates that the Butterfield/Radec (non-core) Occurrence Complex should be considered part of the Vail Lake Core Occurrence Complex (see Background and Summary of Changes from Previously Designated Critical Habitat sections above).

Habitat in this unit is threatened by invasion of nonnative annuals, development, dumping, off-road vehicle use, foot traffic, and other recreational impacts (Service 2003 pp. 59, 79; Service GIS satellite imagery). Therefore, the PCEs in this unit may require special management considerations or protection to minimize impacts resulting from these threats (see Special Management Considerations or Protection section above for a detailed discussion). Part of the land in Unit 5 is managed by the Bureau of Land Management (BLM) and part by the Cleveland National Forest (CNF), but the majority is under private ownership (Table 2) and planned for conservation and management under the MSHCP. We are considering excluding 6,453 ac (2,611 ha), the non-Federal lands within the MSHCP plan area in this unit, from the final revision to designated critical habitat under section 4(b)(2) of the Act (see Areas Considered For Exclusion Under Section 4(b)(2) of the Act section below).

Unit 6: Tule Peak

Unit 6 consists of approximately 6,433 ac (2,603 ha) of habitat that was occupied by the subspecies at the time of listing and that remains occupied at the present time. This unit contains all of the features essential to the conservation of the subspecies (PCEs 1, 2, and 3): dwarf plantain, woolly plantain, white snapdragon, thread-leaved birds-beak, and purple owl's-clover host plants; nectar sources; open, woody-canopy scrublands; and hilltops (Service 2003a, pp. 44–47; Service GIS satellite imagery). Unit 6 is located in Riverside County, south of SR 371 and the community of Anza, in the vicinity of Tule Peak Road and the southern boundary of the Cahuilla Band of Indians Tribal lands. This unit includes land associated with the Tule Peak (core), Southwest Cahuilla (non-core), and Silverado (core) occurrence complexes described in the recovery plan (Service 2003a, p. 79). New occurrence information indicates all these occurrence complexes are better described as a single Tule Peak/Silverado Core Occurrence Complex (see Background section above).

Habitat in this unit is threatened by invasion of nonnative annuals, rural development, and recreational activity (Service 2003 pp. 81; Service GIS satellite imagery). In particular, recreational activity and rural development continue to result in the loss of habitat on private land (Reed 2001, pp. 1–2; TeraCor 2002, p. 7; Osborne 2007, p. 9; Service GIS satellite imagery). Therefore, the PCEs in this unit may require special management considerations or protection to minimize impacts resulting from these threats (see Special Management Considerations or Protection section above for a detailed discussion). In light of the recent climatic warming and drying trends (see Background and Special Management Considerations or Protection sections above), prudent design of reserves and other managed habitats in this unit should include landscape connectivity to other habitat areas and ecological connectivity (linkage between habitat patches joined by natural dispersal areas; Service 2003a, p. 162) with undeveloped lands to accommodate range shifts northward and upward in elevation (Service 2003a, p. 64).

Land ownership in Unit 6 includes BLM, California Department of Fish and Game, Cahuilla Band of Indians Tribal reservation, and private lands (Table 2). The majority of the unit consists of privately owned lands not included in the MSHCP Conservation Area, but within the MSHCP area boundary. We are considering excluding 6,105 ac (2,471 ha) of private lands within this unit from the final revision to designated critical habitat under section 4(b)(2) of the Act (see Areas Considered For Exclusion Under Section 4(b)(2) of the Act section below). The inclusion of Tribal lands in this unit serves to ensure the persistence of the Tule Peak/Silverado Core Occurrence Complex and will contribute to the conservation and recovery of the subspecies overall. However, we recognize the importance of government-to-government relationships with Tribes, and we are seeking public comment on the appropriateness of the inclusion or the exclusion of these lands in the final designation of critical habitat (see Public Comments section above).

Unit 7: Bautista

Unit 7 consists of approximately 14,014 ac (5,671 ha) of habitat that was not within the geographical area occupied at the time of listing. This unit contains the Bautista Road (now core), Pine Meadow (non-core), and Lookout Mountain (non-core) occurrence complexes as described in the recovery plan (Service 2003a, p. 79) and the recently described Horse Creek (non-core) Occurrence Complex (see Background and Criteria Used to Identify Critical Habitat sections above). As further discussed in the Background section, we have determined that the Bautista Road Occurrence Complex should be considered a core occurrence complex, and that habitat connectivity to higher elevation occurrence complexes is essential for the conservation of the subspecies. This unit contains all of the features essential to the conservation of the subspecies (PCEs 1, 2, and 3): dwarf plantain, woolly plantain, white snapdragon, thread-leaved birds-beak, and purple owl's-clover host plants; nectar sources; open, woody-canopy scrublands; and hilltops (Service 2003a, pp. 44–47; Service GIS database). It is located in Riverside County, north of SR 371 and the community of Anza.

Approximately half of the land in Unit 7 is within the San Bernardino National Forest. Part of the other half of the unit, which is outside the San Bernardino National Forest, is owned by the BLM. The remainder of the unit is privately owned (Table 2), and is not planned for conservation and management under the MSHCP, but is within the MSHCP area boundary. We are considering excluding 4,371 ac (1,769 ha), all of the non-Federal lands in this unit, from the final revision to designated critical habitat under section 4(b)(2) of the Act (see Areas Considered For Exclusion Under Section 4(b)(2) of the Act section below).

Unit 8: Otay

Unit 8 consists of approximately 36,726 ac (14,863 ha) of habitat that was occupied by the subspecies at the time of listing and that remains occupied at the present time. This unit contains all of the features essential to the conservation of the subspecies (PCEs 1, 2, and 3): dwarf plantain, thread-leaved birds-beak, and purple owl's-clover host plants; nectar sources; open, woody-canopy scrublands; and hilltops (Service 2003a, pp. 50, 51; Service GIS database). Unit 8 is located in San Diego County, from the Mexican border north

to north of SR 94 in the vicinity of Otay Mountain and Otay Lakes. This unit includes land associated with the Otay Valley (core), West Otay Mountain (core), Otay Lakes/Rancho Jamul (core), Proctor Valley (non-core), Marron Valley (core), Dulzura (non-core), and Honey Springs (non-core) occurrence complexes as described in the recovery plan (Service 2003a, p. 47). New occurrence information indicates all these occurrence complexes are better described as a single Otay Mountain Core Occurrence Complex (see Background and Summary of Changes from Previously Designated Critical Habitat sections above).

Habitat in this unit is threatened by invasion of nonnative annuals, Border Patrol activity, development, trash dumping, off-road vehicle use, foot traffic, other recreational activities (Service 2003 p. 84), fire (Service 2003a, p. 61), and elevated soil nitrogen levels (Service 2003a, pp. 61, 62). Therefore, the PCEs in this unit may require special management considerations or protection to minimize impacts resulting from these threats (see Special Management Considerations or Protection section above for a detailed discussion).

Part of the land in Unit 8 is owned and managed by multiple public entities, including the BLM, the Service, and the California Department of Fish and Game (CDFG). However, a large portion of this unit remains privately owned (Table 2) and is within the San Diego County Multiple Species Conservation Program (MSCP) area. We are considering excluding 1,684 ac (681 ha) of non-Federal lands within the MSCP City of Chula Vista subarea plan area in this unit from the final revision to designated critical habitat under section 4(b)(2) of the Act (see Areas Considered For Exclusion Under Section 4(b)(2) of the Act section below).

Unit 9: La Posta/Campo

Unit 9 consists of approximately 8,393 ac (3,397 ha) of habitat that was not within the geographical area occupied at the time of listing. However, this unit is now known to be occupied, and it contains the recently described La Posta/Campo Core Occurrence Complex (see Background and Criteria Used to Identify Critical Habitat sections above). We determined the La Posta/Campo Core Occurrence Complex to be essential to the conservation of the subspecies because it is likely to contain a resilient source population (see Background and Criteria Used to Identify Critical Habitat sections above). This unit contains all of the features essential to the conservation of the subspecies (PCEs 1, 2, and 3): White snapdragon, thread-leaved birds-beak, and purple owl's-clover host plants; nectar sources; open, woody-canopy scrublands; and hilltops (PSBS 2005a, p. 18; 2005b, p. 26; O'Conner 2006, pp. 1–4, Alfaro and Alfaro 2007, pp. 6–8; Service GIS database).

Unit 9 is located in San Diego County, north and south of SR 94, and east of the community of Campo. Part of the land in Unit 9 is managed by the BLM and owned by the U.S. Department of Defense; other portions of the unit are privately owned and include Campo Band of Kumeyaay Indians Tribal lands (Table 2). The inclusion of Tribal lands in this unit serves to ensure the persistence of the La Posta/Campo Core Occurrence Complex and will contribute to the conservation and recovery of the subspecies overall. However, we recognize the importance of government-to-government relationships with Tribes, and we are seeking public comment on the appropriateness of the inclusion or exclusion of these lands in the final designation of critical habitat (see Public Comments section above).

Unit 10: Jacumba

Unit 10 consists of approximately 2,514 ac (1,017 ha) of habitat that was occupied by the subspecies at the time of listing and that remains occupied at the present time. This unit contains all of the features essential to the conservation of the subspecies (PCEs 1, 2, and 3): Dwarf plantain and woolly plantain host plants; nectar sources; open, woody-canopy scrublands; and hilltops (Service 2003a, pp. 52, 54; Service GIS database). Unit 10 is located in San Diego County, south of Interstate 8, and north of the community of Jacumba. This unit includes land associated with the Jacumba Core Occurrence Complex. Although it was described in the recovery plan as non-core (Service 2003a, p. 52), based on new occurrence information we now consider this to be a core occurrence complex (see Background and Criteria Used to Identify Critical Habitat sections above). Part of the land in Unit 10 is within Anza Borrego Desert State Park, but the majority of the unit is privately owned (Table 2).

Habitat in this unit is threatened by invasion of nonnative annuals; Border Patrol activity; habitat destruction, degradation, and fragmentation associated with development (O'Rourke and Mulligan 2007, p. 2); and off-road vehicle use, foot traffic, and other recreational uses (Service 2003a, p. 84; Service GIS satellite imagery). Therefore, the PCEs in this unit may require special management considerations or protection to minimize impacts resulting from these threats (see Special Management Considerations or Protection section above for a detailed discussion).

Effects of Critical Habitat Designation

Section 7 Consultation

Section 7(a)(2) of the Act requires Federal agencies, including the Service, to ensure that actions they fund, authorize, or carry out are not likely to destroy or adversely modify critical habitat. Decisions by the 5th and 9th Circuit Courts of Appeals have invalidated our definition of ''destruction or adverse modification'' (50 CFR 402.02) (see *Gifford Pinchot Task Force* v. *U.S. Fish and Wildlife Service*, 378 F. 3d 1059 (9th Cir 2004) and *Sierra Club* v. *U.S. Fish and Wildlife Service, et al.*, 245 F.3d 434, 442F (5th Cir 2001)), and we do not rely on this regulatory definition when analyzing whether an action is likely to destroy or adversely modify critical habitat. Under the statutory provisions of the Act, we determine destruction or adverse modification on the basis of whether, with implementation of the proposed Federal action, the affected critical habitat would remain functional to serve its intended conservation role for the species.

Section 7(a)(4) of the Act requires Federal agencies to confer with the Service on any action that is likely to jeopardize the continued existence of a species proposed for listing or result in destruction or adverse modification of proposed critical habitat. This is a procedural requirement only, as conservation recommendations in a conference report or opinion are strictly advisory.

The primary utility of the conference procedures is to allow a Federal agency to maximize its opportunity to adequately consider species proposed for listing and proposed critical habitat and, if we list the proposed species or designate proposed critical habitat, to avoid potential delays in implementing their proposed action because of the section 7(a)(2) compliance process. We may conduct conferences either informally or formally. We typically use informal conferences as a means of providing advisory conservation recommendations to assist the agency in eliminating conflicts that the proposed action may cause. We typically use formal conferences when we or the Federal agency believes the proposed action is likely to jeopardize the continued existence of the species

proposed for listing or adversely modify proposed critical habitat.

We generally provide the results of an informal conference in a conference report, while we provide the results of a formal conference in a conference opinion. We typically prepare conference opinions on proposed species or critical habitat in accordance with procedures contained at 50 CFR 402.14, as if the proposed species were already listed or the proposed critical habitat was already designated. We may adopt the conference opinion as the biological opinion when the species is listed or the critical habitat is designated, if no substantial new information or changes in the action alter the content of the opinion (see 50 CFR 402.10(d)).

If we list a species or designate critical habitat, section 7(a)(2) of the Act requires Federal agencies to ensure that activities they authorize, fund, or carry out are not likely to jeopardize the continued existence of the species or to destroy or adversely modify its critical habitat. Activities on State, Tribal, local, or private lands requiring a Federal permit (such as a permit from the U.S. Army Corps of Engineers (Corps) under section 404 of the Clean Water Act (33 U.S.C. 1251, *et seq.*) or a permit from us under section 10 of the Act) or involving some other Federal action (such as funding from the Federal Highway Administration, Federal Aviation Administration, or the Federal Emergency Management Agency) are subject to the section 7(a)(2) consultation process. Federal actions not affecting listed species or critical habitat, and actions on State, Tribal, local, or private lands that are not federally funded, authorized, or permitted, do not require section 7(a)(2) consultations.

If a Federal action may affect a listed species or its critical habitat, the responsible Federal agency (action agency) must enter into consultation with us. As a result of this consultation, we document compliance with the requirements of section 7(a)(2) through our issuance of:

(1) A concurrence letter for Federal actions that may affect, but are not likely to adversely affect, listed species or critical habitat; or

(2) A biological opinion for Federal actions that may affect, and are likely to adversely affect, listed species or critical habitat.

When we issue a biological opinion concluding that a project is likely to jeopardize the continued existence of a listed species or destroy or adversely modify critical habitat, we also provide reasonable and prudent alternatives to the project, if any are identifiable. We define ''Reasonable and prudent alternatives'' at 50 CFR 402.02 as alternative actions identified during consultation that:

- Can be implemented in a manner consistent with the intended purpose of the action,
- Can be implemented consistent with the scope of the Federal agency's legal authority and jurisdiction,
- Are economically and technologically feasible, and
- Would, in the Director's opinion, avoid jeopardizing the continued existence of the listed species or destroying or adversely modifying critical habitat.

Reasonable and prudent alternatives can vary from slight project modifications to extensive redesign or relocation of the project. Costs associated with implementing a reasonable and prudent alternative are similarly variable.

Regulations at 50 CFR 402.16 require Federal agencies to reinitiate consultation on previously reviewed actions in instances where we have listed a new species or subsequently designated critical habitat that may be affected and the Federal agency has retained discretionary involvement or control over the action (or the agency's discretionary involvement or control is authorized by law). Consequently, Federal agencies may sometimes need to request reinitiation of consultation with us on actions for which formal consultation has been completed, if those actions with discretionary involvement or control may affect subsequently listed species or designated critical habitat.

Application of the ''Adverse Modification'' Standard

The key factor related to the adverse modification determination is whether, with implementation of the proposed Federal action, the affected critical habitat would continue to serve its intended conservation role for the species. Activities that may destroy or adversely modify critical habitat are those that alter the PCEs, or other conservation role and function of the affected designated area, to an extent that appreciably reduces the conservation value of critical habitat for the Quino checkerspot butterfly. Generally, the conservation role of Quino checkerspot butterfly critical habitat units is to support viable core area populations.

Section 4(b)(8) of the Act requires us to briefly evaluate and describe, in any proposed or final regulation that designates critical habitat, activities involving a Federal action that may destroy or adversely modify such habitat, or that may be affected by such designation.

Activities that, when carried out, funded, or authorized by a Federal agency, may affect critical habitat and therefore should result in consultation for the Quino checkerspot butterfly include, but are not limited to, actions that would remove host plants and nectar sources, introduce or increase invasion rates of invasive nonnative exotic plants species, or fragment habitat. Such activities could include, but are not limited to:

- Off-road vehicle use;
- Mechanical soil disturbance;
- Clearing or grading;
- Development; and
- Pesticide use.

These activities could result in reduction or degradation of habitat necessary for the growth and reproduction of these butterflies and their host plants (including reduction or preclusion of necessary movement of adults between breeding areas), directly or cumulatively causing adverse affects to Quino checkerspot butterflies and their life cycles.

Federal agencies already consult with us on activities in areas currently occupied by the species and areas currently designated as critical habitat to ensure that their actions do not jeopardize the continued existence of the species or destroy or adversely modify designated critical habitat. These actions include, but are not limited to:

(1) Regulation of activities affecting waters of the United States, including vernal pool and other Quino checkerspot butterfly habitat areas in watersheds, by the Corps under section 404 of the Clean Water Act;

(2) Regulation of grazing, mining, and recreation by the BLM, Forest Service, or the Service;

(3) Road construction and maintenance, right-of-way designation, and regulation of agricultural activities on Federal land by BLM, Forest Service, DOD, and the Service;

(4) Regulation of airport improvement activities by the Federal Aviation Administration jurisdiction;

(5) Construction of roads and fences along the International Border with Mexico and immigration enforcement activities by the Immigration and Naturalization Service/Border Patrol that take place in Quino checkerspot butterfly habitat;

(6) Hazard mitigation and post disaster repairs funded by the Federal Emergency Management Agency;

(7) Construction of communication sites licensed by the Federal Communications Commission;

(8) Activities funded by the U.S. Environmental Protection Agency, Department of Energy, or any other Federal agency; and

(9) Construction of fire breaks by the BLM, Forest Service, Service, or other Federal agencies for the maintenance or control of fire management and suppression activities.

Exclusions

Application of Section 4(b)(2) of the Act

Section 4(b)(2) of the Act states that the Secretary must designate or revise critical habitat on the basis of the best available scientific data after taking into consideration the economic impact, national security impact, and any other relevant impact of specifying any particular area as critical habitat. The Secretary may exclude an area from critical habitat if he determines that the benefits of the exclusion outweigh the benefits of specifying the area as part of the critical habitat, unless he determines, based on the best scientific data available, that the failure to designate the area as critical habitat will result in the extinction of the species. In making that determination, the legislative history is clear that the Secretary has broad discretion regarding which factors to use and how much weight to give to any factor.

In the following sections, we address a number of general issues that are relevant to the exclusions we are considering. In addition, we are conducting an economic analysis of the impacts of the proposed critical habitat designation and related factors, which will be available for public review and comment when it is complete. Based on public comment on that document and the proposed designation itself, as well as the information in the final economic analysis, the Secretary may exclude from critical habitat areas different from those identified for possible exclusion in this proposed rule under the provisions of section 4(b)(2) of the Act, up to and including all areas proposed for designation. This is also addressed in our implementing regulations at 50 CFR 424.19.

Benefits of Designating Critical Habitat

The process of designating critical habitat as described in the Act requires that the Service identify those lands within the geographical area occupied by the species at the time of listing on which are found the physical or biological features essential to the conservation of the species that may require special management considerations or protection, and those areas outside the geographical area occupied by the species at the time of listing that are essential for the conservation of the species. In identifying those lands, the Service must consider the recovery needs of the species, such that, on the basis of the best scientific and commercial data available at the time of designation, the habitat that is identified, if protected or managed properly, could provide for the survival and recovery of the species.

The identification of those areas that are essential for the conservation of the species is beneficial. The process of proposing and finalizing a critical habitat rule provides the Service with the opportunity to determine the physical and biological features essential to the conservation of the species within the geographical area occupied by the species at the time of listing, as well as to determine other areas essential for the conservation of the species. The designation process includes peer review and public comment on the areas proposed for designation and our rationale for including them. This process is valuable to land owners and managers in developing conservation management plans for designated areas, as well as any other occupied habitat or suitable habitat that may not have been included in the Service's determination of essential habitat.

The consultation provisions under section 7(a) of the Act constitute the regulatory benefits of critical habitat. As discussed above, Federal agencies must consult with us on discretionary actions that may affect critical habitat and must avoid destroying or adversely modifying critical habitat. Federal agencies must also consult with us on discretionary actions that may affect a listed species and refrain from undertaking actions that are likely to jeopardize the continued existence of such species. The analysis of effects to critical habitat is a separate and different analysis from that of the effects to the species. Therefore, the difference in outcomes of these two analyses represents the regulatory benefit of critical habitat. For some species, and in some locations, the outcome of these analyses will be similar, because effects on habitat will often result in effects on the species. However, the regulatory standard is different: The jeopardy analysis looks at the action's impact on survival and recovery of the species, while the adverse modification analysis looks at the action's effects on the designated habitat's contribution to the species' conservation. This will, in many instances, lead to different results and different regulatory requirements. Thus, critical habitat designations may provide greater regulatory benefits to the recovery of a species than would listing alone.

There are two limitations to the regulatory effect of critical habitat. First, a section 7(a)(2) consultation is required only where there is a Federal nexus (an action authorized, funded, or carried out by any Federal agency)—if there is no Federal nexus, the critical habitat designation of private lands itself does not restrict any actions that destroy or adversely modify critical habitat. Second, the designation only limits destruction or adverse modification. By its nature, the prohibition on adverse modification is designed to ensure that the conservation role and function of those areas that contain the physical or biological features essential to the conservation of the species or of unoccupied areas that are essential for the conservation of the species is not appreciably reduced. Critical habitat designation alone, however, does not require property owners to undertake affirmative actions to promote the recovery of the species.

Once an agency determines that consultation under section 7(a)(2) of the Act is necessary, the process may conclude informally when we concur in writing that the proposed Federal action is not likely to adversely affect critical habitat. However, if we determine through informal consultation that adverse impacts are likely to occur, then we would initiate formal consultation, which would conclude when we issue a biological opinion on whether the proposed Federal action is likely to result in destruction or adverse modification of critical habitat.

If in a biological opinion we conclude that an action will result in destruction of adverse modification of critical habitat, we suggest reasonable and prudent alternatives to the proposed Federal action, if any are identifiable. If we conclude that an action will not result in destruction or adverse modification, the biological opinion may contain discretionary conservation recommendations to minimize adverse effects to, or provide a benefit to, critical habitat, but it would not contain any mandatory reasonable and prudent measures or terms and conditions directly related to critical habitat.

As stated above, the designation of critical habitat does not require that any management or recovery actions take place on the lands included in the designation. Even in cases where consultation has been initiated under section 7(a)(2) of the Act, the end result

of consultation is to avoid adverse modification of critical habitat, but not specifically to manage critical habitat or institute recovery actions on critical habitat. Conversely, voluntary conservation efforts implemented through management plans may institute proactive actions over the lands they encompass and are often put in place to remove or reduce known threats to a species or its habitat (i.e., implementing recovery actions). We believe that in many instances the benefit to a species and/or its habitat realized through the designation of critical habitat is low when compared to the conservation benefit that can be achieved through voluntary conservation efforts.

For example, the conservation achieved through implementing habitat conservation plans (HCPs) or other habitat management plans can be greater than what we achieve through multiple site-by-site, project-by-project, section 7(a)(2) consultations involving consideration of critical habitat. Management plans may commit resources to implement long-term management and protection to particular habitat for at least one and possibly additional listed or sensitive species. Section 7(a)(2) consultations commit Federal agencies to preventing adverse modification of critical habitat caused by the particular project only, and not to providing conservation or long-term benefits to areas not affected by the proposed project. Thus, implementation of any HCP or management plan that considers enhancement or recovery as the management standard will often provide as much or more benefit than a consultation for critical habitat designation.

Another benefit of including lands in critical habitat is that designation of critical habitat serves to educate landowners, State and local governments, and the public regarding the potential conservation value of an area. This helps focus and promote conservation efforts by other parties by clearly delineating areas of high conservation value for the Quino checkerspot butterfly. In general, critical habitat designation always has educational benefits; however, in some cases, they may be redundant with other educational effects. For example, HCPs have significant public input and may largely duplicate the educational benefits of a critical habitat designation. Including lands in critical habitat also would inform State agencies and local governments about areas that could be conserved under State laws or local ordinances.

The information provided in this section applies to all the following discussions that discuss the benefits of inclusion and exclusion of critical habitat.

Conservation Partnerships on Non-Federal Lands

Most federally listed species in the United States will not recover without cooperation of non-Federal landowners. More than 60 percent of the United States is privately owned (National Wilderness Institute 1995), and at least 80 percent of endangered or threatened species occur either partially or solely on private lands (Crouse, *et al.* 2002). Stein, *et al.* (1995) found that only about 12 percent of listed species were found almost exclusively on Federal lands (90 to 100 percent of their known occurrences restricted to Federal lands) and that 50 percent of federally listed species are not known to occur on Federal lands at all.

Given the distribution of listed species with respect to land ownership, conservation of listed species in many parts of the United States is dependent upon working partnerships with a wide variety of entities and the voluntary cooperation of many non-Federal landowners (Wilcove and Chen 1998; Crouse, *et al.* 2002; James 2002). Building partnerships and promoting voluntary cooperation of landowners are essential to our understanding the status of species on non-Federal lands, and necessary for us to implement recovery actions such as reintroducing listed species and restoring and protecting habitat.

Many non-Federal landowners derive satisfaction from contributing to endangered species recovery. We promote these private-sector efforts through the Department of the Interior's Cooperative Conservation philosophy. Conservation agreements with non-Federal landowners (HCPs, safe harbor agreements, other conservation agreements, easements, and State and local regulations) enhance species conservation by extending species' protections beyond those available through section 7 consultations. In the past decade, we have encouraged non-Federal landowners to enter into conservation agreements, based on the view that we can achieve greater species conservation on non-Federal land through such partnerships than we can through regulatory methods (61 FR 63854; December 2, 1996).

Many private landowners, however, are wary of the possible consequences of attracting endangered species to their property. Mounting evidence suggests that some regulatory actions by the Federal Government, while well-intentioned and required by law, can (under certain circumstances) have unintended negative consequences for the conservation of species on private lands (Wilcove, *et al.* 1996; Bean 2002; Conner and Mathews 2002; James 2002; Koch 2002; Brook, *et al.* 2003). Many landowners fear a decline in their property value due to real or perceived restrictions on land-use options where threatened or endangered species are found. Consequently, harboring endangered species is viewed by many landowners as a liability. This perception results in anti-conservation incentives, because maintaining habitats that harbor endangered species represents a risk to future economic opportunities (Main, *et al.* 1999; Brook, *et al.* 2003).

According to some researchers, the designation of critical habitat on private lands significantly reduces the likelihood that landowners will support and carry out conservation actions (Main, *et al.* 1999; Bean 2002; Brook, *et al.* 2003). The magnitude of this outcome is greatly amplified in situations where active management measures (such as reintroduction, fire management, control of invasive species) are necessary for species conservation (Bean 2002). We believe that the judicious exclusion of specific areas of non-federally owned lands from critical habitat designations can contribute to species recovery and provide a superior level of conservation.

The purpose of designating critical habitat is to contribute to the conservation of threatened and endangered species and the ecosystems upon which they depend. The outcome of the designation, triggering regulatory requirements for actions funded, authorized, or carried out by Federal agencies under section 7(a)(2) of the Act, can sometimes be counterproductive to its intended purpose on non-Federal lands. Thus the benefits of excluding areas that are covered by effective partnerships or voluntary conservation commitments can often be high.

Benefits of Excluding Lands With Approved Management Plans

Potential benefits of excluding lands within approved long-term management plans from critical habitat designation include relieving landowners, communities, and counties of any additional regulatory burden that might be imposed by critical habitat. Imposing an additional regulatory review as a result of the designation of critical habitat may undermine conservation efforts and partnerships in many areas.

Designation of critical habitat within the boundaries of management plans that provide conservation measures for a species could be viewed as a disincentive to entities currently developing these plans or contemplating them in the future, because one of the incentives for undertaking conservation is greater ease of permitting where listed species will be affected. Addition of new regulatory requirements within approved long-term management plans would remove a significant incentive for others to undertake the time and expense of management planning.

A related benefit of excluding lands within management plans from critical habitat designation is the unhindered, continued ability it gives us to seek new partnerships with future plan participants, including States, counties, local jurisdictions, conservation organizations, and private landowners, which together can implement conservation actions that we would be unable to accomplish otherwise. Designating lands within approved management plan areas as critical habitat would likely have a negative effect on our ability to establish new partnerships to develop these plans, particularly plans that address landscape-level conservation of species and habitats. By excluding lands with approved long-term management plans, we preserve our current partnerships and encourage additional management plans and other conservation actions in the future.

The information provided in the previous section applies to all the following discussions of benefits of inclusion or exclusion of critical habitat.

Areas Considered for Exclusion Under Section 4(b)(2) of the Act

After considering the following areas under section 4(b)(2) of the Act, we are considering excluding, under section 4(b)(2) of the Act, all 1,684 ac (681 ha) of non-Federal lands within the San Diego County Multiple Species Program (MSCP, a habitat conservation plan) City of Chula Vista Subarea Plan area from the revised critical habitat designation for the Quino checkerspot butterfly (see Figure 1 below), and 37,245 ac (15,073 ha) of non-Federal lands within the Multiple Species Habitat Conservation Plan area in western Riverside County. In the paragraphs below, we provide further discussion of our potential exclusion of these lands under section 4(b)(2) of the Act. We are providing the following information for public review, and specifically soliciting comments on the appropriateness of including or excluding these lands from the final critical habitat designation (see Public Comment section above).

Habitat Conservation Plan Lands—Exclusions Under Section 4(b)(2) of the Act

Under section 4(b)(2), when considering an area covered by a current plan (HCPs, as well as other types of conservation plans), we take into consideration a number of factors including:

(1) Whether the plan is complete and provides protection from adverse modification or destruction;

(2) Whether there is a reasonable expectation that the conservation management strategies and actions will be implemented for the foreseeable future, based on past practices, written guidance, or regulations; and

(3) Whether the plan provides conservation strategies and measures consistent with currently accepted principles of conservation biology.

We also consider preserving partnerships and encouraging additional HCPs and other conservation actions in the future.

San Diego County Multiple Species Conservation Program Habitat Conservation Plan (MSCP)

In southwestern San Diego County, the MSCP effort encompasses more than 582,000 ac (236,000 ha) and anticipates the participation of 12 jurisdictions. Under the broad umbrella of the MSCP, each of the 12 participating jurisdictions prepares a subarea plan that implements the goals of the MSCP within that particular jurisdiction. We consult on each subarea plan under section 7 of the Act to ensure they are consistent with the aims of the MSCP. The MSCP provides for the establishment, over a 50 year period, of approximately 171,000 ac (69,200 ha) of preserve areas to provide conservation benefits to 85 federally listed and sensitive species. Although not a covered species under the umbrella of the MSCP, the Quino checkerspot butterfly is a covered species under the City of Chula Vista Subarea Plan, which provides for the long-term conservation of this subspecies.

MSCP City of Chula Vista Subarea Plan

We approved the City of Chula Vista's Subarea Plan, covering approximately 58,000 ac (23,472 ha) under the City's jurisdiction, through an incidental take permit issued on January 12, 2005. This subarea plan was prepared with the intent to meet the following goals: (1) To conserve covered species (including the Quino checkerspot butterfly) and their habitats through the conservation of interconnected significant habitat cores and linkages; (2) to delineate and assemble a preserve using a variety of techniques including public acquisition, on- and off-site mitigation, and land use regulations; (3) to provide a preserve management program that, together with Federal and State management activities, will be carried out over the long term, further ensuring the conservation of covered species; (4) to provide necessary funding for a preserve management program and biological monitoring of the preserve; and (5) to reduce or eliminate redundant Federal, State and local natural resource regulatory and environmental review of individual projects by obtaining Federal and State take authorizations for 86 species (Chula Vista Plan 2003, Section 1, p. 2).

The City of Chula Vista developed a conservation program for the Quino checkerspot butterfly as part of the subarea plan. The city has begun implementing conservation measures for the Quino checkerspot butterfly that minimize and mitigate the impacts of take of the subspecies in its jurisdiction and contribute to the long-term conservation and recovery of the subspecies through the following actions detailed in the City of Chula Vista Subarea Plan, including: (1) Preserving the area located within the 2002 final critical habitat designation for the Quino checkerspot butterfly (67 FR 18356); (2) maintaining connectivity along key habitat linkages within the City's boundaries; (3) managing the preserve for the benefit of the Quino checkerspot butterfly (and other covered species); (4) restoring/enhancing Quino checkerspot butterfly habitat; and (5) minimizing project impacts to the Quino checkerspot butterfly (Chula Vista Subarea Plan 2003, Section 4, p. 41).

The City of Chula Vista will conserve and manage all properties dedicated to their preserve system, including 1,548 ac (626 ha) or approximately 92 percent of the 1,684 ac (681 ha) of proposed revised critical habitat in Unit 8 (Otay Unit) within the plan area. This subspecies will benefit from the system of large, interconnected blocks of habitat that the City of Chula Vista Subarea Plan will establish and preserve in perpetuity (Service 2003b, p. 70). Land within the habitat preserve will be managed and maintained in accordance with specific management objectives as follows: (1) To ensure the long-term viability and sustainability of native ecosystem function and natural processes throughout the preserve; (2) to protect existing and restored biological resources from intense or disturbing

activities within the preserve while accommodating compatible uses; (3) to enhance and restore, where feasible, appropriate native plant associations and wildlife connections to adjoining habitat to provide viable wildlife and sensitive species habitat; (4) to facilitate monitoring of selected target species, habitats, and linkages to ensure long-term persistence of viable populations of priority plant and animal species (including the Quino checkerspot butterfly); and (5) to ensure functional habitats and linkages for those species (Service 2003b, p. 18). The preserve will be adaptively managed, according to the measures included in the City of Chula Vista Subarea Plan and the MSCP, which will further reduce indirect effects and benefit the Quino checkerspot butterfly (Service 2003b, p. 70).

The Quino checkerspot butterfly is threatened primarily by urban and agricultural development, invasion of nonnative plant species, off-road vehicle use, grazing, and fire management practices (67 FR 18356, April 15, 2002). As described above, the MSCP and the approved City of Chula Vista Subarea Plan will enhance Quino checkerspot butterfly habitat by removing or reducing threats to this subspecies and its PCEs. The City of Chula Vista Subarea Plan has already preserved approximately 922 ac (373 ha) of habitat within the 1,684 ac (681 ha) of plan area that includes proposed revised critical habitat. The City of Chula Vista will not permit development within the ''Habitat Preserve 100 Percent Conservation Area'' (planned preserve) unless a Boundary Adjustment or HCP Amendment is approved by the Service. Therefore, although not all lands identified for preservation and management have been officially dedicated to the preserve system, 922 ac (373 ha) have, and we believe the 626 additional acres (253 ha) of proposed revised critical habitat identified for preservation and management are assured conservation under the City of Chula Vista Subarea Plan. Furthermore, of the remaining 164 ac (66 ha) of proposed revised critical habitat not identified for preservation and management, 28 ac (11 ha) have already been acquired for conservation under the HCP and are managed by the City of Chula Vista. The final 136 ac (55 ha) of critical habitat (8 percent of all proposed revised critical habitat under this HCP) are not currently planned for conservation; however, additional conservation would be required under the California Environmental Quality Act (CEQA) and the City of Chula Vista Subarea Plan if these areas were proposed for development in the future.

We are therefore considering excluding approximately 1,684 ac (681 ha) of non-Federal lands from final critical habitat designation for this subspecies within proposed Unit 8 (Otay) (see Table 3 and Figure 1 below).

Table 3 below provides approximate areas (ac, ha) of lands in Unit 8 that meet the definition of critical habitat but that we are considering excluding from the final critical habitat rule. Figure 1 is a map of the lands in Unit 8 that we are considering excluding from the final critical habitat rule.

TABLE 3.—AREAS BEING CONSIDERED FOR EXCLUSION WITHIN PROPOSED CRITICAL HABITAT UNIT 8

Geographic area: Unit 8 (Otay unit)	Areas meeting the definition of critical habitat in acres (hectares)	Areas considered for exclusion in acres (hectares)
BLM	7,663 (3,101)	0
CDFG	6,361 (2,574)	0
USFWS	405 (164)	0
Local	4,427 (1792)	721 (292)
State	43 (17)	3 (1)
DOD	109 (44)	0
Private	17,718 (7170)	960 (388)
Total	36,726 (14,863)	1,684 (681)

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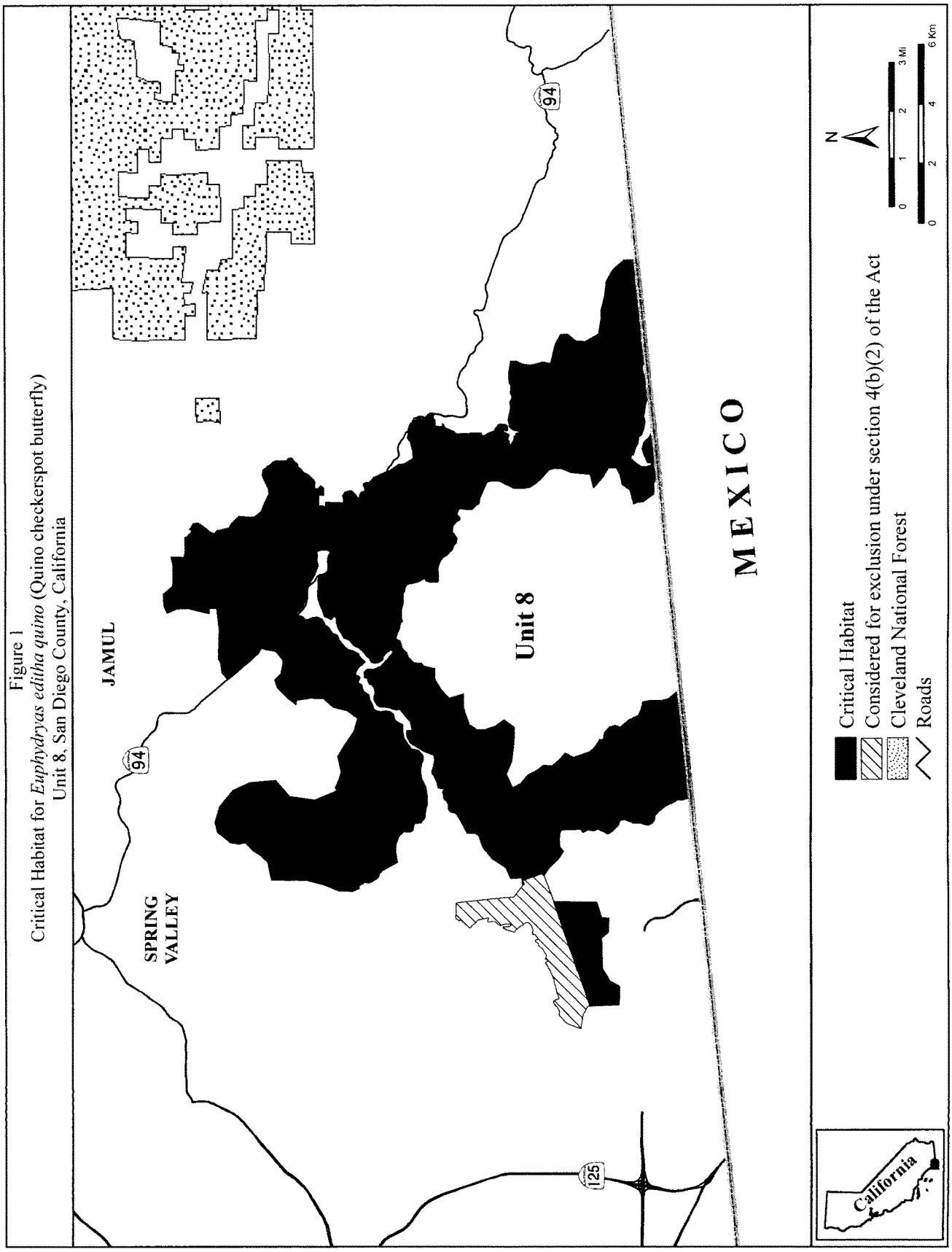

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Western Riverside County Multiple Species Habitat Conservation Plan (MSHCP)

The MSHCP is a large-scale, multi-jurisdictional habitat conservation plan (HCP) encompassing 1.26 million ac (510,000 ha) in western Riverside County. The MSHCP addresses 146 listed and unlisted ''covered species,'' including the Quino checkerspot butterfly. Participants in the MSHCP include 14 cities in western Riverside County; the County of Riverside, including the Riverside County Flood Control and Water Conservation Agency (County Flood Control), Riverside County Transportation Commission, Riverside County Parks and Open Space District (County Parks), and Riverside County Waste Department; California Department of Parks and Recreation (State Parks); and the California Department of Transportation (Caltrans). The MSHCP was designed to establish a multi-species conservation program that minimizes and mitigates the expected loss of habitat and associated incidental take of covered species. On June 22, 2004, the Service issued an incidental take permit (TE–088609–0) under section 10(a)(1)(B) of the Act to 22 permittees under the MSHCP for a period of 75 years.

The MSHCP requires establishment of approximately 153,000 ac (61,916 ha) of new conservation lands (Additional Reserve Lands) to complement the approximate 347,000 ac (140,426 ha) of pre-existing natural and open space areas defined by the MSHCP as Public/Quasi-Public (PQP) lands. These PQP lands include those under Federal ownership, primarily managed by the U.S. Forest Service (USFS) and BLM, and also permittee-owned open-space areas, primarily managed by State and County Parks. Collectively, the Additional Reserve Lands and PQP lands form the overall MSHCP Conservation Area. The configuration of the 153,000 ac (61,916 ha) of Additional Reserve Lands is not mapped or precisely identified in the MSHCP, but rather is based on textual descriptions within the bounds of a 310,000-ac (125,453-ha) Criteria Area interpreted as implementation of the MSHCP takes place. Units 1–7 of proposed revised critical habitat for the Quino checkerspot butterfly are located within the MSHCP Plan Area.

Quino checkerspot butterfly conservation measures under the MSHCP include protection of at least 67,493 ac (27,314 ha) of suitable conserved habitat mosaic within 7 ''Core Areas'' (not to be confused with ''core occurrence complexes'') and 12 satellite locations within the overall MSHCP Conservation Area. This acreage goal will be provided through private lands within the Criteria Area that are targeted for inclusion within the MSHCP Conservation Area as Additional Reserve Lands and through coordinated management of PQP lands.

To date, 28 percent (10,349 ac (4,188 ha)) of non-federal land within the proposed revision to critical habitat are within pre-existing PQP, or have been acquired for conservation and management. While 48 percent (17,686 ac (7,157 ha)) of the privately-owned acreage within proposed Units 1–7 are within the bounds of the original textual descriptions of anticipated Additional Reserve Lands (i.e., the ''Conceptual Reserve Design'' targeted for conservation), 14 percent (5,301 ac (2,145 ha)) are outside PQP lands and the Conceptual Reserve Design (not conserved or targeted for conservation), but still within the Criteria Area (possible conservation under MSHCP). Within the Criteria Area, the MSHCP allows for adjustments to be made in the final configuration of the Additional Reserve Lands. Thus, areas of proposed revised critical habitat within the Criteria Area but outside the Conceptual Reserve Design may still be included as Additional Reserve Lands under the MSHCP.

In particular, 2,819 ac (951 ha) of private land north of Tule Peak road within proposed Unit 6 (Tule Peak) are not included in PQP or the Conceptual Reserve Design. However, all non-Tribal portions of proposed Unit 6 (3,614 ac (1,463 ha)) fall within the MSHCP Criteria Area, and Condition 12 of the Special Terms and Conditions for Incidental Take Permit TE–088609–0, requires the Regional Conservation Authority to ''work to conserve the Quino checkerspot butterfly within the [Tule Peak/Silverado Core Occurrence Complex] and, if necessary, to use the Criteria Refinement Process to achieve this conservation'' (Service 2004a, p. 2). Thus, the issued incidental take permit requires, and the MSHCP provides a mechanism for, permittees to achieve additional conservation outside of the MSHCP Conservation Area in proposed Unit 6.

In addition, we have identified approximately 3,506 ac (1,418 ha) of privately-owned land in proposed Unit 7 (Bautista) (approximately 25 percent of Unit 7) and 385 ac (156 ha) in proposed Unit 2 (Skinner/Johnson) (approximately 3 percent of the Unit 2) that fall completely outside of the Criteria Area where future projects consistent with the policies and guidelines of the MSHCP may be approved for development. These areas comprise approximately 10 percent (3,891 ac (1,575 ha)) of proposed revised critical habitat considered for exclusion under the MSHCP. However, the acreage outside the Criteria Area in proposed Unit 2 is located at the outer edge of the core complexes and is approximately one percent of proposed revised critical habitat considered for exclusion. Further, threats to the subspecies within private lands in proposed Unit 7 appear lower relative to other areas where development is permitted under the MSHCP, and all private land in this area is designated as Rural Mountainous under the MSHCP (a minimum lot size of 10 ac (4 ha) and limited animal keeping and agricultural uses allowed; Dudek 2003, Vol. 1, p. xii). The Service will work to fund and facilitate conservation of additional Quino checkerspot butterfly habitat that would not otherwise be conserved under the MSHCP in proposed Unit 2 (Skinner/Johnson) and proposed Unit 7 (Bautista). If our interpretation of MSHCP-derived habitat conservation in these units is not correct or future habitat conservation is determined to be insufficient to protect the Quino checkerspot butterfly, we intend to include in the final revised critical habitat designation all or part of the 3,506 ac (1,418 ha) of privately-owned land in proposed Unit 7 (Bautista) and 385 ac (156 ha) in proposed Unit 2 (Skinner/Johnson) considered for exclusion.

In addition to habitat conservation for the Quino checkerspot butterfly, the distribution of the subspecies within the MSHCP Conservation Area will be documented through annual surveys verifying continued occupancy at a minimum of 75 percent of the known locations, and an adaptive management program will be implemented to maintain and/or enhance habitat to increase its value for, and the viability of, the Quino checkerspot butterfly (Dudek 2003, Volume I, Section 9, Table 9–2, pp. 9–28, 9–29). These ''known locations'' include all core occurrence complexes within the MSHCP Conservation Area proposed as revised critical habitat, as well as other occupied areas we have not included in our proposed revised designation. Further management actions include, but are not limited to, minimization of threats such as nonnative species invasion, farming, grazing, off-road vehicles, human collection, and other specific threats to the subspecies (Service 2004b, p. 281). We anticipate that monitoring and management will

ensure continued occupancy of all core occurrence complexes.

The Quino checkerspot butterfly is threatened primarily by urban and agricultural development, nonnative plant species invasion, off-road vehicle use, grazing, and fire management practices (67 FR 18356, April 15, 2002). As described above, the MSHCP provides enhancement of habitat by removing or reducing threats to this subspecies and the PCEs. This MSHCP preserves habitat that supports identified core populations of this subspecies and therefore may provide for recovery of this subspecies in the MSHCP area.

The habitat conservation goals, avoidance and minimization measures, and adaptive management program for the Quino checkerspot butterfly (and its PCEs) provided by the Western Riverside County MSHCP may exceed any conservation value provided as a result of regulatory protections that have been or may be afforded through critical habitat designation. We are considering exclusion of approximately 37,245 (15,073) of permittee-owned PQP and private lands from revised critical habitat designation within proposed Units 1–7 (Warm Springs Creek, Skinner/Johnson, Sage, Wilson Valley, Vail Lake/Oak Mountain, Tule Peak, and Bautista) under section 4(b)(2) of the Act. Lands within these areas considered for exclusion are owned by or fall within the jurisdiction of MSHCP permittees. Projects in these areas conducted or approved by MSHCP permittees are subject to the conservation requirements of the MSHCP. Table 4 below provides approximate areas (ac, ha) of lands in Units 1–7 that meet the definition of critical habitat but that we are considering excluding from the final critical habitat rule, and Figure 2 is a map of the lands in Units 1–7 covered by the MSHCP that we are considering excluding from the final critical habitat rule.

TABLE 4.—AREAS BEING CONSIDERED FOR EXCLUSION WITHIN PROPOSED CRITICAL HABITAT UNITS 1–7

Geographic area: Units 1–7	Areas meeting the definition of critical habitat in acres (hectares)	Areas considered for exclusion in acres (hectares)
BLM	3,074 (1,244)	0
CDFG	929 (376)	929 (376)
USFS	9,314 (3,769)	0
Local	3,312 (1,340)	3,312 (1,340)
State	74 (30)	74 (30)
Tribal	1,203 (487)	0
Private	32,930 (13,326)	32,930 (13,326)
Total	50,836 (20,573)	37,245 (15,073)

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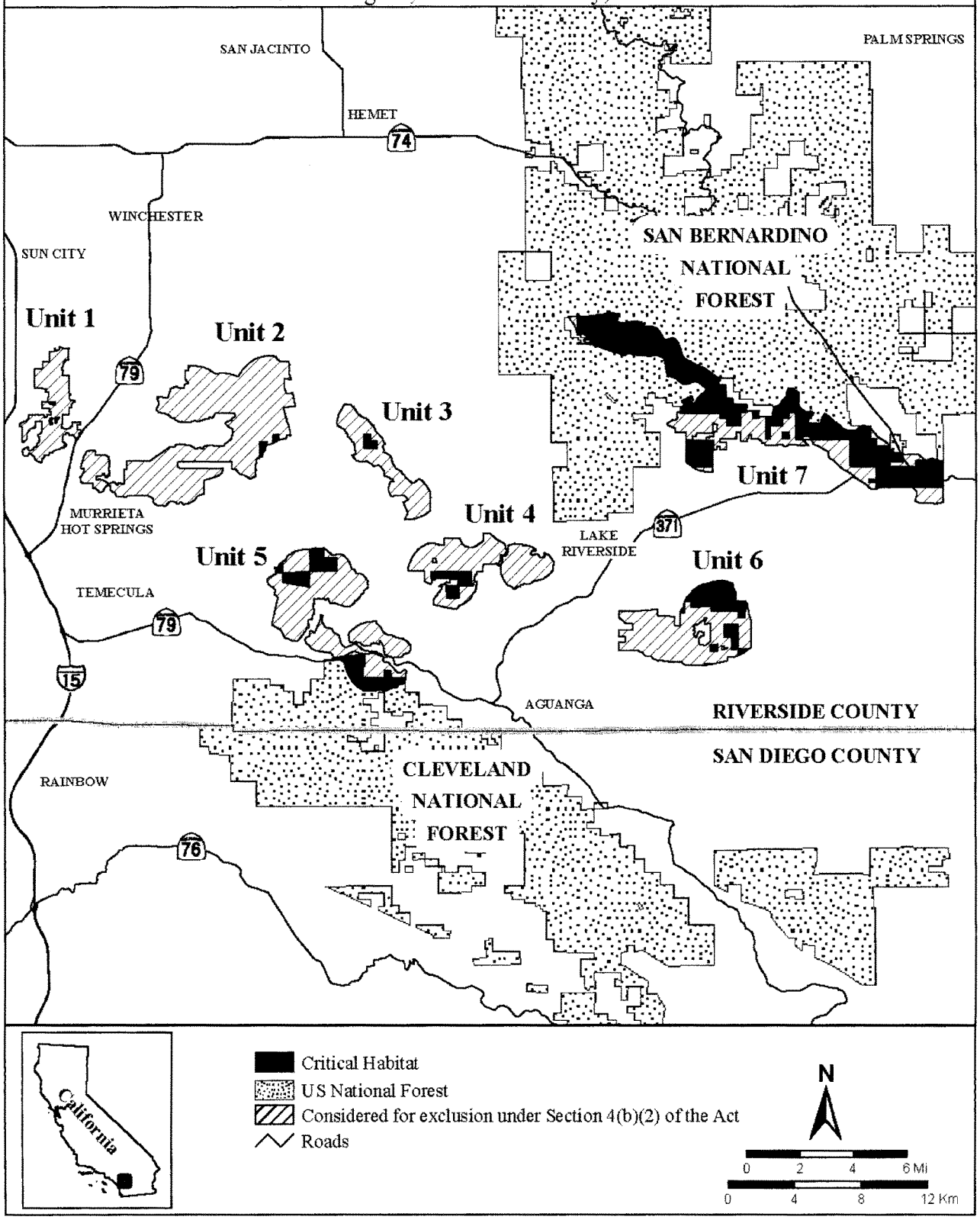
Figure 2
Critical Habitat for *Euphydryas editha quino* (Quino checkerspot butterfly)
Unit 1 through 7, Riverside County, California



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Economic Analysis

We are preparing an analysis of the economic impacts of this proposed revision to critical habitat for the Quino checkerspot butterfly. We will announce the availability of the draft economic analysis as soon as it is completed, at which time we will seek public review and comment. At that time, copies of the draft economic analysis will be available for downloading from the Internet at *http://www.regulations.gov*, or by contacting the Carlsbad Fish and Wildlife Office directly (see **ADDRESSES** section). We may exclude areas from the final rule based on the information in the economic analysis.

Peer Review

In accordance with our joint policy published in the **Federal Register** on July 1, 1994 (59 FR 34270), we are obtaining the expert opinions of at least three appropriate independent specialists regarding this proposed rule. The purpose of peer review is to ensure that our critical habitat designation is based on scientifically sound data, assumptions, and analyses. We have invited these peer reviewers to comment during this public comment period on our specific assumptions and conclusions in this proposed revised designation of critical habitat.

We will consider all comments and information we receive during the comment period on this proposed rule during our preparation of a final determination. Accordingly, our final decision may differ from this proposal.

Public Hearings

The Act provides for one or more public hearings on this proposal, if we receive any requests for hearings. We must receive your request for a public hearing within 45 days after the date of this **Federal Register** publication. Send your request to the person named in the **FOR FURTHER INFORMATION CONTACT** section. We will schedule public hearings on this proposal, if any are requested, and announce the dates, times, and places of those hearings, as well as how to obtain reasonable accommodations, in the **Federal Register** and local newspapers at least 15 days before the first hearing.

Regulatory Planning and Review

In accordance with Executive Order (E.O.) 12866, this document is a significant rule in that it may raise novel legal and policy issues, but we do not anticipate that it will have an annual effect on the economy of $100 million or more or to affect the economy in a material way. To determine the economic consequences of designating the specific area as critical habitat, we are preparing a draft economic analysis of this proposed action, which will be available for public comment. This economic analysis also will be used to determine compliance with E.O. 12866, the Regulatory Flexibility Act, the Small Business Regulatory Enforcement Fairness Act, E.O. 12630, and E.O. 13211. Due to the tight timeline for publication in the **Federal Register**, the Office of Management and Budget (OMB) has not formally reviewed this rule.

Further, E.O. 12866 directs Federal agencies promulgating regulations to evaluate regulatory alternatives (OMB Circular A–4, September 17, 2003). Under Circular A–4, once an agency determines that the Federal regulatory action is appropriate, the agency must consider alternative regulatory approaches. Because the determination of critical habitat is a statutory requirement under the Act, we must evaluate alternative regulatory approaches, where feasible, when promulgating a designation of critical habitat.

In developing our designations of critical habitat, we consider economic impacts, impacts to national security, and other relevant impacts under section 4(b)(2) of the Act. Based on the discretion allowable under this provision, we may exclude any particular area from the designation of critical habitat providing that the benefits of such exclusion outweigh the benefits of specifying the area as critical habitat and that such exclusion would not result in the extinction of the species. As such, we believe that the evaluation of the inclusion or exclusion of particular areas, or a combination of both, constitutes our regulatory alternative analysis for designations.

We will announce the availability of the draft economic analysis in the **Federal Register** and in local newspapers so that it is available for public review and comments. The draft economic analysis will also be available on the Internet at *http://www.regulations.gov* or at the Carlsbad Fish and Wildlife Office (see **ADDRESSES**).

Regulatory Flexibility Act

Under the Regulatory Flexibility Act (RFA; 5 U.S.C. 601, *et seq.*, as amended by the Small Business Regulatory Enforcement Fairness Act (SBREFA) of 1996), whenever an agency must publish a notice of rulemaking for any proposed or final rule, it must prepare and make available for public comment a regulatory flexibility analysis that describes the effects of the rule on small entities (small businesses, small organizations, and small government jurisdictions). However, no regulatory flexibility analysis is required if the head of the agency certifies the rule will not have a significant economic impact on a substantial number of small entities. SBREFA amended RFA to require Federal agencies to provide a statement of the factual basis for certifying that the rule will not have a significant economic impact on a substantial number of small entities.

At this time, we lack the available economic information necessary to provide an adequate factual basis for the required RFA finding. Therefore, we defer the RFA finding until completion of the draft economic analysis prepared under section 4(b)(2) of the Act and E.O. 12866. This draft economic analysis will provide the required factual basis for the RFA finding. Upon completion of the draft economic analysis, we will announce availability of the draft economic analysis of the proposed designation in the **Federal Register** and reopen the public comment period for the proposed designation. We will include with this announcement, as appropriate, an initial regulatory flexibility analysis or a certification that the rule will not have a significant economic impact on a substantial number of small entities accompanied by the factual basis for that determination. We have concluded that deferring the RFA finding until completion of the draft economic analysis is necessary to meet the purposes and requirements of the RFA. Deferring the RFA finding in this manner will ensure that we make a sufficiently informed determination based on adequate economic information and provide the necessary opportunity for public comment.

Unfunded Mandates Reform Act

In accordance with the Unfunded Mandates Reform Act (2 U.S.C. 1501, *et seq.*), we make the following findings:

(a) This rule will not produce a Federal mandate. In general, a Federal mandate is a provision in legislation, statute, or regulation that would impose an enforceable duty upon State, local, or Tribal governments, or the private sector, and includes both ''Federal intergovernmental mandates'' and ''Federal private sector mandates.'' These terms are defined in 2 U.S.C. 658(5)–(7). ''Federal intergovernmental mandate'' includes a regulation that ''would impose an enforceable duty upon State, local, or [T]ribal governments'' with two exceptions. It excludes ''a condition of Federal assistance.'' It also excludes ''a duty

arising from participation in a voluntary Federal program,'' unless the regulation ''relates to a then-existing Federal program under which $500,000,000 or more is provided annually to State, local, and [T]ribal governments under entitlement authority,'' if the provision would ''increase the stringency of conditions of assistance'' or ''place caps upon, or otherwise decrease, the Federal Government's responsibility to provide funding,'' and the State, local, or Tribal governments ''lack authority'' to adjust accordingly. At the time of enactment, these entitlement programs were: Medicaid; AFDC work programs; Child Nutrition; Food Stamps; Social Services Block Grants; Vocational Rehabilitation State Grants; Foster Care, Adoption Assistance, and Independent Living; Family Support Welfare Services; and Child Support Enforcement. ''Federal private sector mandate'' includes a regulation that ''would impose an enforceable duty upon the private sector, except (i) a condition of Federal assistance or (ii) a duty arising from participation in a voluntary Federal program.''

The designation of critical habitat does not impose a legally binding duty on non-Federal Government entities or private parties. Under the Act, the only regulatory effect is that Federal agencies must ensure that their actions do not destroy or adversely modify critical habitat under section 7. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency. Furthermore, to the extent that non-Federal entities are indirectly impacted because they receive Federal assistance or participate in a voluntary Federal aid program, the Unfunded Mandates Reform Act would not apply, nor would critical habitat shift the costs of the large entitlement programs listed above onto State governments.

(b) We do not believe that this rule will significantly or uniquely affect small governments because small governments will be affected only to the extent that any programs having Federal funds, permits, or other authorized activities must ensure that their actions will not adversely affect the critical habitat. Therefore, a Small Government Agency Plan is not required. However, as we conduct our economic analysis, we will further evaluate this issue and revise this assessment if appropriate. Furthermore, in accordance with the President's memorandum of April 29, 1994, Government-to-Government Relations with Native American Tribal Governments (59 FR 22951), E.O. 13175, and the Department of the Interior's manual at 512 DM 2, we acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis and are currently coordinating with affected tribes regarding this proposed critical habitat designation. See the Government-to-Government Relationship with Tribes Section below.

Takings

In accordance with E.O. 12630 (''Government Actions and Interference with Constitutionally Protected Private Property Rights''), we have analyzed the potential takings implications of designating revised critical habitat for the Quino checkerspot butterfly in a takings implications assessment. The takings implications assessment concludes that this designation of revised critical habitat for the Quino checkerspot butterfly does not pose significant takings implications for lands within or affected by the revised designation.

Federalism

In accordance with E.O. 13132 (Federalism), this proposed rule does not have significant Federalism effects. A Federalism assessment is not required. In keeping with Department of the Interior and Department of Commerce policy, we requested information from, and coordinated development of, this proposed revised critical habitat designation with appropriate State resource agencies in California. The designation may have some benefit to these governments because the areas that contain the features essential to the conservation of the subspecies are more clearly defined, and the primary constituent elements of the habitat necessary to the conservation of the subspecies are specifically identified. This information does not alter where and what federally sponsored activities may occur. However, it may assist local governments in long-range planning (rather than having them wait for case-by-case section 7 consultations to occur).

Where State and local governments require approval or authorization from a Federal agency for actions that may affect critical habitat, consultation under section 7(a)(2) would be required. While non-Federal entities that receive Federal funding, assistance, or permits, or that otherwise require approval or authorization from a Federal agency for an action, may be indirectly impacted by the designation of critical habitat, the legally binding duty to avoid destruction or adverse modification of critical habitat rests squarely on the Federal agency.

Civil Justice Reform

In accordance with E.O. 12988 (Civil Justice Reform), the Office of the Solicitor has determined that the rule does not unduly burden the judicial system and meets the requirements of sections 3(a) and 3(b)(2) of the Order. We have proposed designating critical habitat in accordance with the provisions of the Act. This proposed revision to critical habitat uses standard property descriptions and identifies the primary constituent elements within the designated areas to assist the public in understanding the habitat needs of the Quino checkerspot butterfly.

Paperwork Reduction Act of 1995

This rule does not contain any new collections of information that require approval by OMB under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501, *et seq.*). This rule will not impose recordkeeping or reporting requirements on State or local governments, individuals, businesses, or organizations. 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.

National Environmental Policy Act (NEPA)

It is our position that, outside the jurisdiction of the Circuit Court of the United States for the Tenth Circuit, we do not need to prepare environmental analyses as defined by NEPA (42 U.S.C. 4321, *et seq.*) in connection with designating critical habitat under the Act. We published a notice outlining our reasons for this determination in the **Federal Register** on October 25, 1983 (48 FR 49244). This assertion was upheld by the Circuit Court of the United States for the Ninth Circuit (*Douglas County* v. *Babbitt,* 48 F.3d 1495 (9th Cir. 1995), cert. denied 516 U.S. 1042 (1996)).

Clarity of the Rule

We are required by Executive Orders 12866 and 12988 and by the Presidential Memorandum of June 1, 1998, to write all rules in plain language. This means that each rule we publish must:

(a) Be logically organized;

(b) Use the active voice to address readers directly;

(c) Use clear language rather than jargon;

(d) Be divided into short sections and sentences; and

(e) Use lists and tables wherever possible.

If you feel that we have not met these requirements, send us comments by one of the methods listed in the **ADDRESSES** section. To better help us revise the rule, your comments should be as specific as possible. For example, you should tell us the numbers of the sections or paragraphs that are unclearly written, which sections or sentences are too long, the sections where you feel lists or tables would be useful, etc.

Government-to-Government Relationship With Tribes

In accordance with the President's memorandum of April 29, 1994, Government-to-Government Relations with Native American Tribal Governments (59 FR 22951), E.O. 13175, and the Department of the Interior's manual at 512 DM 2, we readily acknowledge our responsibility to communicate meaningfully with recognized Federal Tribes on a government-to-government basis. In accordance with Secretarial Order 3206 of June 5, 1997 (American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act), we readily acknowledge our responsibilities to work directly with Tribes in developing programs for healthy ecosystems, to acknowledge that Tribal lands are not subject to the same controls as Federal public lands, to remain sensitive to Indian culture, and to make information available to Tribes.

We are currently coordinating with affected Tribes regarding this proposed revised critical habitat designation. We have identified Tribal lands of the Cahuilla Band of Indians and the Campo Band of Kumeyaay Indians that meet the definition of critical habitat for the Quino checkerspot butterfly, and we have included these lands in this proposal. We are soliciting public comment on the appropriateness of including or excluding these lands in the final revised rule. We will continue to coordinate with the Tribal governments during the designation process.

Energy Supply, Distribution, or Use

On May 18, 2001, the President issued an Executive Order (E.O. 13211; Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use) on regulations that significantly affect energy supply, distribution, and use. E.O. 13211 requires agencies to prepare Statements of Energy Effects when undertaking certain actions. While this proposed rule to designate critical habitat for the Quino checkerspot butterfly is a significant regulatory action under E.O. 12866 in that it may raise novel legal and policy issues, we do not expect it to significantly affect energy supplies, distribution, or use. Therefore, this action is not a significant energy action, and no Statement of Energy Effects is required. However, we will further evaluate this issue as we conduct our economic analysis, and review and revise this assessment as warranted.

References Cited

A complete list of all references cited in this rulemaking is available on *http://www.regulations.gov* and upon request from the Field Supervisor, Carlsbad Fish and Wildlife Office (see **ADDRESSES** section).

Author

The primary author of this package is the staff of the Carlsbad Fish and Wildlife Office.

List of Subjects in 50 CFR Part 17

Endangered and threatened species, Exports, Imports, Reporting and recordkeeping requirements, Transportation.

Proposed Regulation Promulgation

Accordingly, we propose to amend part 17, subchapter B of chapter I, title 50 of the Code of Federal Regulations, as set forth below:

PART 17—[AMENDED]

1. The authority citation for part 17 continues to read as follows:

Authority: 16 U.S.C. 1361–1407; 16 U.S.C. 1531–1544; 16 U.S.C. 4201–4245; Pub. L. 99–625, 100 Stat. 3500; unless otherwise noted.

2. In § 17.95(i), revise the entry for ''Quino Checkerspot Butterfly (*Euphydryas editha quino*).'' to read as follows:

§ 17.95 Critical habitat—fish and wildlife.

* * * * *

(i) *Insects.*

* * * * *

Quino Checkerspot Butterfly (*Euphydryas editha quino*)

(1) Critical habitat units are depicted for Riverside and San Diego Counties, California, on the maps below.

(2) The primary constituent elements of critical habitat for the Quino checkerspot butterfly are:

(i) Open areas within scrublands at least 21.5 square feet (ft) (2 square meters (m)) in size that:

(A) Contain no woody canopy cover; and

(B) Contain one or more of the host plants *Plantago erecta, Plantago patagonica,* or *Antirrhinum coulterianum*; or

(C) Contain one or more of the host plants *Cordylanthus rigidus* or *Castilleja exserta* that are within 328 ft (100 m) of the host plants *Plantago erecta, Plantago patagonica,* or *Antirrhinum coulterianum*; or

(D) Contain flowering plants with a corolla tube less than or equal to 0.43 inches (11 millimeters) used for Quino checkerspot butterfly growth, reproduction, and feeding;

(ii) Open scrubland areas and vegetation within 656 ft (200 m) of the open canopy areas (described in paragraph (2)(i) of this entry) used for movement and basking; and

(iii) Hilltops or ridges within scrublands, linked by open areas and natural vegetation (described in paragraph (2)(ii) of this entry) to open canopy areas (described in paragraph (2)(i) of this entry) containing an open, woody-canopy area at least 21.5 square ft (2 square m) in size used for Quino checkerspot butterfly mating (hilltopping behavior).

(3) Critical habitat does not include manmade structures (such as buildings, aqueducts, airports, roads, and other paved areas) and the land on which they are located existing within the legal boundaries on the effective date of this rule.

(4) Critical habitat map units. Data layers defining map units were created on a base of USGS 1:24,000 maps, and critical habitat units were then mapped using Universal Transverse Mercator (UTM) coordinates.

(5) Note: Index map of critical habitat units for the Quino checkerspot butterfly follows:

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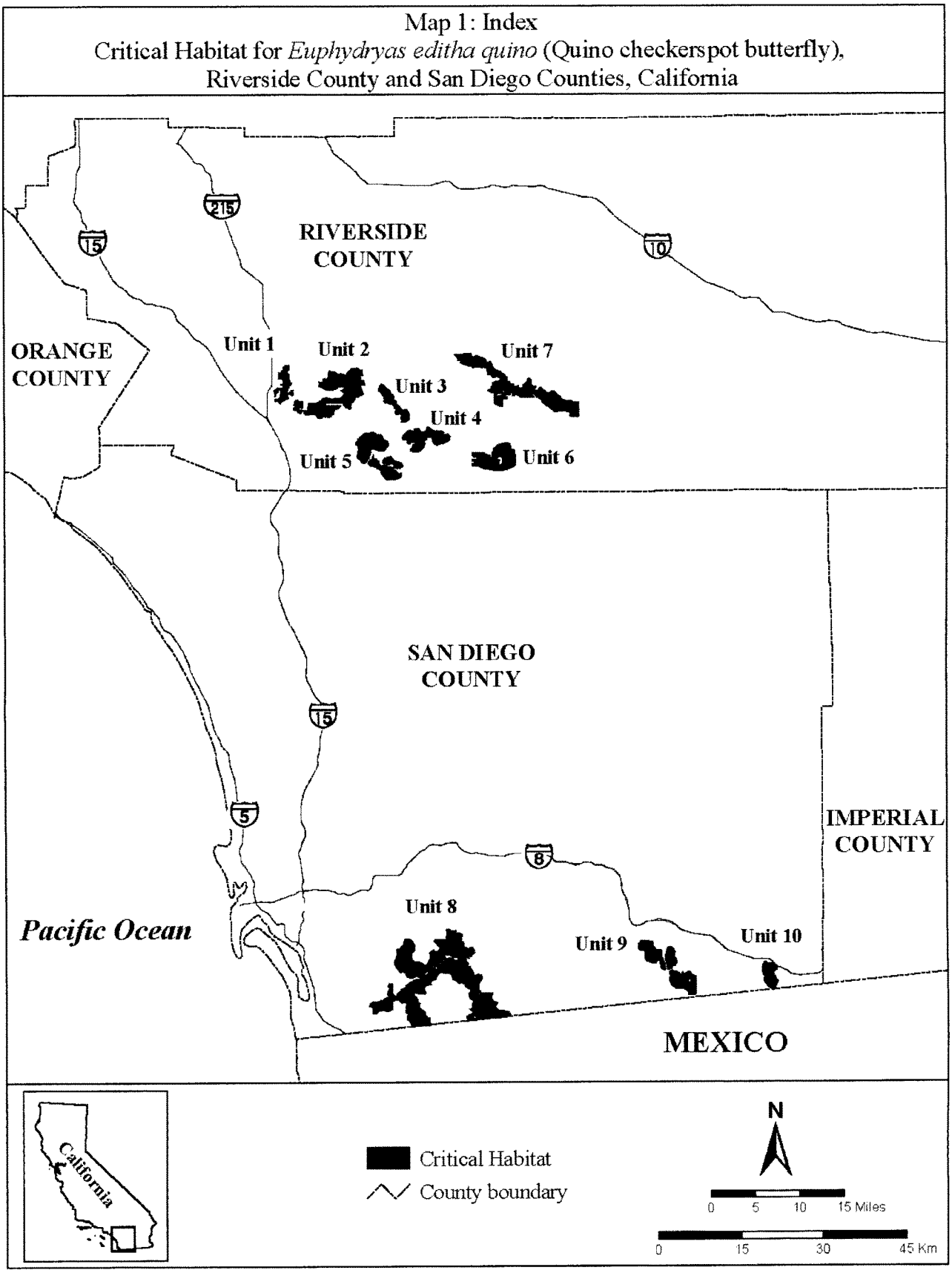

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(6) Unit 1: Warm Springs Unit, Riverside County, California.

(i) From USGS 1:24,000 quadrangles Romoland and Murrieta. Land bounded by the following Universal Transverse Mercator (UTM) North American Datum of 1927 (NAD27) coordinates (E, N): 486500, 3721400; 486594, 3721400; 486593, 3721303; 486603, 3721303; 486684, 3721219; 486714, 3721251; 486695, 3721307; 486796, 3721308; 486796, 3721400; 486800, 3721400; 486800, 3721466; 486838, 3721466; 486856, 3721483; 486906, 3721478; 486947, 3721437; 486991, 3721417; 487048, 3721404; 487109, 3721412; 487385, 3721414; 487376, 3721012; 487377, 3721007; 487386, 3720700; 487340, 3720700; 487215, 3720703; 487200, 3720663; 487163, 3720619; 487132, 3720604; 487104, 3720579; 487104, 3720517; 487070, 3720430; 487042, 3720336; 487017, 3720299; 486976, 3720246; 486973, 3720187; 487007, 3720119; 487063, 3720057; 487000, 3719916; 487000, 3719786; 487000, 3719786; 487387, 3719786; 487406, 3718785; 487522, 3718606; 487419, 3718593; 487428, 3718414; 487475, 3718323; 487742, 3718254; 487745, 3718176; 487692, 3718160; 487560, 3718057; 487560, 3717849; 487394, 3717843; 487388, 3717500; 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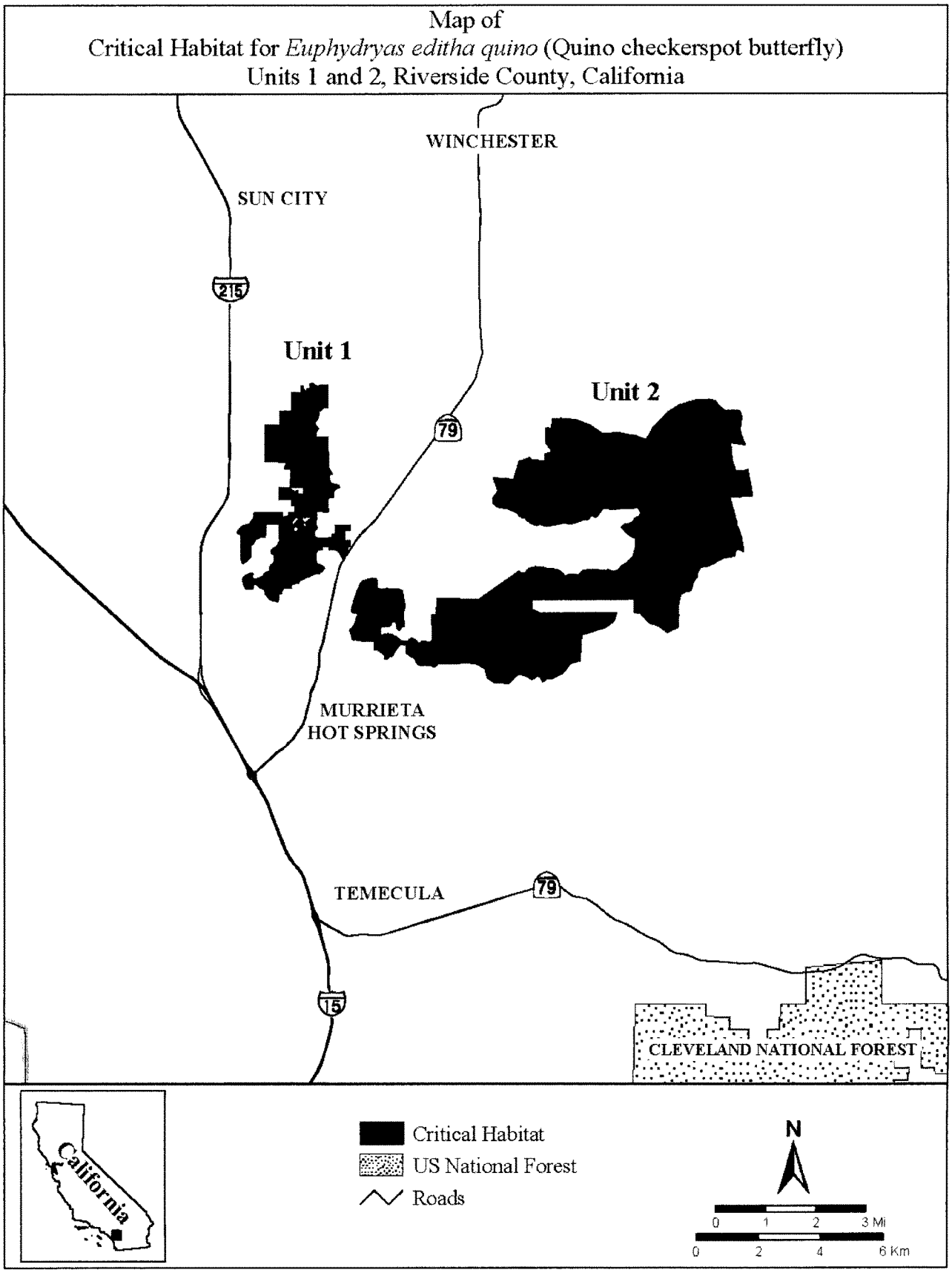
Excluding land bounded by 486582, 3717252; 486550, 3717202; 486608, 3717086; 486628, 3717059; 486574, 3717031; 486614, 3716925; 486693, 3716965; 486682, 3716995; 486650, 3717058; 486697, 3717101; 486864, 3717241; 486832, 3717270; 486786, 3717234; 486726, 3717252; 486629, 3717201; 486583, 3717252; 486582, 3717252; land bounded by 486299, 3716790; 486300, 3716789; 486317, 3716777; 486345, 3716782; 486393, 3716790; 486417, 3716836; 486422, 3716876; 486408, 3716916; 486381, 3716940; 486331, 3716940; 486297, 3716923; 486270, 3716893; 486270, 3716841; 486299, 3716790; land bounded by 486263, 3717190; 486285, 3717155; 486250, 3717111; 486206, 3717018; 486278, 3717002; 486378, 3717118; 486454, 3717173; 486393, 3717233.

(ii) Note: Map of Units 1 and 2 (Warm Springs Unit and Skinner/Johnson Unit) follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(7) Unit 2: Skinner/Johnson Unit, Riverside County, California.

(i) From USGS 1:24,000 quadrangles Murrieta, Bachelor Mountain, Winchester, Sage, and Hemet. Land bounded by the following Universal Transverse Mercator (UTM) North American Datum of 1927 (NAD27) coordinates (E, N): 493342, 3718446; 493505, 3718997; 493857, 3719125; 493926, 3719048; 494331, 3719034; 494331, 3719244; 494576, 3719307; 494366, 3719586; 494373, 3720068; 494548, 3720054; 494576, 3720354; 494876, 3720368; 495315, 3720326; 495790, 3720144; 496195, 3719879; 496691, 3719921; 497228, 3719823; 497584, 3719698; 497807, 3720095; 498268, 3720563; 498673, 3720800; 499162, 3720926; 499608, 3720947; 499818, 3720905; 499909, 3720759; 500090, 3720605; 500299, 3720612; 500586, 3720598; 500669, 3720410; 500621, 3720047; 500628, 3719893; 500767, 3719516; 500313, 3719586; 500362, 3719006; 500460, 3718706; 500676, 3718678; 500851, 3718734; 500977, 3718127; 500998, 3717897; 500279, 3717848; 500500, 3717082; 500500, 3716956; 500559, 3716838; 500652, 3716586; 500694, 3716342; 500711, 3716174; 500708, 3716117; 500564, 3716194; 500488, 3716156; 500440, 3715976; 500289, 3715938; 500090, 3715919; 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492225, 3714618; 492984, 3715139; 493508, 3715510; 493555, 3715460; 493712, 3715456; 493826, 3715617; 494051, 3715646; 494276, 3715634; 494479, 3715579; 494653, 3715574; 494785, 3715540; 494929, 3715439; 495005, 3715350; 495137, 3715413; 495340, 3715413; 495404, 3715366; 495476, 3715439; 495552, 3715528; 495697, 3715553; 495820, 3715566; 495981, 3715562; 496078, 3715553; 496163, 3715532; 496324, 3715523; 496375, 3715557; 496469, 3715515; 496553, 3715512; 496596, 3715511; 496710, 3715562; 496802, 3715669; 496931, 3715750; 497154, 3715973; 497259, 3716361; 497244, 3716539; 497020, 3716658; 496782, 3716897; 496920, 3717018; 497045, 3717030; 497185, 3717102; 497185, 3717183; 497276, 3717222; 497338, 3717246; 497391, 3717318; 497391, 3717414; 497324, 3717510; 497257, 3717524; 497204, 3717515; 497154, 3717486; 497139, 3717507; 496559, 3717478; 496201, 3717493; 496022, 3717239; 495965, 3717214; 495888, 3717265; 495802, 3717246; 495773, 3717169; 495706, 3717135; 495571, 3717135; 495432, 3717073; 495197, 3717020; 495038, 3717025; 494885, 3717025; 494774, 3716991; 494601, 3716958; 494438, 3716943; 494323, 3716948; 494203, 3716987; 494150, 3716982; 494073, 3716953; 493958, 3717001; 493814, 3717083; 493713, 3717150; 493732, 3717183; 493684, 3717212; 493651, 3717179; 493526, 3717251; 493444, 3717361; 493152, 3717492; 492789, 3717548; 492663, 3717680; 492649, 3717813; 492817, 3718043; 492761, 3718281; 492705, 3718371; 492677, 3718490; thence returning to 493342, 3718446.

(ii) Note: Map of Unit 2 is provided at paragraph (6)(ii) of this entry.

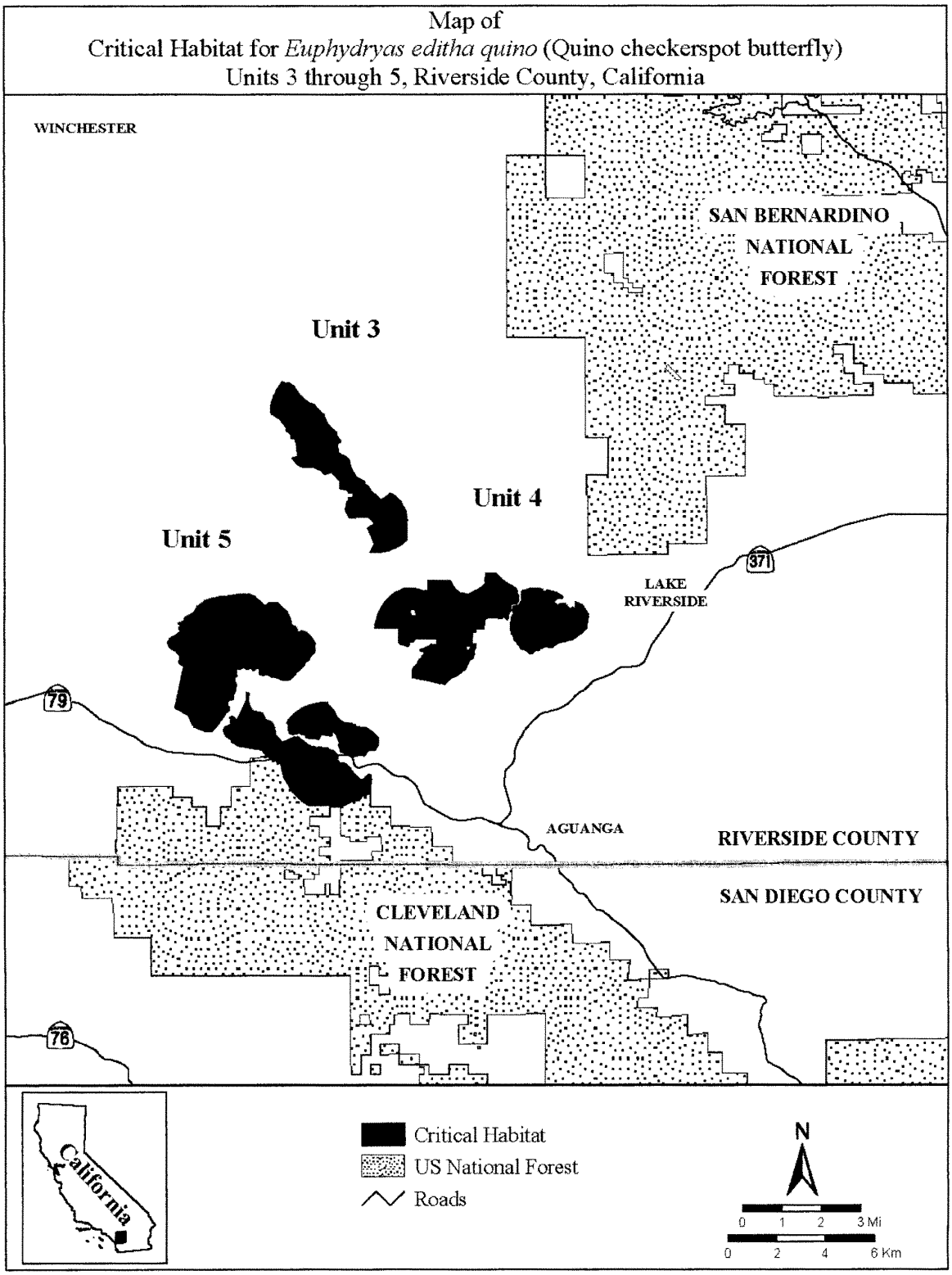
(8) Unit 3: Sage Unit, Riverside County, California.

(i) From USGS 1:24,000 quadrangle Sage. Land bounded by the following Universal Transverse Mercator (UTM) North American Datum of 1927 (NAD27) coordinates (E, N): 505329, 3717152; 505525, 3716882; 505689, 3716748; 505724, 3716732; 505731, 3716682; 505851, 3716399; 505928, 3716298; 505994, 3716256; 506110, 3716116; 506255, 3715999; 506255, 3715899; 506423, 3715660; 506393, 3715621; 506342, 3715605; 506300, 3715547; 506277, 3715493; 506284, 3715423; 506335, 3715272; 506323, 3715195; 506474, 3715090; 506633, 3715020; 506714, 3714951; 506745, 3714885; 506791, 3714813; 506791, 3714722; 506865, 3714514; 507059, 3714186; 507059, 3714186; 507326, 3714052; 507396, 3713971; 507400, 3713909; 507462, 3713878; 507527, 3713828; 507655, 3713654; 507747, 3713540; 507789, 3713516; 508057, 3713292; 508221, 3713367; 508444, 3713546; 508638, 3713441; 508891, 3713173; 509099, 3712801; 509144, 3712458; 509129, 3712160; 509120, 3711647; 508821, 3711411; 508589, 3711304; 508545, 3711284; 508420, 3711226; 507963, 3711122; 507714, 3711122; 507604, 3711132; 507774, 3711505; 507506, 3712160; 507804, 3712324; 507550, 3712563; 507133, 3712578; 506791, 3712533; 506582,

3712875; 506657, 3713233; 506722, 3713230; 506726, 3713379; 506923, 3713379; 506912, 3713534; 506722, 3713530; 506722, 3713615; 506633, 3713662; 506374, 3713724; 506359, 3714037; 506031, 3714395; 505763, 3714305; 505584, 3714454; 505298, 3714609; 504886, 3714595; 504655, 3714679; 504397, 3714986; 504634, 3715042; 504601, 3715422; 504517, 3715742; 504390, 3715761; 504383, 3715900; 504292, 3715984; 504157, 3716090; 504176, 3716194; 504062, 3716327; 503929, 3716545; 503759, 3716630; 503559, 3716752; 503513, 3716931; 503555, 3717141; 503614, 3717360; 503673, 3717529; 503765, 3717697; 503917, 3717941; 504013, 3718049; 504138, 3718005; 504308, 3718005; 504498, 3717882; 504612, 3717711; 504744, 3717502; 504925, 3717322; 505124, 3717209; thence returning to 505329, 3717152.

(ii) Note: Map of Units 3, 4, and 5 (Sage Unit, Wilson Valley Unit, and Vail Lake/Oak Mountain Unit) follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(9) Unit 4: Wilson Valley Unit, Riverside County, California.

(i) From USGS 1:24,000 quadrangles Cahuilla Mountain, Sage, and Vail Lake. Land bounded by the following Universal Transverse Mercator (UTM) North American Datum of 1927 (NAD27) coordinates (E, N): 512349, 3710299; 512734, 3710299; 513121, 3709941; 513587, 3709678; 513636, 3709588; 513636, 3709519; 513636, 3709477; 513652, 3709445; 513671, 3709410; 513691, 3709379; 513699, 3709347; 513699, 3709297; 513699, 3709281; 513695, 3709272; 513704, 3709236; 513704, 3709200; 513690, 3709176; 513682, 3709142; 513673, 3709101; 513626, 3709068; 513563, 3709021; 513508, 3709024; 513452, 3709040; 513405, 3709021; 513383, 3708974; 513383, 3708911; 513383, 3708855; 513397, 3708792; 513389, 3708739; 513347, 3708706; 513317,

3708670; 513281, 3708610; 513281, 3708554; 513276, 3708458; 513258, 3708368; 513096, 3708522; 513054, 3708467; 513009, 3708447; 512944, 3708447; 512852, 3708467; 512750, 3708472; 512688, 3708455; 512613, 3708460; 512499, 3708465; 512429, 3708457; 512372, 3708452; 512307, 3708385; 512287, 3708035; 512232, 3708005; 511931, 3708001; 511951, 3707873; 511815, 3707873; 511822, 3707739; 511805, 3707739; 511801, 3707433; 511947, 3707432; 511953, 3707304; 511885, 3707156; 511855, 3706843; 511721, 3706784; 511512, 3706396; 511170, 3706128; 510887, 3706009; 510693, 3705786; 510261, 3705860; 509308, 3706054; 509308, 3706307; 509366, 3706452; 509488, 3706574; 509545, 3706646; 509550, 3706708; 509633, 3706809; 509725, 3706843; 509705, 3706944; 509793, 3706966; 509793, 3707132; 509671, 3707115; 509654, 3707201; 510004, 3707343; 510118, 3707426; 510314, 3707395; 510314, 3707612; 509436, 3707617; 509426, 3707524; 509204, 3707503; 509204, 3707374; 509154, 3707302; 508784, 3707433; 508755, 3708045; 507789, 3708054; 507806, 3708252; 507876, 3708505; 507963, 3708723; 508076, 3708932; 508224, 3709141; 508416, 3709359; 508622, 3709515; 508643, 3709514; 508653, 3709524; 508995, 3709688; 509442, 3709688; 509770, 3709584; 509978, 3709599; 509978, 3709986; 510529, 3709986; 510872, 3709986; 510914, 3709980; 511075, 3709669; 511274, 3709502; 511647, 3709432; 511944, 3709578; 512214, 3709750; 512321, 3709853; 512321, 3710025; 512338, 3710155; thence returning to 512349, 3710299. Excluding land bounded by 511571, 3707318; 511590, 3707182; 511689, 3707184; 511715, 3707251; 511714, 3707318; land bounded by 509258, 3708799; 509245, 3708748; 509292, 3708557; 509519, 3708562; 509442, 3708799. Returning to lands bounded by 513805, 3709554; 514178, 3709688; 514582, 3709657; 514612, 3709641; 514673, 3709630; 514679, 3709556; 514848, 3709545; 514843, 3709619; 515281, 3709494; 515515, 3709325; 515505, 3709275; 515473, 3709258; 515422, 3709247; 515402, 3709246; 515380, 3709258; 515361, 3709262; 515338, 3709288; 515319, 3709288; 515305, 3709275; 515282, 3709258; 515251, 3709236; 515243, 3709218; 515234, 3709192; 515212, 3709177; 515201, 3709173; 515183, 3709151; 515159, 3709110; 515142, 3709084; 515152, 3709066; 515171, 3709058; 515237, 3709039; 515268, 3709020; 515294, 3709003; 515316, 3709000; 515336, 3709007; 515373, 3709026; 515405, 3709039; 515425, 3709043; 515446, 3709026; 515473, 3709058; 515500, 3709066; 515548, 3709061; 515573, 3709056; 515595, 3709048; 515614, 3709040; 515635, 3709013; 515672, 3709005; 515684, 3708990; 515693, 3708955; 515711, 3708930; 515765, 3708871; 515829, 3708857; 515877, 3708872; 515925, 3708905; 515928, 3708910; 515939, 3708908; 515963, 3708892; 515990, 3708863; 516005, 3708842; 516021, 3708853; 516008, 3708885; 516001, 3708928; 516009, 3708948; 516005, 3708978; 516005, 3709001; 516001, 3709027; 516005, 3709050; 516005, 3709085; 516000, 3709121; 516003, 3709134; 516293, 3709018; 516576, 3708601; 516497, 3708071; 516304, 3707868; 516085, 3707715; 515954, 3707614; 515637, 3707519; 515366, 3707461; 515216, 3707364; 515117, 3707274; 514885, 3707298; 514839, 3707306; 514786, 3707319; 514728, 3707268; 514659, 3707246; 514614, 3707242; 514583, 3707225; 514555, 3707166; 514540, 3707130; 514459, 3707136; 514381, 3707132; 514272, 3707031; 514205, 3706990; 514147, 3707005; 514102, 3707048; 514067, 3707091; 514016, 3707128; 513951, 3707156; 513859, 3707175; 513798, 3707207; 513755, 3707270; 513723, 3707326; 513519, 3707590; 513482, 3707700; 513435, 3707772; 513426, 3707786; 513372, 3707934; 513345, 3708008; 513374, 3708258; 513346, 3708285; 513367, 3708325; 513372, 3708380; 513389, 3708480; 513422, 3708565; 513463, 3708607; 513469, 3708654; 513469, 3708692; 513452, 3708712; 513450, 3708745; 513450, 3708833; 513458, 3708877; 513472, 3708927; 513499, 3708946; 513543, 3708966; 513571, 3708971; 513590, 3708971; 513635, 3708974; 513665, 3708982; 513709, 3708993; 513742, 3709057; 513817, 3709165; 513820, 3709231; 513817, 3709262; 513825, 3709265; 513801, 3709544; thence returning to 513805, 3709554.

(ii) Note: Map of Unit 4 is provided at paragraph (8)(ii) of this entry.

(10) Unit 5: Vail Lake/Oak Mountain Unit, Riverside County, California.

(i) From USGS 1:24,000 quadrangles Bachelor Mountain, Sage, Pechanga, and Vail Lake. Land bounded by the following Universal Transverse Mercator (UTM) North American Datum of 1927 (NAD27) coordinates (E, N): 500789, 3709170; 501057, 3709256; 501518, 3709360; 501801, 3709375; 502218, 3709450; 502695, 3709435; 502903, 3709316; 503261, 3709003; 503276, 3708988; 503348, 3708996; 503445, 3709072; 503607, 3709072; 503802, 3709072; 503899, 3708985; 504029, 3708888; 504180, 3708759; 504306, 3708515; 504355, 3708382; 504362, 3708284; 504432, 3708166; 504537, 3708152; 504614, 3708068; 504648, 3707921; 504774, 3707942; 504865, 3707942; 505002, 3707895; 505124, 3707773; 505254, 3707625; 505350, 3707486; 505372, 3707437; 505335, 3707376; 505346, 3707247; 505357, 3707096; 505238, 3706988; 505152, 3706912; 505109, 3706772; 504957, 3706685; 504893, 3706523; 504684, 3706338; 504688, 3706333; 504666, 3706311; 504595, 3706277; 504558, 3706203; 504483, 3706128; 504409, 3706046; 504278, 3705960; 504077, 3705945; 503976, 3705968; 503722, 3706068; 503610, 3706053; 503371, 3706177; 503222, 3706128; 503069, 3706177; 503020, 3706404; 502957, 3706449; 502815, 3706322; 502718, 3706460; 502614, 3706397; 502506, 3706408; 502416, 3706460; 502259, 3706397; 502132, 3706423; 502147, 3706142; 502130, 3706106; 502108, 3706101; 502077, 3706085; 502075, 3706077; 502076, 3706057; 502075, 3706039; 502065, 3705991; 502070, 3705994; 502069, 3705992; 502071, 3705956; 502074, 3705903; 502075, 3705885; 502099, 3705848; 502141, 3705785; 502096, 3705671; 502093, 3705508; 502027, 3705404; 502006, 3705209; 501930, 3705150; 501815, 3705137; 501787, 3705102; 501753, 3704963; 501749, 3704922; 501839, 3704849; 501836, 3704734; 501784, 3704682; 501659, 3704637; 501659, 3704568; 501631, 3704488; 501555, 3704419; 501468, 3704308; 501458, 3704252; 501395, 3704224; 501361, 3704186; 501361, 3704145; 501319, 3704082; 501271, 3704030; 501177, 3703947; 501101, 3703871; 500848, 3703894; 500372, 3704073; 500133, 3704550; 499606, 3704843; 499592, 3704856; 499957, 3706503; 499761, 3706664; 499806, 3706947; 499627, 3707141; 499514, 3707178; 499509, 3707191; 499362, 3707290; 499338, 3707398; 499310, 3707486; 499322, 3707557; 499390, 3707649; 499493, 3707736; 499625, 3707800; 499716, 3707852; 499808, 3707908; 499852, 3707939; 499752, 3708027; 499748, 3708099; 499848, 3708135; 499732, 3708272; 499848, 3708314; 499967, 3708361; 499995, 3708461; 500067, 3708529; 500150, 3708576; 500214, 3708624; 500306, 3708676; 500389, 3708732; 500441, 3708783; 500528, 3708947; 500624, 3709034; 500692, 3709062; 500759, 3709090; 500779, 3709126; thence returning to 500789, 3709170. Continuing to 501902, 3703471; 501902, 3703531; 501860, 3703579; 501777, 3703649; 501697, 3703704; 501659, 3703767; 501621, 3703822; 501600, 3703874; 501572,

3703952; 501659, 3704087; 501871, 3704191; 501890, 3704266; 501849, 3704482; 501961, 3704512; 502147, 3704371; 502170, 3704389; 502349, 3704774; 502457, 3704994; 502532, 3705195; 502535, 3705289; 502517, 3705468; 502662, 3705415; 502621, 3705322; 502617, 3705102; 502670, 3704915; 502759, 3704747; 502845, 3704706; 503188, 3704635; 503263, 3704490; 503323, 3704378; 503491, 3704307; 503625, 3704195; 503703, 3703997; 503744, 3703736; 503871, 3703579; 504021, 3703464; 504511, 3703677; 504575, 3703662; 504635, 3703673; 504691, 3703659; 504753, 3703604; 504874, 3703515; 504990, 3703411; 505060, 3703351; 505141, 3703328; 505208, 3703302; 505284, 3703300; 505384, 3703258; 505442, 3703244; 505498, 3703253; 505611, 3703260; 505765, 3703223; 505869, 3703226; 505936, 3703172; 505992, 3703133; 506068, 3703137; 506126, 3703103; 506187, 3703045; 506240, 3702984; 506300, 3702915; 506296, 3702868; 506293, 3702810; 506261, 3702769; 506252, 3702757; 506316, 3702690; 506347, 3702632; 506414, 3702599; 506483, 3702613; 506548, 3702609; 506641, 3702551; 506750, 3702439; 506855, 3702312; 506950, 3702184; 507049, 3702105; 507084, 3702034; 507200, 3701927; 507281, 3701931; 507367, 3701971; 507423, 3702031; 507478, 3702089; 507520, 3702129; 507566, 3702156; 507568, 3702156; 507670, 3702092; 507681, 3701932; 507655, 3701862; 507662, 3701799; 507662, 3701769; 507634, 3701746; 507615, 3701716; 507615, 3701662; 507615, 3701595; 507618, 3701551; 507569, 3701386; 507550, 3701348; 507431, 3701273; 507430, 3701273; 507430, 3701271; 507351, 3701238; 507297, 3701252; 507235, 3701220; 507209, 3701175; 507193, 3701108; 507151, 3701066; 507073, 3701043; 506996, 3701039; 506945, 3701039; 506885, 3701048; 506783, 3701004; 506648, 3700939; 506574, 3700867; 506479, 3700851; 506344, 3700858; 506326, 3700865; 505913, 3700872; 505803, 3700862; 505793, 3700856; 505495, 3700856; 505093, 3700856; 504736, 3701094; 504393, 3701452; 504065, 3702003; 503916, 3702584; 503574, 3702777; 503350, 3702881; 503157, 3703149; 502844, 3703194; 502546, 3703239; 502233, 3703284; thence returning to 501902, 3703471. Continuing to 505858, 3705060; 505867, 3704981; 506121, 3704713; 506121, 3704713; 506245, 3704470; 506410, 3704328; 506585, 3704229; 506717, 3704229; 506949, 3704177; 507029, 3704102; 507218, 3704050; 507455, 3704040; 507625, 3703924; 507938, 3703611; 507938, 3703343; 507804, 3703135; 507536, 3703105; 507371, 3702882; 507322, 3702907; 507081, 3702902; 506958, 3702869; 506892, 3702840; 506774, 3702925; 506642, 3702940; 506524, 3703015; 506439, 3703053; 506401, 3703062; 506352, 3703160; 506362, 3703223; 506301, 3703317; 506314, 3703364; 506333, 3703405; 506308, 3703499; 506274, 3703588; 506211, 3703750; 506145, 3703809; 506108, 3703871; 506119, 3703903; 506065, 3703873; 506046, 3703831; 506039, 3703798; 506072, 3703755; 506035, 3703701; 506030, 3703678; 505983, 3703684; 505926, 3703715; 505877, 3703720; 505816, 3703727; 505762, 3703762; 505729, 3703762; 505574, 3703739; 505522, 3703577; 505507, 3703557; 505409, 3703591; 505313, 3703604; 505173, 3703602; 504976, 3703638; 504955, 3703706; 504929, 3703762; 504865, 3703765; 504802, 3703762; 504762, 3703795; 504715, 3703817; 504673, 3703817; 504635, 3703804; 504550, 3703793; 504484, 3703771; 504442, 3703762; 504388, 3703776; 504327, 3703776; 504275, 3703846; 504230, 3704039; 504254, 3704180; 504190, 3704229; 504278, 3704403; 504351, 3704475; 504520, 3704632; 504774, 3704802; 504938, 3704887; 505107, 3704941; 505362, 3705014; 505670, 3705056; 505834, 3705062; thence returning to 505858, 3705060.

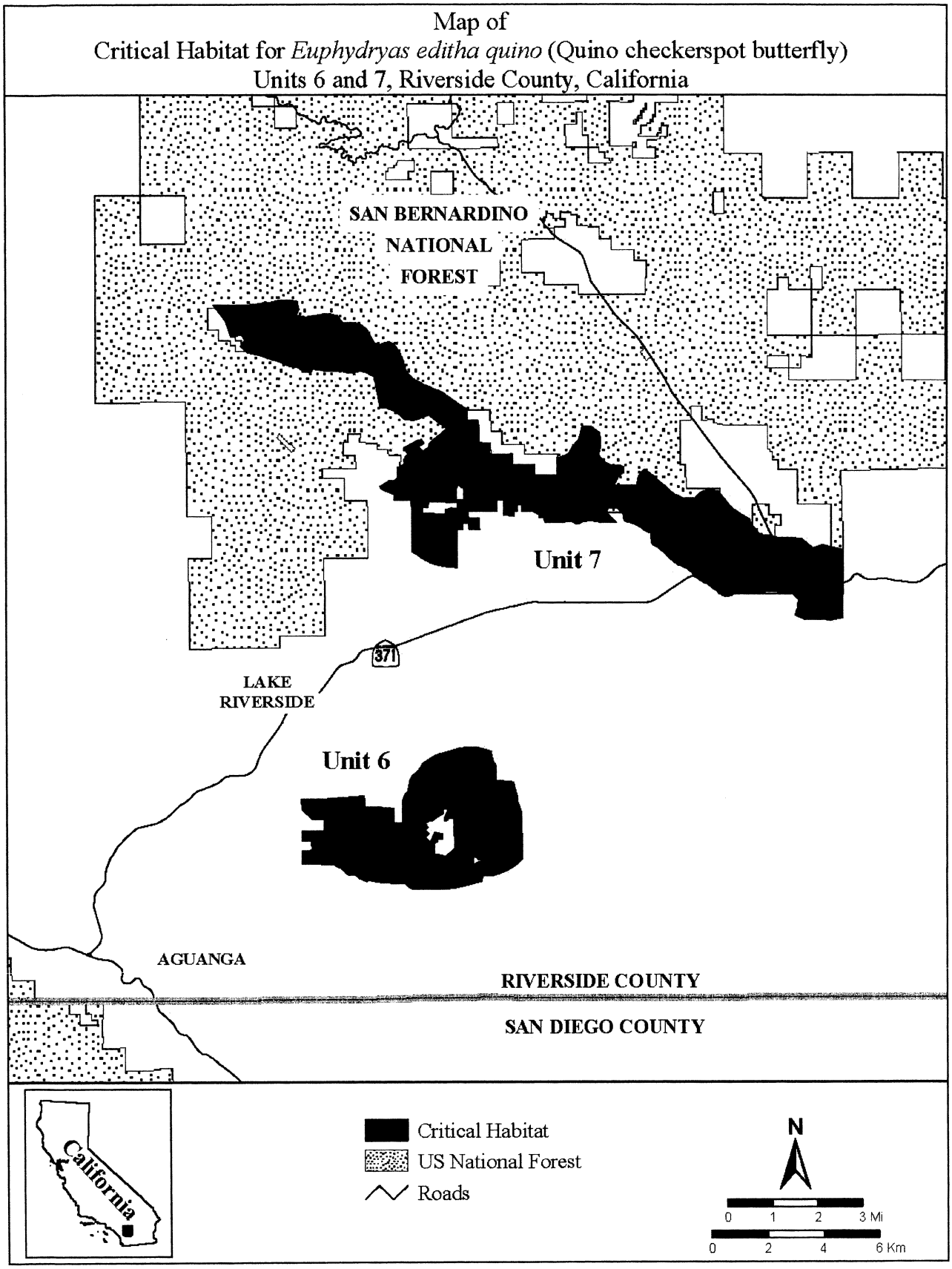
(ii) Note: Map of Unit 5 is provided at paragraph (8)(ii) of this entry.

(11) Unit 6: Tule Peak Unit, Riverside County, California.

(i) From USGS 1:24,000 quadrangles Aguanga, Beauty Mountain, and Anza. Land bounded by the following Universal Transverse Mercator (UTM) North American Datum of 1927 (NAD27) coordinates (E, N): 527475, 3707014; 527579, 3706810; 527586, 3706637; 527579, 3706302; 528047, 3706281; 528201, 3706248; 528280, 3705950; 528350, 3705712; 528358, 3705554; 528494, 3705157; 528522, 3703481; 528424, 3703391; 528288, 3703275; 528131, 3703168; 527953, 3703067; 527817, 3703001; 527655, 3702945; 527497, 3702905; 527320, 3702875; 527092, 3702864; 527082, 3702804; 527062, 3702692; 527055, 3702673; 526075, 3702431; 525632, 3702382; 524598, 3702387; 524388, 3702482; 524303, 3702597; 523674, 3702616; 523369, 3702644; 523159, 3702687; 522964, 3702716; 522910, 3702657; 522905, 3702673; 522726, 3702741; 522621, 3702788; 522553, 3702837; 522481, 3702917; 522361, 3702917; 522243, 3702917; 522163, 3702951; 522092, 3703026; 522045, 3703078; 521949, 3703153; 521853, 3703202; 521782, 3703224; 521720, 3703279; 521194, 3703298; 520529, 3703293; 520529, 3703789; 520920, 3703803; 520892, 3704117; 520529, 3704145; 520529, 3704501; 521346, 3704501; 521353, 3704892; 520962, 3704892; 520543, 3705248; 520515, 3705646; 521325, 3705647; 522829, 3705768; 522872, 3705362; 523284, 3705362; 523894, 3705312; 523894, 3704790; 524209, 3704783; 524197, 3705579; 524242, 3705714; 524298, 3705827; 524381, 3705883; 524406, 3706038; 524466, 3706309; 524566, 3706507; 524669, 3706567; 524787, 3706707; 524864, 3706784; 524913, 3706881; 524969, 3706944; 525080, 3707007; 525192, 3707084; 525367, 3707189; 525527, 3707265; 525695, 3707307; 525862, 3707349; 526065, 3707398; 526260, 3707461; 526490, 3707496; 526965, 3707482; 527405, 3707342; thence returning to 527475, 3707014. Excluding land bounded by 526752, 3703318; 526769, 3703312; 526825, 3703312; 526886, 3703374; 527076, 3703418; 527076, 3703452; 526931, 3703457; 526870, 3703530; 526747, 3703530; land bounded by 525025, 3704734; 525028, 3704729; 525114, 3704617; 525019, 3704511; 525147, 3704394; 525013, 3704260; 525197, 3704087; 525365, 3704450; 525638, 3704383; 525632, 3704182; 525476, 3704193; 525476, 3704126; 525365, 3704043; 525365, 3703664; 525760, 3703586; 526056, 3703842; 526056, 3704249; 526050, 3704929; 525838, 3704923; 525838, 3704873; 525710, 3704840; 525699, 3704973; 525771, 3705096; 525833, 3705263; 525677, 3705258; 525666, 3705090; 525526, 3705035; 525242, 3704834; 525181, 3704868; 525025, 3704745.

(ii) Note: Map of Units 6 and 7 (Tule Peak Unit and Bautista Unit) follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(12) Unit 7: Bautista Unit, Riverside County, California.

(i) From USGS 1:24,000 quadrangles Anza, Butterfly Peak, Blackburn Canyon, and Idyllwild. Land bounded by the following Universal Transverse Mercator (UTM) North American Datum of 1927 (NAD27) coordinates (E, N): 524560, 3714498; 524562, 3714972; 524557, 3715902; 524557, 3715902; 524540, 3716322; 524106, 3716328; 523941, 3716325; 523934, 3716544; 523712, 3716630; 523510, 3716706; 523421, 3716838; 523620, 3716961; 523745, 3717030; 523855, 3717037; 523954, 3717044; 524017, 3717110; 524050, 3717173; 524040, 3717534; 524146, 3717524; 524148, 3717529; 524286, 3717629; 524357, 3717728; 524338, 3717785; 524338, 3717903; 524404, 3717946; 524428, 3718012; 524328, 3718111; 524276, 3718215; 524305, 3718234; 524711, 3718447; 524811, 3718499; 524924, 3718518; 524981, 3718447; 524986, 3718372; 524943, 3718329; 524877, 3718286; 524820, 3718272; 524887, 3718178; 524953, 3718116; 525005, 3718107; 525062, 3718154; 525137, 3718201; 525161, 3718209; 525211, 3718357; 525300, 3718476; 525548, 3718655; 525825, 3718902; 525191, 3719388; 524646, 3719180; 524319, 3719229; 523992, 3719517; 523694, 3719626; 523447, 3719626; 523269, 3720531; 523262, 3720550; 523268, 3720585; 523232, 3720633; 523222, 3720769; 522979, 3720895; 522824, 3720934; 522658, 3720934; 522474, 3720905; 522280, 3720895; 522047, 3720953; 521813, 3720943; 521590, 3720963; 521444, 3720953; 521269, 3721002; 521007, 3721041; 520929, 3720905; 520706, 3720924; 520454, 3721079; 520269, 3721109; 520075, 3721147; 519871, 3721264; 519653, 3721339; 519559, 3721358; 519178, 3721499; 518641, 3721626; 518585, 3721682; 518373, 3721852; 518556, 3722064; 518415, 3722247; 518048, 3722163; 517836, 3722756; 517681, 3722968; 517412, 3723307; 517998, 3723314; 518309, 3723314; 518606, 3723314; 518888, 3723342; 519199, 3723384; 519425, 3723384; 519792, 3723483; 520230, 3723483; 520442, 3723427; 520498, 3723158; 520414, 3722961; 520752, 3722890; 521353, 3722996; 521649, 3722996; 521904, 3722939; 522073, 3722699; 522398, 3722685; 522525, 3722685; 522779, 3722600; 523005, 3722403; 523118, 3722177; 523259, 3721951; 523471, 3721923; 523754, 3722007; 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(ii) Note: Map of Unit 7 is provided at paragraph (11)(ii) of this entry.

(13) Unit 8: Otay Unit, San Diego County, California.

(i) From USGS 1:24,000 quadrangles Jamul Mountains, Dulzura, Otay Mesa, Otay Mountain, and Tecate. Land bounded by the following Universal Transverse Mercator (UTM) North American Datum of 1927 (NAD27) coordinates (E, N): 509542, 3613586; 509659, 3613642; 509894, 3613531;

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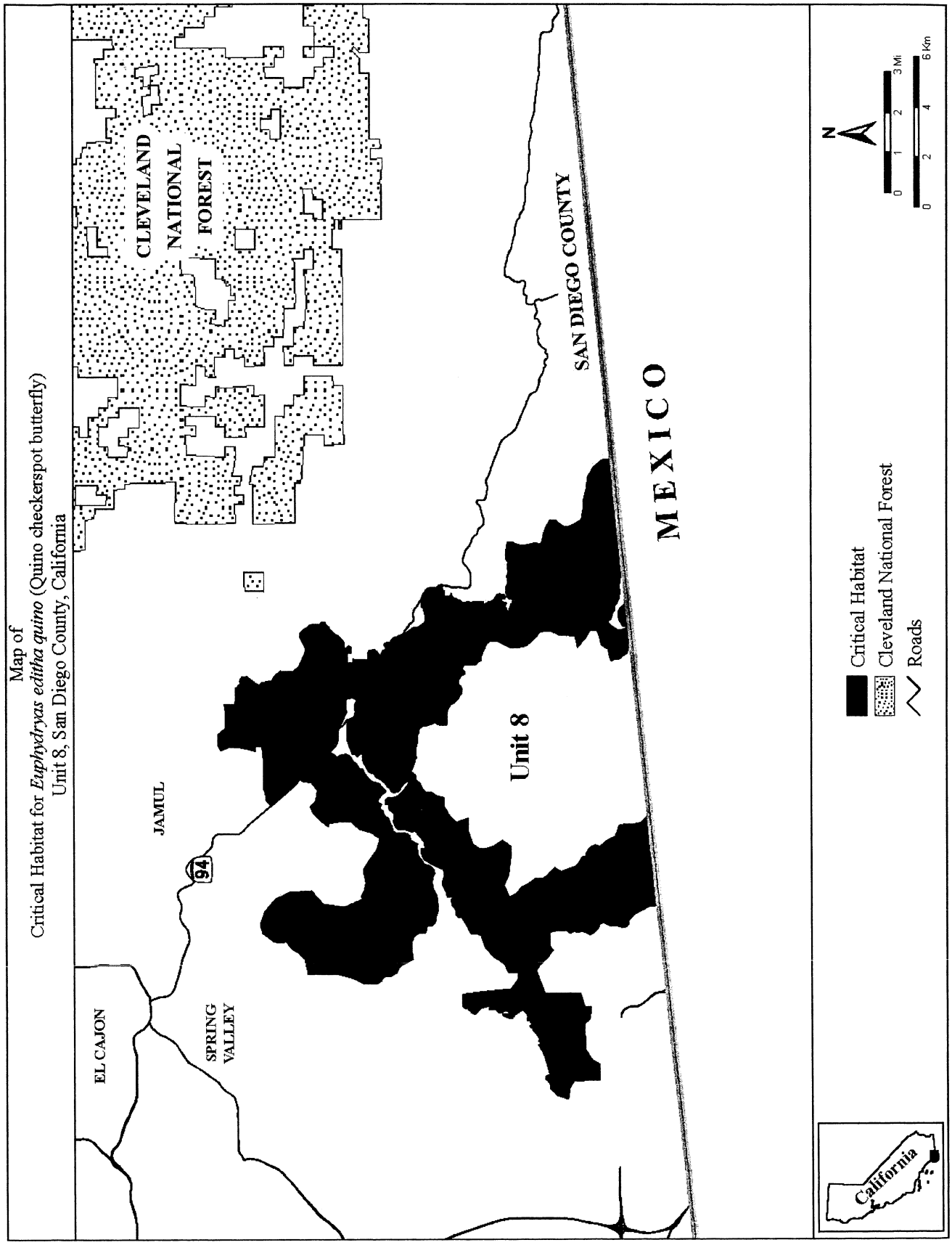
(ii) Note: Map of Unit 8 (Otay Unit) follows:

BILLING CODE 4310–55–P



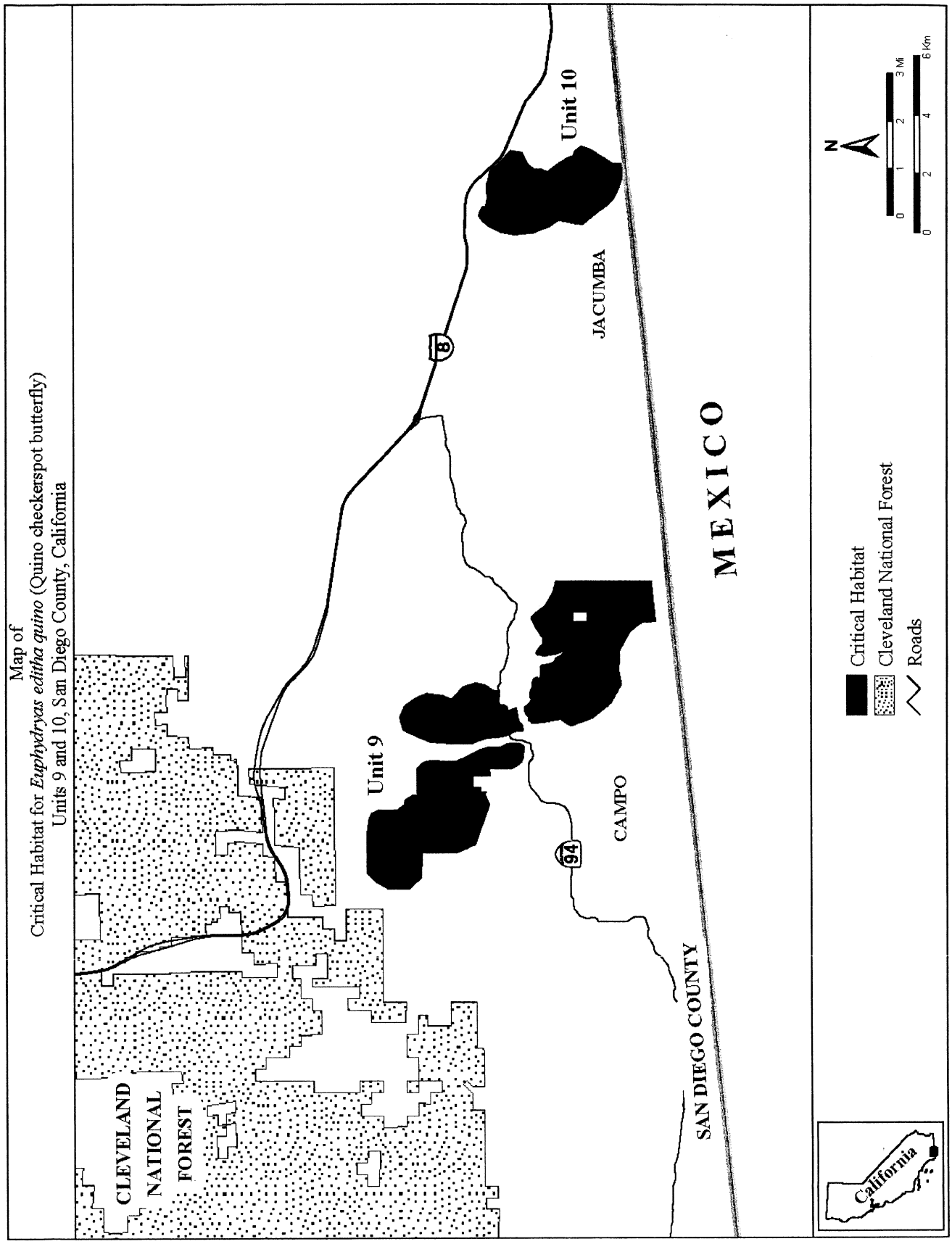
BILLING CODE 4310–55–C

(14) Unit 9: La Posta/Campo Unit, San Diego County.

(i) From USGS 1:24,000 quadrangles Cameron Corners, Live Oak Springs, Campo, Tierra Del Sol. Land bounded by the following Universal Transverse Mercator (UTM) North American Datum of 1927 (NAD27) coordinates (E, N): 553429, 3615941; 553609, 3615663; 553609, 3615510; 554522, 3615534; 554724, 3615307; 554786, 3615045; 554774, 3614749; 554744, 3614441; 554750, 3614200; 554876, 3613915; 555139, 3613378; 555248, 3613049; 555254, 3612912; 555237, 3612693; 555270, 3612600; 555347, 3612446; 555363, 3612342; 555380, 3612151; 555380, 3612008; 555336, 3611920; 555248, 3611844; 555073, 3611855; 554854, 3611882; 554725, 3611939; 554601, 3612101; 554488, 3612253; 554514, 3613022; 554256, 3613000; 554256, 3613575; 553862, 3613597; 553856, 3613340; 553697, 3613340; 553697, 3613148; 553630, 3613180; 553275, 3613026; 551888, 3613504; 551601, 3614187; 551609, 3615340; 550765, 3615372; 550362, 3615816; 550362, 3616494; 550624, 3616972; 550932, 3617249; 551148, 3617249; 551687, 3617249; 552258, 3617249; 552751, 3617188; 552982, 3617080; 553090, 3616849; 553090, 3616509; 553090, 3616201; 553275, 3615970; thence returning to 553429, 3615941. Continuing to 555361, 3613606; 555341, 3613858; 555356, 3614305; 555387, 3614752; 555418, 3615091; 555587, 3615477; 555834, 3616001; 556265, 3616124; 556651, 3615955; 556928, 3615569; 557098, 3615168; 557021, 3614660; 556897, 3614321; 557314, 3613935; 557452, 3613504; 557406, 3613211; 557190, 3612872; 557190, 3612717; 557161, 3612704; 557084, 3612704; 557013, 3612709; 556925, 3612731; 556821, 3612715; 556717, 3612671; 556700, 3612507; 556596, 3612430; 556497, 3612381; 556602, 3612118; 556481, 3612079; 556267, 3612052; 556202, 3612046; 556103, 3611997; 556048, 3611915; 555829, 3611871; 555791, 3611893; 555785, 3612074; 555741, 3612227; 555665, 3612348; 555626, 3612507; 555588, 3612704; 555539, 3613098; 555456, 3613411; thence returning to 555361, 3613606. Continuing to 558984, 3611182; 559112, 3611283; 559388, 3611457; 559681, 3611604; 559857, 3611454; 560104, 3611114; 560535, 3610852; 560952, 3610739; 560957, 3609611; 560959, 3609185; 560966, 3607429; 559559, 3607279; 559518, 3607770; 559210, 3608170; 558593, 3608509; 557869, 3608556; 557406, 3608463; 556743, 3608833; 556235, 3609465; 555957, 3610220; 556188, 3610575; 556096, 3611114; 556050, 3611573; 556118, 3611624; 556118, 3611688; 556182, 3611705; 556295, 3611709; 556320, 3611741; 556394, 3611797; 556521, 3611847; 556592, 3611857; 556659, 3611772; 556694, 3611716; 556765, 3611645; 556839, 3611610; 556896, 3611610; 556913, 3611610; 556934, 3611638; 557002, 3611663; 557076, 3611652; 557150, 3611638; 557210, 3611613; 557270, 3611582; 557334, 3611574; 557408, 3611574; 557447, 3611564; 557503, 3611553; 557567, 3611525; 557595, 3611497; 557627, 3611454; 557627, 3611387; 557620, 3611327; 557655, 3611281; 557726, 3611281; 557836, 3611281; 557920, 3611281; 558005, 3611267; 558058, 3611218; 558069, 3611168; 558087, 3611059; 558090, 3610995; 558125, 3610945; 558125, 3610878; 558178, 3610801; 558238, 3610762; 558295, 3610755; 558352, 3610670; 558380, 3610599; 558451, 3610511; 558521, 3610497; 558454, 3610677; 558405, 3610942; 558380, 3611094; 558373, 3611189; 558408, 3611288; 558383, 3611370; 558488, 3611448; 558672, 3611319; 558810, 3611191; thence returning to 558984, 3611182. Excluding land bounded by 559557, 3610151; 559548, 3609664; 559887, 3609661; 559880, 3610135; 559559, 3610152; 559557, 3610153.

(ii) Note: Map of Units 9 and 10 (La Posta/Campo Unit and Jacumba Unit) follows:

BILLING CODE 4310–55–P



BILLING CODE 4310–55–C

(15) Unit 10: Jacumba Unit, San Diego County, California.

(i) From USGS 1:24,000 quadrangles Jacumba, and Jacumba OE S. Land bounded by the following Universal Transverse Mercator (UTM) North American Datum of 1927 (NAD27) coordinates (E, N): 573190, 3609782; 573230, 3610057; 573340, 3610623; 573120, 3610926; 572913, 3611491; 572844, 3612155; 572941, 3612625; 573130, 3613009; 573319, 3613244; 573514, 3613370; 573749, 3613284; 573812, 3613244; 573818, 3613141; 573944, 3613101; 574105, 3613078; 574242, 3613089; 574477, 3613107; 574592, 3613107; 574720, 3613049; 575037, 3612980; 575354, 3612621; 575737, 3612289; 575668, 3611884; 575326, 3611707; 575212, 3611619; 575099, 3611442; 575099, 3611208; 575016, 3610986; 575288, 3610607; 575510, 3610265; 575535, 3610114; 575718, 3610057; 575883, 3609829; 575778, 3609508; 575286, 3608729; 575285, 3608362; 574872, 3608390; 574472, 3608514; 574100, 3608693; 573852, 3608927; 573493, 3609424; thence returning to 573190, 3609782.

(ii) Note: Map of Unit 10 is provided at paragraph (14)(ii) of this entry.

* * * * *

Dated: January 8, 2008.

Lyle Laverty,

Assistant Secretary for Fish and Wildlife and Parks.

[FR Doc. 08–105 Filed 1–16–08; 8:45 am]

BILLING CODE 4310–55–P

Federal Register
Vol. 73, No. 12
Thursday, January 17, 2008

Presidential Documents

Title 3—

The President

Proclamation 8215 of January 14, 2008

Religious Freedom Day, 2008

By the President of the United States of America

A Proclamation

Thomas Jefferson counted the freedom of worship as one of America's greatest blessings. He said it was ''a liberty deemed in other countries incompatible with good government, and yet proved by our experience to be its best support.'' On Religious Freedom Day, we celebrate the 1786 passage of the Virginia Statute for Religious Freedom.

The freedom to worship according to one's conscience is one of our Nation's most cherished values. It is the first protection offered in the Bill of Rights: that ''Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof.'' In America, people of different faiths can live together united in peace, tolerance, and humility. We are committed to the proposition that as equal citizens of the United States of America, all are free to worship as they choose.

In an era during which an unprecedented number of nations have embraced individual freedom, we have also witnessed the stubborn endurance of religious repression. Religious freedom belongs not to any one nation, but to the world, and my Administration continues to support freedom of worship at home and abroad. On Religious Freedom Day and throughout the year, we recognize the importance of religious freedom and the vital role it plays in spreading liberty and ensuring human dignity.

NOW, THEREFORE, I, GEORGE W. BUSH, President of the United States of America, by virtue of the authority vested in me by the Constitution and laws of the United States, do hereby proclaim January 16, 2008, as Religious Freedom Day. I call on all Americans to reflect on the great blessing of religious liberty, endeavor to preserve this freedom for future generations, and commemorate this day with appropriate events and activities.

IN WITNESS WHEREOF, I have hereunto set my hand this fourteenth day of January, in the year of our Lord two thousand eight, and of the Independence of the United States of America the two hundred and thirty-second.

[FR Doc. 08–184
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H.R. 660/P.L. 110–177
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